

KING DAVID
THE
PÆDOPHILE

BY
POLYHERETIC

*An investigation into who is lying about the Talmud
and the Rabbinic approval of prepubescent sexual
intercourse.*



A principle

The working definition of antisemitism by the IHRA provides the following example as an illustration:

Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.

<https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>

The principle is, that the material below does not mean ALL Jews condone or approve of the Rabbinic laws disclosed herein.

Principle of Universal Standards

Applying this same principle wider, it is unacceptable of:

Accusing a believer of any religion or member of any nationality or ethnicity, of being responsible for real or imagined wrongdoing committed by a single person or group from within these categories, or even for acts committed by persons not of their category.

A Request

All are free to download, copy and distribute this PDF or the contents within, in part or as a whole, with or without crediting the source.

However, the material contained within this PDF is presented with many detailed and interrelated contextual quotes and is sourced and referenced accordingly and is therefore an authoritative and powerful resource for the case made herein. Ideally, as the creator of this body of evidence I kindly ask that if you use material herein, that you provide a copy of the whole PDF or a link to it. The reason for this should be deducible from the method and practice I utilize below and the tagline I apply on my website and videos:

"Attempting to find the needles of truth amongst the strawmen of the world."

In my humble opinion, the fewer strawmen in the world the better!

Introduction and Contents

This publication was prompted by my reading of Dr. Michael L. Brown's CHRISTIAN ANTISEMITISM – CONFRONTING THE LIES IN TODAY'S CHURCH (2021). Several conundrums lifted themselves from the main text and endnotes as I read. For example, with the title of his polemic being *Christian Antisemitism*, it was odd that he provided many examples of antisemitism from non-Christian sources, including an atheist/agnostic, a Hindu critic of Noahide laws and unsurprisingly, several Muslim accounts. I found this disingenuous. A more detailed analysis revealed occasionally constructed straw men antisemitic examples which provided easy dismissal for him. I assume these were lapses into unconscious bias due to an understandable personal need to "expose the lies" by any means necessary. I assume therefore and conversely, that Dr. Michael L. Brown fully endorses the principle of asserting the truth wherever and whenever it is found.

Dr. Michael L. Brown often recounts ad nauseum, many insults and ad hominem levelled against him, but I agree with his succinct suggestion to detractors as to how disagreement with his dogmatic and authoritative assertions should be expressed:

Dr. Brown, I believe you are misinformed here, and your arguments are not convincing.

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud. P. 59

With respect to Dr. Michael L. Brown's defence opposing the charge of Talmudic and Rabbinic approval of prepubescent sexual intercourse I respectfully assert the above sentiment. Dr. Brown opens his section concerning the child sex issue covered here in *King David the Paedophile* with a question:

"Does the Talmud sanction paedophilia?"

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud. P. 69

Before proceeding I wish to address the use of the word "paedophilia". Granted, the title of this PDF uses the word in the title, and I admit guilt in its clickbait nature. However, beyond this introduction I will refrain personally from using it until my conclusion, and it will only appear in quoted material. The word "paedophilia" has both a popular, and narrow use, in the sense of a psychological diagnosed disorder. The popular use might be aimed at an adult who has some degree of sexual relations with a male or female who is below the age of legal majority or consent in whichever jurisdiction the act takes place. This becomes problematic when one such instance takes place where the age of consent is 16 in one country and another instance where 18 is the age of consent. Is one paedophilic and the other not? In its technical use as a diagnosed disorder, a paedophile is typically defined as someone who has persistent sexual fantasies, urges and activities towards, or with, prepubescent children normally of the age 13 and below. So, the question: "Does the Talmud sanction paedophilia?" distorts and slants the issue of "sanctioned" sex with children in the Talmud by suggesting only deviancy is the primary problem to be examined. It is not so straightforward, and many Talmud critics often frame it this way and this allows Talmud apologists to distract and direct the narrative to their own advantage, questioning the motives and accuracy of such criticisms. I am not suggesting deviant intent, or a perverse and

arbitrary logic is not a factor. The purpose of this publication is to disclose the issue of child sex in the Talmud, and rabbinic sources elsewhere, and to allow readers to judge for themselves what is implicitly and explicitly revealed as to motives, reasoning, and consequences if child sex is indeed lawfully sanctioned by these authoritative sources.

The use of the word "sanction" by Dr. Brown implies some form of formal decree or judicial and lawful decision. This publication will explore the lawful statements related to the issue of prepubescent sexual intercourse and whether it is permitted by Rabbinic decree.

Dr. Brown provides some of his own apologetics but relies too on Rabbi Gil Student. In addition, Dr. Brown points to YouTube videos he describes as being "the careful work of researchers Jan Irvin and Lloyd De Jongh". All the objections against the Talmudic accusations concerning child sex used by Rabbi Gil Student, Dr. Brown and his trusted researchers will be addressed throughout this publication.

Chapter 1: sets out the issues surrounding the Talmud and the difficulties arising from exploring it and the method and authoritative sources used.

Chapter 2: sets out the starting point using Dr. Brown's objections in his *Christian Antisemitism*.

Chapter 3: defines the pivotal term "minor" (girls and boys) as the rabbis use it throughout rabbinic literature.

Chapter 4: addresses the title of this work, *King David the Paedophile*, by highlighting a little-known fact about how the rabbis in the Talmud used their abaci to determine the age of Bathsheba when King David "lay with her". The disputed age of Rebecca when Isaac married her is also addressed using a modern day book written for Jewish children.

Chapter 5: discloses the Talmudic discussions, and laws, applicable to girls younger than 3 years old who have been violated.

Chapter 6: explores the rabbinic decree that girls 12 and half years and below are under the authority of either their fathers, or if fatherless, their mother and brothers, with respect to whom they will be married.

Chapter 7: highlights the Talmud rabbis' consternation with the cause of vaginal bleeding in minor girls and her consequent degree of impurity.

Chapter 8: demonstrates the reality of an institution called "mi'un" which is the right for a married minor girl to "refuse" her husband under various circumstances and conditions.

Chapter 9: illustrates the degrees and seriousness of the rape and seduction of minor girls and the degrees of liability and non-liability of the perpetrator.

Chapter 10: addresses the precarious status of Gentile and captive minor girls with respect to their "rights" as victims of rape and/or virginal qualification for any future marriage.

Chapter 11: focuses on the "go to" sentence Talmud apologists repeatedly use from the Tractate Kiddushin, folio 41a, which declares it is "not proper" for a father to "betroth his minor daughter".

Chapter 12: addresses married minor boys, their de-flowering prowess depending on their being above or below the age of 9, and the degree of punishment, or not, for adult sodomizers of minor boys depending on the age of the victim.

Chapter 13: provides selected quotes from 20th and 21st century secondary Jewish sources discussing the halacha (Judaic laws) concerning the marriage of minors and the extent of the practice of minor marriage in Jewish communities throughout history from the time the Talmud was written to the early 20th century.

Chapter 14: briefly shows Jews resisting child abuse and paedophilia in modern times.

Chapter 15: I will conclude the evidence presented, my personal thoughts, advice and warnings.

Appendix 1: Full Talmud text of rabbis discussing child sex and pregnancy concerning a Gentile girl called Yustina.

Appendix 2: Full Talmud text where the rabbis discuss the young age of some Biblical characters when they became fathers or mothers, including 6 year old Bathsheba.

Appendix 3: Selection of over 150 Talmud quotes of laws, rules and instructions constructed by the rabbis to manage the institution of the marriage of minor girls and boys. Links provided to aid further study.

Appendix 4: Selection of over 100 quotes from the law code of Rabbi Maimonides called Mishneh Torah validating the correct understanding of the Talmud statements regarding marriage and sex with pre-pubescent children. Links provided to aid further study.

Appendix 5: Selection of over 80 quotes from the law code of Rabbi Karo called Shulchan Aruch validating the correct understanding of the Talmud statements regarding marriage and sex with pre-pubescent children. Links provided to aid further study.

[Comprehensive links in PDF Bookmarks tab.]

HAMEVIN YAVIN

1. Methodology, Criteria and Sources

Objections

In the battle arena of polemics and apologetics there are frequent and often justified criticisms of the methodology and arguments used. I consider it reasonable to consider the objections raised by Talmud apologists and I will make a genuine attempt to accommodate them. I believe the following quotes are a fair and valid representation of typical protestations by apologists by which I will proceed:

There are many lies circulating the internet about the Jewish Talmud. These allegations are supported by "direct quotations" from the Talmud that are frequently wrong or taken out of context. However, most people lack the scholarly background to verify these claims. Most people have no way of knowing that these accusations are false and malicious. What we are attempting is to demonstrate in detail how these accusations are both wrong and intentionally misleading. We are trying to show to the world the real truth about the Talmud.

Student, G. O. (2000) *The Real Truth About The Talmud*. Available at: <http://talmud.faithweb.com/> (Accessed: 15 June 2023)

... the Talmud is consistently misrepresented. The Talmud is consistently lied about. The Talmud is consistently misunderstood...

So, what does the Talmud actually say? And again, it's a massive series of books and it's massively complex and there are all kinds of things quoted in there that get misunderstood and taken out of context.

Brown, M. L. (2019) *The Truth About The Talmud*. 26 April. Available at: <https://www.youtube.com/watch?v=gZ454HzqTIM> (Accessed: 15 August 2022)

When I asked him [Reverend Ted Pike] if he could read the Talmud in its original Hebrew and Aramaic, his answer was no. Yet somehow he was an expert on its contents.

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 4: Buying Into the Antisemitic Lies. P. 34

...within the Talmud itself, many issues are not settled, meaning that just because something is stated in the Talmud doesn't mean Judaism holds to that position. Instead, it is the later Law Codes (including the Mishneh Torah and Shulcan Aruch) [...] that give definitive rulings, and traditional Jews feel beholden to follow these later rulings.

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud. P. 68

Despite Dr. Brown listing numerous insults and ad hominem against his good self and Jews in general in his *Christian Antisemitism* book, he is not above responding in kind and describes Talmud, Judaism and Jewish critics as being: "vulgar", "venomous", "vile", "ugly", "liars", "irrational", "insane", "pathetic", "hysterical", "ludicrous" and "liars" etc. Innately, he questions the motives of everyone making unfavourable assertions. It did not occur to Dr. Brown to simply say: "I believe you are misinformed here, and your arguments are not convincing." Dr. Brown's trusted researchers, Jan Irvin and Lloyd De Jongh also resort to meaningful labelling of Talmud critics as "brain damaged" and having a "hate agenda". Regardless of the hypocrisy of mutual name-calling, there are legitimate issues raised in the above grievances and they certainly deserve to be taken into consideration. Thus:

Criteria

1. The Importance of Context

It is important to see a quote or topic in its original context, both in its position within the immediate surrounding text and within any interrelated text found elsewhere. Consequently, this publication contains many long and contiguous "verse" quotations from the Talmud specifically to avoid the charge of any one or more statements being labelled as inaccurate or non-contextual. In addition, multiple quotations are presented thematically and shown to be clearly related and relevant using authoritative commentary and legal decisions based on the quotes. The downside of this approach is that several points of interest will appear in lengthy quotations and there will be some repetition whereby various aspects of this inquiry will be addressed in their relevant chapters.

2. Accuracy of Material Quoted

Is the quote accurate and verbatim and correctly referenced? All quoted material in this publication is simply copied and pasted from valid and trusted sources that no Talmud apologist could honestly object to. Mistakes can happen, and even the source material may contain errors or typos. Any redactions or excluded material, sentences or words are indicated in the usual formal fashion. A source and/or URL are provided for every quote which can be therefore verified. The only liberty I take is to occasionally format the material differently and to use *emphasis* where I deem appropriate.

3. It's All Greek To Me!

A typical objection is, as used by Dr. Brown above: Can you read and understand the original language? This applies to any translation of any Hebrew, Aramaic, Arabic, Sanskrit or Greek religious texts into any other language including of course English. The pitfalls and difficulties are well-known in translations of any type or language. The objection is often raised to score cheap points and is often done selectively. (I.e., An issue made about knowing Hebrew when questioning the Talmud, but the same demand is not made when quoting the New Testament (Greek) or, as a pertinent comparison, when Jan Irvin and Lloyd De Jongh "criticise and expose" the Arabic language written Quran and Haditha. If any critic of this publication wants to take issue with any English translation of Hebrew or Aramaic sources, then their issue is really with the translators such as renowned scholars Rabbi Adin Steinsaltz and Rabbi Eliyahu Touger. I suggest Dr. Brown et. al. would find difficulty in dismissing these "expert", "authoritative" and "respected" individuals in their academic, scholarly, and Judaic domains. Why? Dr. Brown and his approved "researchers" have no qualms using the Talmud translation by Rabbi Steinsaltz and Rabbi Maimonides Mishneh Torah translation by Rabbi Touger themselves.

4. Identifying Genre in the Talmud

Is it myth, memories, case law, literal, allegorical, anecdotal, hypothetical, rhetorical or a legal decision? The Talmud is a rich and diverse collection of various literary types and the difficulty, which is true of many religious texts, is identifying accurately the genre of particular interest. What is of primary interest here is identifying which specific texts within the Talmud pertain to being the normative legal decisions of the Rabbis, specifically about the laws pertaining to sex with "minors". The methodology used in this publication is explained in the following point.

5. Argument From Authority

Expert Knowledge of a subject. This can be a contentious issue, but in the context of the objective of this publication, I believe its use is legitimate and essential. Normally, an "argument from authority" is used in the sense that if an authority says X is true, it fallaciously suggests that X must be true simply on the strength of that "authority. Sometimes we must admit to needing assistance in unfamiliar territory. As Dr. Brown correctly points out, just because a proposition is stated in the Talmud, it does not follow it leads to, or is, a judicial and lawfully binding conclusion. It does not necessarily mean a single isolated sentence is normative Judaic law. Dr. Brown helpfully suggests the solution to this dilemma in that there are later Law Codes, extracted from the Talmud, which provide the standard and accepted legal rulings that define Jewish law and practice. Dr. Brown specifically mentions the *Mishneh Torah* by Rabbi Maimonides (aka Rambam) and the *Shulchan Aruch* by the lesser-known Rabbi Joseph Karo. It must be noted that Dr. Brown et. al. admits these law codes contain the definitive rulings followed by "traditional Jews". I agree!

6. The Sin of Omission Bias

There are several ways to illustrate and describe how this is done. It could be the strawman misrepresentation of an opponent's view and/or an argument made by omitting their most relevant and powerful evidence. Positions can be sustained by selective quote mining or cherry-picking. With Talmudic issues, both attackers

and defenders are often guilty of deliberately suppressing material which disconfirms their hypothesis or assertions. It can also be more subtle in the sense that further enquiry is discouraged by such as the "you won't understand" or "it's too complex" tropes. Many books may appear scholarly, with copious endnotes and references given, but it is known by scholars that many people are either too lazy, too busy, or too trusting to check and verify the original quotes, sources and references given. Most of all, and unfortunately a prevalent practice in many walks of life, individuals simply exclude what they don't want you to know. This publication hopes to honestly present many examples of germane texts and sources for readers to assess where the weight of evidence lies for themselves.

Authoritative Sources, Rabbis, and Scholars Used in This Publication

1. The William Davidson Babylonian Talmud

This translation of the Talmud can be found online at Sefaria.org. On the site it says this about the translation:

The William Davidson Talmud is a free digital edition of the Babylonian Talmud with parallel translations, interlinked to major commentaries, biblical citations, Midrash, Halakhah, and an ever-growing library of Jewish texts. As with all of Sefaria, The William Davidson Talmud will continually evolve as we add additional translations, commentaries, and connections.

The William Davidson Talmud includes Rabbi Adin Even-Israel Steinsaltz's complete Modern Hebrew and English translations of the Talmud. Through the generous support of The William Davidson Foundation, these translations are now available with a Creative Commons non-commercial license, making them free for use and re-use — even beyond Sefaria.

Sefaria.org. *The William Davidson Talmud*. Available at: <https://www.sefaria.org/william-davidson-talmud> (Accessed: 11 July 2023)

2. Rabbi Adin Even-Israel Steinsaltz

Rabbi Adin Even-Israel Steinsaltz (1937-2020) was a teacher, philosopher, social critic and prolific author. His lifelong work in Jewish education earned him the Israel Prize, his country's highest honor.

Rabbi Steinsaltz is internationally regarded as one of the greatest rabbis of this century and of the last.

Rabbi Adin Steinsaltz was the first person since the medieval sage Rashi to have completed a full translation of and commentary on the Babylonian Talmud, and of the Bible (Tanakh).

Steinsaltz.org. *Rabbi Adin Even-Israel Steinsaltz*. Available at: <https://steinsaltz.org/bio/> (Accessed 11 July 2023)

Rabbi Adin Steinsaltz not only translated into English the huge Babylonian Talmud over many decades, but also provided incisive and detailed commentary, including clear references to the two most important sources of Halakhic (Jewish Law Codes) works recognised by Judaism and by Dr. Michael L. Brown, these being the Mishnah Torah and Shulchan Arukh. Introductions to each tractate of the Talmud and their chapters can be found at [Introductions to the Babylonian Talmud](#).

3. The Koren Talmud Bavli

The 42 individual volumes contain Rabbi Adin Steinsaltz's Talmud translation, all introductions of tractates and chapters, with summaries, and page by page notes, background information and crucially highlights the Talmud text used to establish the Law Codes (Halakha) established in the Mishnah Torah and Shulchan Arukh.

4. Mishneh Torah by Rabbi Maimonides (Moshe ben Maimon) Also known by the acronym: Rambam

In size and scope, as well as organization and literary style, Moses Maimonides' Mishneh Torah ranks among the greatest and most innovative Jewish legal texts of all time. In its own day, the Mishneh Torah was ground-breaking for its novel system of codifying halacha (Jewish law), and in the more than 800 years since its composition, the Mishneh Torah remains matchless in its lucidity and breadth.

Moses ben Maimon (also known as the Rambam, 1135–1204) — physician, philosopher, rabbinic authority — was a towering figure in the world of Jewish scholarship even before he composed his halachic masterpiece.

[...]

The Mishneh Torah (literally, “Review of the Torah”) was conceived as an all-inclusive halakhic compendium, a guide to the entire system of Jewish law. Maimonides was explicit about his reasons for undertaking an encyclopedic work of such magnitude. He noted that the trials and tribulations of life in the Diaspora had deprived scholars and laymen alike of the ability to understand and assimilate the vast talmudic literature and the essential rulings of the geonim (the leaders of Babylonian and North African Jewry); consequently, Jews were unable to discern or properly observe the law. In its comprehensive scope, its pragmatic style, and its systematic classification, the Mishneh Torah was designed to simplify the process of study and to make the law accessible to all.

myjewishlearning.com. *The Mishneh Torah*. Available at: <https://www.myjewishlearning.com/article/the-mishneh-torah/> (Accessed 11 July 2023)

The Mishneh Torah used in this publication is translated by the renowned scholar Rabbi Eliyahu Touger who also provides the endnote explanations, and this law code can be found in its entirety at two websites:

[Mishneh Torah at Chabad.org](http://MishnehTorahatChabad.org) & [Mishneh Torah at Sefaria.org](http://MishnehTorahatSefaria.org)

5. Shulchan Arukh by Rabbi Joseph Karo

The Shulchan Arukh ("Set Table") is the most widely accepted code of Jewish law ever written. Compiled in the 16th century by Rabbi Joseph Karo, it is a condensed and simplified version of the Beit Yosef, a commentary that Karo wrote on the Tur. Karo's rulings are in accordance with Sephardic traditions; the text of the Shulchan Arukh also includes the glosses of Rabbi Moshe Isserles, which cite Ashkenazic traditions.

Sefaria.org. *Shulchan Arukh*. Available at: <https://www.sefaria.org/texts/Halakhah/Shulchan%20Arukh> (Accessed 11 July 2023)

6. Other

The Jewish Encyclopaedia.

20th and 21st century secondary sources by various Jewish rabbis, scholars, and academics.

Pitfalls and Difficulties For The Unwary

Spelling Conventions

Hebrew words with a phonetic translation can sometimes have several different English spellings and the unwary can sometimes be misled by a word search returning no results, or no results with the word in the expected context for example. There is nothing nefarious about this and the reason this happens, including with other languages translated from a non-Roman alphabet, can be found online. In addition, sometimes one may think a reference given to the Talmud tractate spelt Hullin, is not the same source as a reference labelled tractate Chullin. (They are one and the same.) The point being, it is necessary to be aware of this reality and not be confused, or allow others to confuse, or dismiss, an accurate quote from the genuine source. This publication, in the main because different platforms use different spellings, will present quotes and references containing different spellings as and when they occur. It is the nature of the beast.

Similarly, the word for Jewish Law and/or Jewish Code, can be spelled in the following ways: halakha, halacha, halakhah and even halocho. If one searches the internet with any of these variations, most search engine algorithms are programmed nevertheless allow relevant results regardless of spelling. This is because "Halakha" is a commonly used term.

However, a search for the more controversial Hebrew term, Mi'un, also spelt Miun, Me'un, Meyun, or M'un, will probably find no relevant results on the mainstream search engines. The Presearch search engine will show the Jewish Encyclopedia entry for Mi'un. There are two reasons why this happens. 1. It is not a concept readily discussed in the wider public domain. 2. It is highly problematic for Talmud apologists. Briefly, Mi'un is the Hebrew word and rabbinical technical term, for refusal, denial or protest and gives the right to a 'minor girl' who had been married off to later, due to an 'aversion' to her husband, leave her husband without the formal need for a legal 'divorce' or get. (The exact criteria is discussed below.) All the nuances of this and other words will be explained in detail within this publication.

Definitions

Definitions of words are useful of course but can differ, not only over time, but have different uses or intent depending on context. Within this publication it will be seen that an orphan in the Talmud is defined as one without a living father (not also a mother). However, it is possible for a 'minor girl' to be considered an orphan in her father's lifetime depending on certain criteria.

Mostly, 'Minor girl' and 'minor boy' are clearly used in a typically lawfully defined manner with set parameters. However, exceptions include certain male or female adults being designated minors (because they show no signs of physical sexual maturity), and 'minor girls' being considered no longer minors but mature adults, if they become pregnant and give birth.

Betrothal and marriage are typically defined as two different stages, but the words can be used interchangeably for the same stage and can be combined into one stage.

The pitfall with Talmudic definitions is that an apologist for example can take one quote and legitimately claim a 'minor' includes a 20-year-old 'woman'. If the reasons for why a 20-year-old 'woman' is considered a 'minor' is not admitted or made clear, the normative definition of "minor" can be clouded with uncertainty. The short

answer is that a 20-year-old woman, (or man) who show no signs of halachically defined sexual maturity, such as having two pubic hairs and/or breast development, are considered 'minors' (sexually immature physically).

Unfamiliar words and terms will be defined within the flow of this publication.

References and Hyperlinks

All Talmud, Mishneh Torah and Shulchan Arukh quotes are hyperlinked to trusted sources. The Talmud URL links will take you to the specific texts at Sefaria.org. There you can also open a side bar where you can find most of the referenced Mishneh Torah and Shulchan Arukh parallels relevant to the topic discussed by the Talmudic Rabbis. The Mishneh Torah and Shulkhan Aruch can also be found in their complete form at that site. Some of Maimonides Mishneh Torah relevant parallels are not found at Sefaria.org but can also be found at Chabad.org.

A potential difficulty is that Sefaria.org, Chabad.org and the Koren Talmud Bavli volumes reference Maimonides Mishneh Torah using different language and wording for the exact same text. This publication will accommodate the problem consistently in the following way:

On Sefaria.org for example you will see: "**Mishneh Torah, Divorce 11:16**"

On Chabad.org and in the Koren Talmud Bavli volumes for example you will see: "**Mishneh Torah (Rambam) – Sefer Nashim – Gerushin – Chapter 11:16**"

To resolve this potential confusion for those wishing to verify quotes, this publication will always introduce a Mishneh Torah quote in the following way. First the heading:

Mishneh Torah – Gerushin 11:16

Followed by:

Sefer Nashim (*The Book of Women*) Gerushin (*Divorce*) 11:16

And then followed by the Mishneh Torah quote and any accompanying notes with a URL to the Chabad.org source text. The Chabad.org text will match the Sefaria.org text but is formatted and presented differently with a clearer list of the translators note for reference. This is preferable because Sefaria.org does not always parallel all the relevant Mishneh Torah texts with certain Talmud paragraphs.

2. The Talmud "Lies" Labelled as "Anti-semitic"

In *Christian Antisemitism* Dr. Brown lists 21 examples of how Talmud texts are "interpreted" on the internet. One internet source provided is Islamic (not Christian, though it quotes extensively from Christian writers and theologians) and is identified in the book's endnotes. At that Islamic site one can find many sources that systematically provide quotes from the Talmud, not just "interpretations" or "paraphrasing" as Dr. Brown prefers to do. As this *King David the Paedophile* publication is only concerned with one specific topic of exploration, here are the three relevant "interpretations" as provided by Dr. Brown:

Some might say, "I've seen lot's of quotes taken straight from the Talmud – they are readily available online – and I don't need you to explain them to me. They are simple and clear, and there's no denying what they say.

Here is the way some of the most commonly cited texts on anti-Jewish websites are interpreted.

[...]

- A Jew may marry a three year old girl (specifically, three years 'and a day' old) (Sanhedrin 55b)
- A Jew may have sex with a child as long as the child is less than nine years old (Sanhedrin 54b)
- When a grown-up man has intercourse with a little girl it is nothing (Kethuboth 11b)

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud pp. 66,67

Dr. Brown spends less than one and a half pages addressing these selective "interpretations". He quotes Rabbi Gil Student and signposts to YouTubers Jan Irvin and Lloyd De Jongh. He does not provide any quotations from Sanhedrin 55b or 54b and neither does he quote from Kethuboth 11b in the main body of his book. In the endnotes for chapter 6 Dr. Brown does quote an isolated sentence from Sanhedrin 55b. Dr. Brown however does quote in the main text a whole paragraph from Kiddushin 41a.

I believe a generous assessment would conclude that Dr. Brown constructs a transparent strawman which unsurprisingly is easily blown away by him. All the Talmud references he provides will be quoted in full and explored in detail below and Dr. Brown's, Rabbi Gil Student's, Jan Irvin's and Lloyd Del Jongh's apologetics defending the Talmud will be addressed accordingly.

3. Rabbinic Definition of Minor Girls and Boys

The Talmud soundbites one often reads on the internet concerning child sex in the Talmud typically mention an age of a girl or boy. The age of 3 for a girl and the age of 9 for a boy. These two ages are highly significant, but it is essential to understand the established rabbinic age parameters they use to identify "minor girls" and "minor boys". In the many quotes below there are a plethora of Talmud texts that use the word "minor", often without a specific age of said minors. There will be no ambiguity once the definitions are authoritatively established. In addition, clarification of Talmudic texts referring to "minors" is found in comments and notes by Rabbi Adin Steinsaltz (Talmud translator) and Rabbi Eliyahu Touger (Mishneh Torah translator) and repeat the rabbinic parameters. I will now present several sources all agreeing on the definition of "minor".

First, a quote from *The Jewish Encyclopedia* to set the scene with respect to defining the age range of minor girls and boys among other issues such as signs of puberty, child marriage and levirate marriage. In addition, note the clear acceptance of child marriage as being acceptable:

Majority.

The age at which the law permits one to manage his own affairs; full age; maturity.

[...]

The Age of Maturity.

The Rabbis, however, reckoned the age of maturity from the time when the first signs of puberty appear (Nid. 52a), and estimated that these signs come, with women, about the beginning of the thirteenth year, and about the beginning of the fourteenth year with men. From this period, one was regarded as an adult and as responsible for one's actions to the laws of the community. In the case of females, the rabbinic law recognized several distinct stages: those of the "ketannah" from the age of three to the age of twelve and one day; the "na'arah" the six months following that period; and the "bogeret" from the expiration of these six months. In the case of males, distinction was made in general only between the period preceding the age of thirteen and one day and that following it, although, as will be seen below, other stages were occasionally recognized.

The attainment of the age of majority, however, did not of itself render one an adult; the prescribed age and the symptoms of puberty together were necessary to establish the majority of a person. If there were no signs of puberty at the age of majority (i.e., at the beginning of the thirteenth year in a female and at the beginning of the fourteenth in a male) the person retained the status of a minor until the age of twenty. If after that period signs of impotence developed, thus explaining the absence of the signs of puberty, the person was admitted to the status of an adult; if such signs did not develop, the person remained in the status of a minor until the age of thirty-five years and one day—the greater part of the time allotted to man on earth (comp. Ps. xc. 10). In the case of a woman, the bearing of children was regarded as sufficient to establish her majority (Yeb. 12b; Maimonides, "Yad," Ishut, ii. 9; comp. "Maggid Mishneh" and "Lehem Mishneh" ad loc.; for the whole subject see Nid. v. 3-8; vi. 1, 11-12; "Yad," l.c. ch. ii.).

Marriage of Minors.

The ketannah might be given in marriage by her father, and the marriage was valid, necessitating a formal divorce if separation was desired. Her earnings and her findings, also, belonged to her father, and he could annul her vows and accept a divorce for her (Nid. 47a; Ket. 46b). In the absence of her father, her mother or her brothers might contract a marriage for her, but such a marriage might be annulled by her without any formality before she reached the age of maturity (see Mi'un). Illegitimate intercourse with her carried with it the regular punishment for the transgressor, although she could not be punished (Nid. 44b). The na'arah, however, although still under the control of her father (Kid. 41a), was considered a responsible person; her vows were valid (Nid. 45b). The bogeret was regarded as entirely independent of her father's will and was looked upon as an adult in all respects (Nid. 47a).

The Rabbis recognized in males a stage similar to that of the ketannah. A boy nine years of age was regarded as being of a nubile age, so that if he had illegitimate intercourse with a woman forbidden to him she would be liable to punishment, although he could not be punished until he reached the age of maturity—thirteen years and one day (Nid. 44a). His marriage, however, was not valid (Kid. 50b; "Yad," l.c. iv. 7), although he could acquire a "yebamah" through intercourse (Nid. 45a; B. B. 156b).

jewishencyclopedia.com. *Majority*. Available at: <https://jewishencyclopedia.com/articles/10310-majority> (Accessed: 2 March 2023)

The Jewish Encyclopedia establishes that:

- The age of maturity, or majority, or adulthood for females and males is determined by the first "signs of maturity" which typically occur at the age of 12 full years for females and the age of 13 full years for males.
- Females and males who show no signs of sexual maturity qualify lawfully, irrespective of biological age, as being "minors". (Potentially to the age of 20; see below.)
- Female minors from the age of 3 to the age of 12 years and 1 day are designated as being a "ketannah".
- Female minors from the age of 12 years, 1 day to 12 years, 1 day and 6 months are designated as being a "na'arah".
- Females after the 6-month transition (12 $\frac{1}{2}$ period are designated as being a "bogeret".
- A ketannah or minor female can be lawfully given in marriage by her father, or in the absence of her father, lawfully given in marriage by her mother or brothers.
- Male minors have a similar grading with respect to law (sex, marriage, and business relations for example) arbitrarily set at 9 years old.

Second, we will now look at a corroborating statement the above assertions with respect to defining female minors (Ketana). Rabbi Adin Even-Israel Steinsaltz, the translator and commentator of the William Davidson (Koren) Babylonian Talmud states the following background information to Kiddushin 64b:5:

The William Davidson/Koren Bavli Talmud – Kiddushin 64b:5

5. **GEMARA:** The Gemara asks: From the ruling of the mishna, that one who betroths his daughter without further specification certainly did not betroth an adult daughter, it may be inferred that all **minor girls** are included in the uncertainty if he had more than one.

Sefaria.org - Kiddushin 64b:5

Background by Rabbi Adin Steinsaltz

Minor girls:

There are three stages of a female's development according to halakha. A girl is considered a minor, ketana, from the age of three through the age of twelve years and one day. For the next six months she is termed a young woman, na'ara, after which she becomes an adult, bogeret.

Koren Talmud Bavli – Kiddushin · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Kiddushin perek III 64b page 356] (PDF version)

To avoid repetition, there are many quotes below from the Talmud, the Mishneh Torah and the Shulchan Arukh which corroborate the above definitions of "minor" for both females and males. It is unequivocal that in Rabbinic discussion and legislation the use of the words "minor", "ketanah", "girl" and "boy" explicitly refers

to prepubescent females and/or males regardless of the lack of any specified accompanying mention of ages, such as 3 or 9 years old. In addition, Rabbinic commentary and notes frequently remind of the age parameters.

4. Bathsheba and Rebekkah the Child Brides of King David and Isaac

Before exploring the many Rabbinic references concerned with pre-pubescent intercourse providing the true, accurate and fully contextual picture, I will first provide brief evidence for the Rabbinic opinion that Bathsheba and Rebekkah were both child brides according to normative Judaic discourse, portrayal and understanding. Of course, there are some who disagree with the normative Rabbinic view, although some dissension is inane about the arithmetic and not the morality of the issue. The following serves to illustrate that King David was enamoured by the beauty of the pre-pubescent Bathsheba (2 Samuel 11) and that an old man called Eliezer loitered around a water well evaluating the young girls present to select one as a wife (Rebekkah) for Isaac (Genesis 24).

King David and Bathsheba

First, a source from the 20th century clearly acknowledging the Rabbinic view that Bathsheba was a child:

Bath-sheba (In Rabbinical Literature)

Bath-sheba, the granddaughter of Ahithophel, David's famous counselor, was only eight years and eight months of age when her son Solomon was born, while some maintain that she was not older than six (Sanh. 69b).

jewishencyclopedia.com. *Bathsheba*. Available at: <https://jewishencyclopedia.com/articles/2659-bath-sheba> (Accessed: 2 March 2023)

The Bible literate will be aware that Solomon was the second child of King David and Bathsheba, the first child dying, and the Rabbinic view above shocking as it is, becomes worse when the calculations are worked backwards in time. The least bad scenario (Bathsheba aged 8 years and 8 months) is that the age of Bathsheba when "he took her", and impregnated her, was at most 7 years and a few months. It also follows, that Bathsheba was at her oldest, a 6-year-old wife of Uriah, one of those abominable Hittites. (See: Deut. 20:18 and compare Deut. 20:14).

The Jewish Encyclopedia provides a Talmud reference in support of the Rabbinic opinion, so it remains to view Sanhedrin 69b and confirm this. The whole of Sanhedrin 69a and 69b is produced in Appendix 2 as it contains numerous child sex scenarios including what punishment a man receives for committing adultery with a 3-year-old wife of another man, at what age a minor boy disqualifies his mother from marrying a priest the son having had sex with her, and a lengthy discussion calculating the age of Bathsheba when she gave birth to Solomon:

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – SANHEDRIN 69b:11

11. The Gemara refutes this proof: From where do you prove this? Perhaps both Ahithophel and his son Eliam fathered children when they were each nine years old, and **Bathsheba**

[gave birth to Solomon when she was six](#), because a woman is stronger and can conceive at an earlier age. Know that this is true that women conceive at an earlier age, as [Bathsheba had already given birth to a child from David before giving birth to Solomon](#) (see II Samuel 11:27). Therefore, no proof can be derived from here.

[Sanhedrin 69b.11](#)

Background by Rabbi Adin Steinsaltz

Procreation at a young age:

Although the Sages themselves identified the onset of puberty at twelve years of age for girls and thirteen years of age for boys, they knew that there were exceptional cases of pregnancy and birth at younger ages. Due to hormonal changes and diseases, such as Cushing's disease, there are instances of exceedingly early onset of puberty, even in the first years of life, allowing for the possibility of begetting children and giving birth at a very early age.

Koren Talmud Bavli - Sanhedrin · Part Two - Commentary by Rabbi Adin Even-Israel Steinsaltz, [Sanhedrin perek VIII 69b page 132] (PDF version)

Admittedly, with respect to sanctioning child sex and marriage the above is somewhat circumstantial, but I wished to establish the mindset of the Talmud Rabbis and show how sex with minor girls is accepted as nothing out of the ordinary. The discussion does not condemn King David for raping a little girl. Rather it is concerned with the conundrum how such a young girl could have become pregnant.

[Rebekkah/Riva](#)

There is some disagreement among Rabbinic commentators as to the exact age of Rebekkah/Riva when she married Isaac/Yitzchak. There is however, among the orthodox, an acceptance without any moral reservations, that Rebekkah was 3 years old as determined principally by Rashi, when she married Isaac. Some contend she was between 10 and 14 years old. The determining factors for the calculations by Rabbis are numerous. What follows is evidence that the 3-year-old age determined for Rebekkah is far from being an aberration and ties in with the Talmud quotes detailing the prepubescent sexual intercourse and marriage laws that will be detailed below. The first quote is from the Chabad.org website in the section containing the Hebrew Bible (Tanakh) with accompanying commentary by Rashi (Salomon de Troyes, 1040 – 1105), a titan among Rabbis and an essential authority for Orthodox Jews. Rashi was known for his clarifying the "simple" meaning of texts which contributed to later legal analysis:

Bereshit (Genesis) - Chapter 25:20

20. And Isaac was forty years old when he took Rebecca the daughter of Bethuel the Aramean of Padan Aram, the sister of Laban the Aramean, to himself for a wife.

Rashi (Rabbi Solomon Itzhaki 1040 – 1105 AD) comments:

[forty years old](#): For when Abraham came from Mount Moriah, he was informed that Rebecca had been born. Isaac was then thirty-seven years old, for at that time Sarah died, and from the time that Isaac was born until the "Binding" [of Isaac], when Sarah died, were

thirty-seven years, for she was ninety years old when Isaac was born, and one hundred and twenty-seven when she died, as it is stated (above 23:1): "The life of Sarah was [a hundred and twenty seven years.]" **This makes Isaac thirty-seven years old, and at that time, Rebecca was born. He waited for her until she would be fit for marital relations, three years, and then married her.** — [From Gen. Rabbah 57:1

Chabad.org (2000) *Bereshit (Genesis) - Chapter 25*. Available at:

https://www.chabad.org/library/bible_cdo/aid/8220/showrashi/true (Accessed: 11 May 2023)

The calculation by Rashi is echoed by a contemporary:

Isaac was thirty-seven-years old at his binding... When Abraham returned from Mount Moriah, at that very moment Sarah died, and Isaac was then thirty-seven; and at that very time Abraham was told of Rebekah's birth; **thus we find that Rebecca was three years old when she married Isaac.**

(Pesikta Zutrata (Lekah Tov), Gen. 24., *Midrashic commentary on the Pentateuch*, by Rabbi Tobiah Ben Eliezer 1050 – 1108 AD)

It must be noted that the Bible itself hints ambiguously at a possible young age for Rebekkah in Genesis 24:9 with her being accompanied by her *yânaq* (nanny). Christian commentators assume a post nursing/suckling role for Deborah the nanny. Rabbis apparently do not. With respect to the above comments about Rebekkah's age, I expect nay-sayers to point out the antiquarian nature of the sources. Here is an up-to-date acknowledgment of Rashi's view from a book, which contains illustrations, for Jewish children aged 2 to 5:

One day, when Rivka [Rebekkah] was three years old, she decided to go down to the well and bring back water to her family.

[...]

That very same day ... a man named Eliezer began walking with ten camels ... The camels were loaded with bags full of presents; shiny golden bracelets and rings, beautiful new dresses, and just about anything a little girl could want.

Eliezer was looking for a kind and special girl to be a wife for Yitzchak [Isaac] the son of Abraham. "When I find the right girl, she will get all of these wonderful presents,"

[...]

He saw so many girls taking water from the well. ... "Which one will be the right wife for Yitzchak?"

[...]

"She is so kind", thought Eliezer. "Now | know | have found the right girl for Yitzchak!"

Eliezer gave Rivka two shiny golden bracelets, a beautiful ring, and many other presents.

Best of all, kind little Rivka married Yitzchak and became one of the mothers of the Jewish people!

Rosenfeld, D., Winn-Lederer, I. (1991) *Kind Little Rivka*, (no page numbers) Published by HaChai Publishing.

Eliyahu Federman, a Jewish father writing an opinion piece in the *Forward* (July 11, 2013) notes the inappropriate nature of the above material with "glowing" and "disturbing" illustrations, for his 2-year-old daughter:

<https://forward.com/opinion/180143/when-little-rivka-marries-yitzchak/>

<https://archive.ph/hUpYm>

Fact Checked by Dr. Michael L. Brown

Dr. Brown, of all sources, conveniently confirms the reality of the revelations in this chapter in his mission to the Jews book *Answering Jewish Objections to Jesus: Traditional Jewish Objections (Volume 5)* 2009 in the objections section 6.7 *Modern computer studies have demonstrated that the Torah and the Oral Law are divinely inspired* :

And we can hardly be expected to take seriously rabbinic statements such as these:

- Caleb became the great-grandfather of Bezalel at the age of twenty-six (and fathered his first child at the age of ten; see y. Yeb. 10:7).
- Bathsheba, later the wife of David, first gave birth at the age of six and bore David a child at the age of eight (b. Sanh. 69b; the Talmud also teaches there that Ahithopel was eight when his son Eliam was conceived, and Eliam was eight when his daughter Bathsheba was conceived).
- Rebekah left her father's house to marry Isaac at the age of three (Sofrim 21:9).³⁰¹

The endnote states:

³⁰¹. All cited in the Orthodox newspaper the Jewish Press , 8-20-1993, 53, where these traditions, among others, are discussed. Additional references provided there include: b. Yevamoth 61b and Rashi, to Genesis 25:20, 26; Da'at Zekenim MiBa'alei Hatosafot; Seder Olam (regarding Rebekah). Tosafot to b. Yevamot 64a referring to b. Sanhedrin 69b (in olden times, the women matured very early).

I have not been able to find archives for the Jewish Press, but I think it would be churlish not to accept the source referenced is accurate. What is of interest is the referenced Talmud minor tractate Sofrim 21:9:

SOFRIM 21:9

THE MINOR TRACTATES OF THE TALMUD (trans. A. Cohen, Soncino Press, 1965) – SOFRIM 21:9

9. When Rebekah left her father's house she was three years old, because it is customary among kings, when a daughter is born to them, to hear of it after three days; but as her father did not hear [of her birth] he did not defile her up to that time; and now a miracle happened to her in that her father died so that he should not defile her, as it is written, Neither had any man known her, and by man only her father could be meant, for such was

the practice of the Arameans to lie with their virgin daughters after they were three years of age, and then to give them away in marriage.

Dinah was six years old when she bore Asenath from [her association with] Shechem, corresponding to the six years which Jacob served Laban in payment for the flock, thus completing the twenty years of his service. [The Archangel] Michael then descended and took her away to the house of Potiphar.

From here onward let the man of understanding increase knowledge.

[Sefaria.org - Soferim 21:9](https://www.sefaria.org/Soferim.21.9)

It is pertinent to point out that Dr. Brown has no reluctance to summarize or paraphrase isolated, ridiculous and negative Talmud statements with no accompanying context in the context of his Jewish audience. I suppose this chapter is a bit of conundrum for those who would readily employ the invocation of the magic word "antisemitism" for revealing the ages the Talmud Rabbis ascribe to Bathsheba and Rebekkah. Does Dr. Brown implicate himself as an antisemite?

One rule for thee and one rule for me! I merely echo the last sentence from Soferim 21:9:

From here onward let the man of understanding increase knowledge.

5. Did the Rabbis in the Talmud say: "Sex With a Little Girl is Nothing"?

Recall Dr. Brown presented the Talmud critics in the following way, and I repeat too one of the relevant "lies" to be examined in this chapter:

Some might say, "I've seen lot's of quotes taken straight from the Talmud – they are readily available online – and I don't need you to explain them to me. They are simple and clear, and there's no denying what they say.

[...]

- When a grown-up man has intercourse with a little girl it is nothing (Kethuboth 11b)

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud pp. 66,67

Before quoting the apologetic of Rabbi Student in detail used by Dr. Brown, I will quote the mitigation by Dr. Brown in a YouTube video, of this Talmud quote, indicating he is familiar with the context of this, and by extension the other "lies" about the Talmud. We must therefore allow him to begin the case for the defence:

"... the rabbinic view is a merciful view that rather than saying this girl who was abused before she was three years old should no longer be considered a virgin. She didn't commit a crime, she didn't sin, she didn't go sleep with somebody, so it's considered nothing..."

Brown, M. L. (2019) *The Truth About The Talmud*. 26 April. Available at: <https://www.youtube.com/watch?v=gZ454HzqTIM> (Accessed: 15 August 2022)

Rabbi Gil Student is referenced frequently by Dr. Brown as an authority on the Talmud with respect to the issue of alleged lies about the Talmud, and an expert he surely is. It is a matter of integrity to allow a full disclosure of the most readily accessible defence of the Talmud on the internet against several accusations, and this includes the accusation the Talmud permits sex with children. The following will be instructive:

The Accusation

Yebhamot 11b: "Sexual intercourse with a little girl is permitted if she is three years of age."

The accusation here is quite nefarious. It implies that Judaism permits paedophilia, has no respect for women, and generally advocates loose sexual morals. To those familiar with the Talmud, this claim is patently ridiculous. However, the majority of people — particularly those making this claim — know little to nothing about the Talmud, its contents, or its methodology.

Student, G. O. (2000) *The Talmud Does Not Permit Sex With A Three Year Old*. Available at: <https://www.angelfire.com/mt/talmud/three.html> (Accessed: 15 June 2023)

To bear in mind:

1. To the point of ad nauseum, Talmud apologists run with this little straw man of the supposed mis-reference of this quote presumably to plant distrust of all Talmud "quotes". I have yet to find the original source incorrectly referencing "~~Yebhamot 11b~~" rather than the correct Kethobot 11b but it doesn't stop apologists using it. (It may well exist somewhere on the internet.)
2. The nefarious accusation may well have a source somewhere on the internet, but the sentence in quotes is not a direct quote from the designated Talmud source. It is Rabbi Student's paraphrase.
3. The implications listed are presumably Rabbi Student's own interpretations I suspect to control and direct the narrative in the desired direction.

Rabbi Student proceeds to quote Kethubot 11b and follows it with his apologetic:

Talmud Ketuvot 11b (The citation mentioned is evidently in error. Talmud Yevamot 11b has no relevant passage):

"Rav Yehudah said in the name of Rav: A male child who has relations with a female adult causes her to be like one who was injured with a stick... Rava said: This is what was meant - an adult male who has relations with a female child has not done anything because less than this [three years old] is like sticking a finger into an eyeball."

While those unused to these Talmudic discussions might be taken aback by the use of euphemisms, the discussion here relates to the dowry for virgins and non-virgins. It has nothing to do with what acts are allowed, encouraged, forbidden, or discouraged. It is, indeed, ironic that this passage has been manipulated from its original context of a financial

discussion into one of a religious discussion. While there are numerous talmudic passages of a religious nature, this one discusses dowries and not forbidden and permitted relations!

The Talmud relates that a virgin is entitled a higher dowry. While the tell-tale sign of virginity is the release of blood due to the breaking of the hymen on the wedding night, there are occasions when the hymen has already been broken such as when the woman suffered an injury. The Talmud here quotes Rav Yehuda in the name of Rav that a sexual act with a male minor is not considered to be a loss of virginity because one of the participants is not fully active. While the female's hymen may have been broken, she has not engaged in what can be classified as a sexual act (although it is certainly child abuse).

The Talmud continues and quotes Rava as saying that a sexual act between a male adult and a female under the age of three is also not considered a loss of virginity (although it is child abuse). Since the girl is too young for her hymen to be broken, she is still considered a virgin.

Student, G. O. (2000) *The Talmud Does Not Permit Sex With A Three Year Old*. Available at: <https://www.angelfire.com/mt/talmud/three.html> (Accessed: 15 June 2023)

The main points taken from Rabbi Students explanation are:

- Kethuboth 11b is about the monetary value of brides to be.
- Kethuboth 11b is not about judgements as to which sexual relations are, or are not, permitted.
- The "child abuse" judgement must be Rabbi Student's personal view as has stated Kethubot is not about which sex acts are allowed or not allowed.
- The implied financial aspect is that virgins have a higher bride price than non-virgins.
- A girl below 3 years old who has been vaginally penetrated in a sex act is too young to have her hymen broken.
- A girl below 3 years old who has been vaginally penetrated maintains her virgin bride price.

Before exploring the issue raised by the Rabbis in Kethubot 11b in more detail about the financial aspect of sexual intercourse of girls below 3 years of age, let us consider a few questions validly raised by the apologist's defence. It is suggested that contrary to the "nefarious implications" of Talmud accusers, Judaism does have respect for women and that the Rabbis are "merciful" in deciding that a girl less than 3 years old who has had experienced sexual intercourse retains her virgin bride price. However:

- How does putting a price tag on the virginity status of girls and women show respect for women?
- Why is there no comparable pricing on the virginity status of boys and men?
- What about mercy for 3 year old girls and above?
- What about mercy for 4-year-old girls?
- What about mercy for 5-year-old girls?
- What "merciful" "bride-price" would King David have paid for the widowed 6-year-old Bathsheba?
- Is it not their only apologetic that the Rabbis are not discussing the wrongfulness of "child abuse" but are arbitrarily only determining a bride's price tag?

I will now apply the process of examining the wider contextual environment of Kethubot 11b and other related Talmud passages focused on this specific issue. It will provide important context for when I examine what the Rabbis say about sexual intercourse involving young girls aged 3 and above. It will be typical of me in most instances where possible, to always provide the commentary of Rabbi Adin Steinsaltz when quoting the Talmud.

KETHUBOT 11b in Wider Context

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KETUBOT 11b:5,6

5. Rav Oshaya raised an objection to the opinion of Rav from the mishna: **With regard to an adult man who engaged in intercourse with a minor girl less than three years old, or a minor boy less than nine years old who engaged in intercourse with an adult woman,** or a woman who had her hymen ruptured by wood or any other foreign object, the **marriage contract for each of these women is two hundred dinars.** This is the statement of Rabbi Meir. And the Rabbis say: **The marriage contract of a woman whose hymen was ruptured by wood is one hundred dinars.** Contrary to Ravâ's opinion, the Rabbis distinguish between the halakha in the case of the intercourse of a minor boy and the halakha in the case of a woman whose hymen was ruptured by wood.

6. Rava said that this is what the mishna is saying: **An adult man who engaged in intercourse with a minor girl less than three years old has done nothing, as intercourse with a girl less than three years old is tantamount to poking a finger into the eye.** In the case of an eye, after a tear falls from it another tear forms to replace it. **Similarly, the ruptured hymen of the girl younger than three is restored.** And a young boy who engaged in intercourse with an adult woman renders her as one whose hymen was ruptured by wood. And with regard to the case of a woman whose hymen was ruptured by wood itself, there is a dispute between Rabbi Meir and the Rabbis. Rabbi Meir maintains that her marriage contract is two hundred dinars, and the Rabbis maintain that it is one hundred dinars.

Sefaria.org - Ketubot 11b:5,6

Hakakha by Rabbi Adin Steinsaltz

With regard to an adult man who engaged in intercourse with a minor girl, or a minor boy who engaged in intercourse with an adult woman:

A girl who engaged in intercourse when she was less than three years and one day old, even if it was with an adult man, is entitled, when she marries, to a marriage contract of two hundred dinars. Similarly, an adult woman who engaged in intercourse with a boy less than nine years and one day old is entitled, when she marries, to a marriage contract of two hundred dinars. (Rambam Sefer Nashim, Hilkhhot Ishut 11:3; Shulĥan Arukh, Even HaEzer 67:4).

Note by Rabbi Adin Steinsaltz

A minor boy who engaged in intercourse with an adult woman:

With regard to the dispute between Rav and Shmuel, there are two primary approaches. According to Tosafot, they disagree with regard to a case where her hymen remained intact. The dispute is whether a woman who engaged in intercourse with a boy younger than nine is comparable to a woman whose hymen was ruptured by a foreign object according to the

opinion of the Rabbis that her marriage contract is one hundred dinars, or whether that does not apply in this case as the intercourse of a boy less than nine is inconsequential.

Koren Talmud Bavli - Ketubot · Part One - Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek I 11b pages 56 and 57] (PDF version)

Are the Talmud Rabbis Gynaecological Experts?

I genuinely want to avoid being prurient, but I feel it necessary to establish that the Talmud contains an inordinate amount of space discussing sex generally and a significant amount about sex involving pre-pubescent children, far more than the odd one-liner and apologetics would like to suggest. The arbitrary "threshold" of 3 years of age for girls concerning marital matters (9 for boys), and the lawful implications form a sustained and comprehensive body of evidence of the truth about that the Talmud comprehensively says about the issue.

The following quotes from Tractate Niddah provides further opportunity to examine the Rabbinic obsession with detail and introduces the issue of girls being normatively marriageable from the age of 3. There are further discussions in Niddah 44b and 45a why sex with a girl younger than 3 is "nothing" and I will risk condemnation by stating as I understand it presently, and no doubt counterintuitive to many, the Rabbis in the Talmud are not necessarily contradicting modern medical studies (I allow for possible "Ιουδαϊζω") with respect to the notion hymens can heal, or partially heal. One may wonder whether the Rabbis attentively gained knowledge from the observations of "respected adult women" or whether their virginity assessments are coincidental. As I have already stated, related issues found in the following Talmud quotes about this specific topic, will be enlarged upon in later chapters, for example on levirate marriage. I will begin from here, quoting material from the later law codes of Rabbi Maimonides and Rabbi Karo.

NIDDA 44b:9,11,12

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – NIDDA 44b:9,11,12

9. **MISHNA: A girl who is three years and one day old**, whose father arranged her betrothal, **is betrothed through intercourse**, as the halakhic status of intercourse with her is that of intercourse in all halakhic senses. And **in a case where the childless husband of a girl three years and one day old dies, if his brother the yavam engages in intercourse with her, he acquires her as his wife**; and if she is married, a man other than her husband is liable for engaging in intercourse with her due to violation of the prohibition against intercourse with a married woman.

[...]

11. **If she marries a priest**, she may partake of teruma, like any other wife of a priest; **if she is unmarried and one of the men who are unfit for the priesthood, e.g., a mamzer or halal, engaged in intercourse with her, he disqualifies her from marrying into the priesthood**, and if she is the daughter of a priest, she is disqualified from partaking of teruma. Finally, if one of all those **with whom relations are forbidden**, as stated in the Torah, e.g., her father or her husband's father, engaged in intercourse with her, they are executed by the court for engaging in intercourse with her, and she is exempt, because she is a minor.

12. If the girl is less than that age, younger than three years and one day, the status of intercourse with her is not that of intercourse in all halakhic senses; rather, it is like placing a finger into the eye. Just as in that case, the eye constricts, sheds tears, and then returns to its original state, so too, in a girl younger than three years and one day old, the hymen returns to its original state.

Sefaria.org - [Nidda 44b:9,11,12](#)

Hakakha by Rabbi Adin Steinsaltz

A girl who is three years and one day old is betrothed through intercourse:

A girl who is three years and one day old can be betrothed by means of sexual intercourse, with her father's consent. If she is younger than that she cannot be betrothed in this manner. (Rambam Sefer Nashim, Hilkhoh Ishut 3:11; Shulhan Arukh, Even HaEzer 37:1)

If one of all those with whom relations are forbidden as stated in the Torah engaged in intercourse with her:

If a man engages in intercourse with a girl to whom he is forbidden and who is three years and one day old, he is liable to receive the death penalty, karet, or lashes, depending on the circumstances, e.g., whether he did so intentionally or unwittingly, and the nature of the forbidden relationship, whereas she is exempt from any punishment. If she was younger than this, this act is not considered intercourse and they are both exempt. (Rambam Sefer Kedusha, Hilkhoh Issurei Bia 1:13)

Note by Rabbi Adin Steinsaltz

If she marries a priest she may partake of teruma:

Although the betrothal of a girl younger than three years old is valid when performed by her father, a marriage canopy does not take effect in her case, as the purpose of a marriage canopy is to permit intercourse between a couple, and she is too young for intercourse (Rashi). Therefore, she has the status of a betrothed woman, not a married one, and the Sages say that a woman betrothed to a priest should not partake of teruma before she enters the marriage canopy. (Rashi on Sanhedrin 55b)

Koren Talmud Bavli - Nidda - Commentary by Rabbi Adin Even-Israel Steinsaltz, [Niddah perek V 44b pages 305,306] (PDF version)

The above Niddah 44b quotes serve to establish that in the Rabbinic mind, sexual intercourse laws (halakha) only have, or mostly have, application when a girl is above 3 years and 1 day, because a girl younger than this cannot be sexual. The factor that determines why a girl who has sexual intercourse (in whatever context) below the age of 3 years, retains a virgin price tag is because the Rabbis believed when the hymen of such a young girl that was torn by the sex act, later returns to its original state thus re-establishing virginity. Whether sexual intercourse takes place in the context of marriage, betrothal, seduction or rape, the applicable laws therein will be examined further below.

The discussion within Niddah 44b and 45a is concerned with the 3-year-old threshold with respect to the need to establish if and when halakhic principles are, or are not relevant or applicable. Both Niddah 44b and 45a will be quoted more fully later to explore several related issues. However, it should be clear, the issue is not in this instance about "child abuse" or rape, as it is clear the Rabbis discuss scenarios in the context of marriage and betrothal of girls both above and below the 3-year threshold. For the relevance of this section, we will see further confirmation of why sexual intercourse with a girl younger than 3 years is lawfully "nothing" or insignificant:

NIDDA 45a:3-8

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – NIDDA 45a:3-8

3. The last clause of the mishna teaches that if the girl is less than that age, i.e., younger than three years and one day, the status of intercourse with her is like placing a finger into the eye. A dilemma was raised before the Sages: What happens to this hymen, i.e., to the hymen of a girl under three with whom a man engaged in intercourse? Does it disappear and come back again later, or perhaps it is not removed at all until after she reaches the age of three?

4. The Gemara asks: What difference is there in halakha between these two suggestions? **The Gemara answers that there is a practical ramification in a case where a priest engaged in intercourse with a girl to whom he is married within her first three years, and found blood on her due to that intercourse, and again engaged in intercourse with her many times, including after she turned three, but on that occasion he did not find blood. If you say that after engaging in intercourse when the girl is younger than three, the hymen disappears and comes back again, here one can maintain that it disappeared due to the first time they engaged in intercourse and did not grow back because there was not enough time without intercourse for it to grow back.**

5. But if you say that the hymen is not removed at all until after she reaches the age of three, the fact that this girl did not emit blood after three years must be because another man engaged in intercourse with her after she turned three, in which case she is classified as a zona, a woman who has engaged in sexual intercourse with a man forbidden to her by the Torah and is forbidden to her husband the priest. The Gemara reiterates: What, then, is the resolution of the dilemma?

6. Rav Hiyya, son of Rav Ika, objects to this explanation of the practical ramifications of the dilemma: **But even if one maintains that the hymen of a girl younger than three disappears and grows back, one can still contend that this girl engaged in intercourse with another man**, as who will say to us that a wound that was inflicted within three years of a girl's birth is not restored and healed immediately? Perhaps it is restored immediately, and this girl did not emit blood because another man engaged in intercourse with her previously, and she is therefore a zona who is forbidden to a priest.

7. Rather, the practical difference between the two suggestions relates to a case where the husband engaged in intercourse with this girl within her first three years, and found blood, and engaged in intercourse with her again after she turned three, and again found blood. If you say that the hymen disappears and comes back again, this blood emitted

when she is less than three years old is blood from the tearing of the hymen, which does not render her impure. But if you say that the hymen is not removed at all until after she reaches the age of three, then this blood she emitted when she was younger than three is menstrual blood, which renders her impure. What, then, is the resolution of the dilemma?

8. Rav Hisda said: **Come and hear the mishna: If the girl is less than that age of three years and one day, intercourse with her is like placing a finger into the eye.** Why do I need the mishna to teach: Like placing a finger into the eye? **Let it teach simply: If she is less than that age, intercourse with her is nothing.** What, is it not correct that this is what the mishna teaches us, by its comparison to an eye: Just as placing a finger in an eye causes it to tear and tear again, when another finger is placed in it, so too after the intercourse of a girl under three the hymen disappears and comes back again?

[Sefaria.org - Niddah 45a:3-8](https://www.sefaria.org/Niddah_45a:3-8)

Hakakha by Rabbi Adin Steinsaltz

This hymen of a girl under three, does it disappear and come back again, etc:

If a man engaged in intercourse with a girl or a woman who is a virgin and she did not bleed, and he again engaged in intercourse with her and this time she did bleed, even if she was a minor and not of an age at which a girl usually menstruates, but older than three years of age, this is considered to be blood of menstruation. The reason for this is that if it was the blood from the tearing of the hymen, one could assume she would have bled the first time they engaged in intercourse. If a man engages in intercourse with a girl younger than three years of age and she bleeds, this is assumed to be blood from the tearing of the hymen, in accordance with Rav Hisda's resolution of the Gemara's dilemma. (Rambam Sefer Kedusha, Hilkhos Issurei Bia 5:25)

Notes by Rabbi Adin Steinsaltz

Less than that is like placing a finger into the eye:

Everyone agrees that an act of intercourse with a girl younger than three is not considered intercourse. Therefore, when she grows older and marries her marriage contract is two hundred dinar, like that of a virgin (Rashi on Ketubot 11b). The commentaries further note that as an act of intercourse with such a young girl is not classified as intercourse, it does not render her a zona and she is not forbidden to a priest (Respona of the Rashba).

The fact that this girl did not emit blood after three years must be because another man engaged in intercourse with her:

This suggestion has halakhic ramifications. Although there is a principle that the seduction of a minor girl is considered rape (see Yevamot 33b), if the minor who was raped was married to a priest, she is rendered prohibited to him. This is because the wife of a priest is forbidden to him due to any act of intercourse with another man, even if she was raped. By contrast, if the girl who was raped was married to an Israelite man, she is not rendered forbidden to him (Tosafot; see Rashi, Ritva, and Meiri).

Koren Talmud Bavli – Nidda · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Nidda perek V 45a page 307] (PDF version)

The above Niddah 45a section illustrates there are more than the one Sanhedrin 55b sentence that Dr. Michael Brown paraphrases from the Talmud that discuss/endorse sexual intercourse with 3-year-old girls.

The main reason for highlighting the Niddah 45a section is to explain why the Rabbis discuss their fixation about a girl's hymen and if, or when it is ruptured permanently. Although some of the context does imply forbidden sexual unions with girls (defined and explored below), it is clear the Rabbis are not concerned in the slightest with any modern concept of "child abuse" or are averse to sexual intercourse with prepubescent girls per se. As can be seen in Niddah 45a:4 the Rabbis discuss the practical halakha ramification "in a case where a priest engaged in intercourse with a girl to whom he is married within her first three years."

Following the advice of Dr. Michael L. Brown, it remains to read the later Jewish law codes, as referenced by Rabbi Steinsaltz, to see if normative halakha is extracted from the above Niddah passages:

Mishneh Torah – Issurei Biah 5:18-25

Sefer Kedushah (*The Book of Holiness*) Issurei Biah (*Forbidden Intercourse*) 5:18-25

18. Hymeneal bleeding is pure. It is neither the blood of niddah or the blood of zivah, for it is not from the uterus. Instead, it is blood from a wound.

What are the laws applying to virgins [who suffer] hymeneal bleeding?²⁹ If she married when she was a minor, whether she never menstruated or whether she menstruated while in her father's home,³⁰ she is permitted to her husband until the wound heals. For any bleeding that she discovers stems from the wound. If she discovers other blood after the wound heals, she is considered as a niddah.

19. [The following rules apply when a woman] marries when she is a na'arah.³¹ If she never menstruated beforehand, she is permitted to her husband for four days, by day and by night, even though blood is flowing, provided the wound did not heal.³²

If she had already menstruated in her father's home and then married, her husband should not [continue] to engage in relations with her.³³ After the first time, he should separate. The hymeneal bleeding is considered as if it is the beginning of menstruation.

When a girl who has reached majority,³⁴ but has not menstruated, she is given the entire first night.³⁵

20. The [first] four nights³⁶ that are granted to a na'arah who has not menstruated need not be consecutive. [Instead,] the couple may engage in relations the first night and wait even two or three months and engage in relations for a second night, provided the wound has not healed.³⁷

21. Similarly, with regard to a minor who is allowed to continue engaging in relations until the wound heals, even if it does not heal for an entire year, they may engage in relations either non-consecutively or day after day.

22. [The following rules apply when a girl] married while she was a minor and became a na'arah while married to her husband. [If] the blood is still flowing because of the wound, all of the times she engaged in relations while a minor are considered as one night and she is given license to complete the four days granted to her³⁸ during the period of na'arut.

Even if the three days she is granted during the period of na'arut are all non-consecutive, [e.g.,] they engaged in relations one night every two months, this is permitted, provided the wound has not healed.

23. How do we know whether or not the wound has healed? If [the woman] would discover blood when she stands but not when she sits; if she would discover [blood] when she sits on the earth, but not when she sits on pillows or blankets,³⁹ the wound has not healed.⁴⁰ If, however, the bleeding ceases and she does not discover [blood], whether she stands or whether she sits on a pillow, the wound has healed. Similarly, even if her bleeding has not ceased, but she continues to discover blood even when she is sitting on pillows and blankets, we assume that this is not blood from the wound, but rather menstrual bleeding.⁴¹

24. If she would discover blood in the midst of relations, [we assume] that it comes as a result of the wound.⁴² If she engaged in relations and did not discover blood and afterwards, discovered blood out of the context of relations, [we assume] that it is menstrual bleeding.

25. When a man engages in relations with a virgin and she does not bleed and then, he engages in relations with her again and she does bleed, [we assume] that this is menstrual bleeding, even if she is a minor. [The rationale is that] if it were hymeneal bleeding, it would have appeared the first time.

When a man has relations with a girl below the age of three and she bleeds, this is hymeneal bleeding.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

²⁹. It must be emphasized that all the laws that follow applied only in the Talmudic era. At present, the Jewish people have accepted upon themselves the stringency of considering even the slightest drop of blood as requiring a wait of seven "spotless" days. Accordingly, when a woman suffers hymeneal bleeding - even if she knows that it is not at all connected with her menstrual cycle, she is considered impure and must wait seven "spotless" days (Chapter 11, Halachot 4,8).

Note the comments of the Ra'avad and the Kessef Mishneh concerning when this stringency was adopted. Is it of Talmudic origin or was it originated in the post-Talmudic period?

³⁰. Even if she menstruated, since she has not come of age, we assume that this is an abnormal occurrence which will not repeat itself.

³¹. A girl between the age of twelve and twelve and a half who has already manifested signs of physical maturity.

32. Since she never menstruated before, we assume that she still is suffering hymeneal bleeding and not that she has begun to menstruate.
33. Since she menstruated before, we recognize the possibility that this is also menstrual blood. Hence, we require the couple to separate. The Ra'avad protests the Rambam's ruling, noting that it follows the position of the School of Shammai, not the School of Hillel. The Maggid Mishneh supports the Rambam's decision, noting that Niddah 65b mentions the opinions of two Amoraim which support this view, indicating that in this instance the opinion of the School of Shammai is followed.
34. I.e., she has reached the age of twelve and half and manifested signs of physical maturity at age twelve.
35. I.e., that night the couple may engage in relations as many times as they desire. Needless to say, if she has already menstruated, the couple must separate after the first time they engage in relations (Maggid Mishneh).
36. More specifically, days and nights as stated in the previous halachah.
37. And also, of course, that the woman has not begun to menstruate. If during the passage of time, she reaches full majority, she is given only one night from that time onward (Rabbi Akiva Eiger).
38. As stated in Halachah 19. Thus she is given three more opportunities to engage in relations.
39. Since she is sitting on a soft surface, the wound will not be aggravated.
40. Even though her bleeding is not consistent.
41. Hence she is deemed impure and forbidden to engage in relations with her husband.
42. Hence we do not apply all the stringencies mentioned in the conclusion of ch. 4.

Chabad.org - [Kedusha - Issurei Biah 5:18-25](#)

It is clear from above that when the Rabbis are discussing the betrothal price of a female and a girl who has been vaginally penetrated before the age of 3 years, they are concerned with the technical issue of the state of the hymen. An intact hymen determines a virgin price tag. Contrary to the protestations of Rabbi Gil Student and Dr. Michael Brown, the Talmudic and later Rabbis clearly have no moral or ethical concerns with adults having sex with girls both above or below 3 years of age, if as in certain examples, sexual intercourse is in the lawful context of "marriage".

I will now view several more Talmudic and legal texts reinforcing the principle that sexual intercourse with a girl less than 3 years old is nothing in the legal sense of it not affecting the virgin bride price and whether intercourse with girls is permitted or disallowed is depending on various factors. There are some issues mentioned which will become clear further below such as who priests can and cannot marry and the laws surrounding Levirate marriages. The points established in this chapter are the bride price rules and legal status of various sexual intercourse scenarios in relation to bride price. The following quote is from the Shulchan Arukh by Rabbi Joseph Karo whose work Dr. Brown considers, along with Maimonides, "as being definitive rulings, and traditional Jews feel beholden to follow these later rulings":

Shulchan Arukh – Even HaEzer 37:1

Shulchan Arukh – Even HaEzer 37:1

1. **The father may betroth his daughter without her consent, all the time she is a minor.** Likewise, when she is a na'arah⁴⁷ the father has control over her and the betrothal money belongs to him. Likewise, he is entitled to her finds, to the production of her hands, and to her wedding contract.⁴⁸ If she be widowed or divorced from the betrothal, he is entitled to everything until she comes of age. Therefore, the father accepts the betrothal money, etc. of his daughter from the day she is born until she comes of age. Even if she was a deaf-mute or insane and the father betrothed her, behold she is a fully married woman. **If she were three years old and one day**, she may be betrothed by means of Bi'ah⁴⁹ with the consent of her father. **If she is younger than this, if her father hands her over for intercourse, she is not betrothed.**

Notes:

⁴⁷. A maiden.

⁴⁸. Ketubah in Hebrew. A document recording the financial obligations which the husband undertakes toward his wife in respect of, and consequent to, their obligations, which are imposed upon him by law. The main component is the amount determined by law as the minimum that the wife is entitled to receive from her husband or his estate on dissolution of the marriage. The liability of payment is Pentateuchal. Exodus 22:15-16 but the halakhah is that the Ketubah is rabbinical law.

⁴⁹. If a man in the presence of two competent witnesses, says to a woman. "Behold you are consecrated to me with this act of sexual intercourse according to the law of Moses and of Israel," and in their presence the groom takes the bride into a private place for the purpose of Kidushin, she will upon completion of the act be betrothed.

[Even HaEzer 37:1](#)

Shulchan Arukh – Even HaEzer 67:4

4. A female child less than three-years-old and one day that was taken as a wife, even if an adult had relations with her, her ketubah is 200 [zuz]; a child less than 9-years-old and a day that had relations with an adult woman, her ketubah is worth 200 [zuz], but only if he did not break her hymen, but if he broke her hymen, she gets only 100 [zuz].

[Even HaEzer 67:4](#)

Shulchan Arukh – Even HaEzer 167:4

A girl ages 3 and a day and up, her sexual intercourse is considered such for anything [on a halachic level]. And if her levirate husband has sexual intercourse with her, she is acquired. But she cannot do halitza until she is 12 and a day years old, and they check her after that to find if she has two hairs [as a sign of maturity].

[Even HaEzer 167:4](#)

I will now present further references to Rabbinic discussion and laws related to girls less than 3 years old, not just to sustain the above, but to establish that the 3 year old threshold with respect to girls being of marriageable age is misleading. The threshold does have multiple halakhic ramifications. It is the case however that with respect to the marriage of minors per se, there is no lower age limit. Note too that other aspects of child sex appear, such as the crime of rape:

Mishneh Torah – Ishut 11:3

Sefer Nashim (*The Book of Women*) Ishut (*Marriage*) 11:3

3. A mukat etz⁴ [is granted] a ketubah of 100 [zuz]. Even if [her husband] wed her under the presumption that she was a virgin and then he discovered that she was a mukat etz, she is entitled to a ketubah of 100 [zuz]⁵.

When a girl of less than three years of age engages in sexual relations, even when her partner is an adult male, she [is entitled to] a ketubah of 200 [zuz]. Ultimately, she will heal and be a virgin like all others.

Similarly, when a boy below the age of nine engages in sexual relations with an adult woman, she [is entitled to] a ketubah of 200 [zuz], as if she had never engaged in relations.⁶ For it is only after a boy reaches the age of nine years and one day that relations with him are of consequence. Before that age, they are of no consequence.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

4. Literally, "one struck by a piece of wood," a woman who claims that she did not have hymenal bleeding at the time of her first sexual experience, because she had previously been "struck by a piece of wood" and caused to bleed at that time. As mentioned in Halachah 10, the term is used to refer to any woman who claims that her failure to have hymenal bleeding resulted from causes other than intercourse.

5. Although one might think that the marriage would be annulled, because the husband was operating under a misconception (מקח טעות), Ketubot 11b rules that this is not so. As long as she had not engaged in sexual relations previously, their marriage is binding.

6. The Shulchan Aruch (Even HaEzer 67:4) follows the ruling of Tosafot, Ketubot 11b, who explain that this law applies only when the woman's hymen remains intact despite these relations.

[Chabad.org - Nashim - Ishut 11:3](#)

KETUBOT 9a:3

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KETUBOT 9a:3

3. No, it is necessary to teach this ruling only in the case of the wife of a priest, who is rendered forbidden to her husband even if she engaged in intercourse by coercion. In that case, there is a single uncertainty. And if you wish, say instead that this ruling is relevant even to the wife of an Israelite, and **it is in a case where her father accepted her betrothal when she was less than three years and one day old**. Intercourse with a girl less than three years old does not permanently rupture the hymen, and therefore there is no uncertainty whether she engaged in intercourse before or after betrothal. Clearly, it took place after betrothal, and there is only one uncertainty: Did she engage in intercourse by coercion or willingly?

Sefaria.org - Ketubot 9a:3

Hakakha by Rabbi Adin Steinsaltz

In a case where her father accepted her betrothal when she was less than three years and one day old:

If a man accepts betrothal on behalf of his daughter when she is less than three years and one day old, and if her husband claims that when consummating the marriage, he discovered that his wife is not a virgin, she is forbidden to her husband. In that case, there is only one uncertainty: Whether or not she was raped. She could not have lost her virginity before betrothal, as the hymen of a girl younger than three years old does not rupture. (Rambam Sefer Kedusha, Hilkhos Issurei Bia 18:11; Shulhan Arukh, Even HaEzer 68:7).

Notes by Rabbi Adin Steinsaltz

In the case of the wife of a priest:

The Ramban asks: Why is there not a compound uncertainty in this case as well, as, even if the women's hymen were ruptured after betrothal, perhaps it was ruptured by a foreign object and she is permitted to her husband? He answers that there is an additional reason to rule stringently, as, even if the hymen were ruptured before betrothal, a woman who had relations with one disqualified from entering the congregation of Israel renders her forbidden to a priest. Others answer that, as cited previously, the possibility that her hymen was ruptured by a foreign object is uncommon and therefore cannot be classified as an uncertainty. The early commentaries discuss at length whether or not that circumstance is uncommon.

Koren Talmud Bavli – Ketubot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek I 9a page 44] (PDF version)

Mishneh Torah – Issurei Biah 18:9-11

Sefer Kedushah (*The Book of Holiness*) Issurei Biah (*Forbidden Intercourse*) 18:9-11

9. Although the wife of a priest who tells her husband: "I was raped," is permitted to her husband as explained, she is forbidden to any other priest³³ after her husband dies.³⁴ For

she has acknowledged that she is a zonah and caused herself to be forbidden, making herself a prohibited entity.

10. When a priest³⁵ consecrates a woman, whether a minor or past majority, and afterwards engages in relations with her and claims that she had engaged in relations previously,³⁶ she is forbidden to him because of the doubt involved:³⁷ perhaps she engaged in relations before she was consecrated or perhaps it was afterwards.³⁸ When, by contrast, an Israelite makes such a claim, there are two doubts involved:³⁹ Maybe [the forbidden relations] preceded the consecration or maybe they came afterwards. Even if we say that they came afterwards, maybe she was raped or maybe she participated willingly. For a raped woman is permitted to an Israelite, as we explained.⁴⁰

11. Therefore, if a girl's father consecrated her to an Israelite when she was less than three years old and [when they married, the Israelite] claimed that he discovered that she had engaged in relations previously, she is forbidden to him because of the doubt. For there is only one doubt involved: Maybe the relations were against her will⁴¹ or maybe she engaged willingly.⁴² When there is a doubt concerning a Scriptural prohibition involved, [we rule] stringently.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

34. The Ra'avad differs with the Rambam, explaining that since the woman's statements were rejected, they are considered of no consequence afterwards. The Maggid Mishneh justifies the Rambam's ruling, and it is accepted as law by the Shulchan Aruch (Even HaEzer 6:13).

The Ra'avad's rationale is that if the woman is able to provide a satisfactory explanation why she originally stated that she was forbidden, her word is accepted, as is the case with regard to other similar situations. The Maggid Mishneh does not accept this logic. See Chelkat Mechokek 6:12 and Beit Shmuel 6:26 which discuss this issue.

35. In contrast to an Israelite, as the Rambam continues to explain.

36. The husband's word is accepted as stated in Hilchot Ishut 11:8-15. The rationale is that we operate on the presumption that a man will not take on the expense and trouble of making a wedding and then forfeit it because of a spurious claim.

37. Since the doubt involves a Scriptural prohibition, we rule stringently.

38. For if the relations took place afterwards, even if she was raped, she is forbidden to her husband as a zonah.

39. And when there are two doubts involved, even when a Scriptural prohibition is concerned, we rule leniently.

40. See Halachah 7.

41. Although a minor who wilfully commits adultery is not punished, she is forbidden to her husband (Chapter 3, Halachah 2).

42. Since she was consecrated before the age of three, even if she had engaged in relations beforehand, her hymen would have regenerated. Thus there is only one doubt involved.

[Chabad.org - Kedushah - Issurei Biah 18:9-11](#)

Shulchan Arukh – Even HaEzer 6:14

14. A Cohen who betrothes an adult or child, and after some time has relations with her and finds her not a virgin, she is forbidden to him by doubt - perhaps she had relations before betrothal [and is permitted] or perhaps after betrothal [and is forbidden]. But if a Yisrael who makes this claim, she is not forbidden to him, for there are two doubts here - perhaps before betrothal and perhaps after betrothal, and even if it was after betrothal, perhaps it was forced [and she is not forbidden] and perhaps it was willingly [and she is forbidden], for if she is raped she remains permitted to a Yisrael. **Therefore if her father betrothed her to a Yisrael when she was less than three years and one day old, and he claims to have found her not a virgin, she is forbidden to him by doubt, because there is only one doubt here - perhaps it was forced, or perhaps willingly, and in a Torah prohibition we must be stringent in a doubtful case.**

[Even HaEzer 6:14](#)

Shulchan Arukh – Even HaEzer 68:7

7. When they said that his claim about the virginity is a [valid] claim, if he is a priest, she is forbidden to him, **and if she is the wife of an Israelite, she is permitted to him, unless her father accepted for her a betrothal at less than three years and one day of age.** gloss: And some say that that, that she is forbidden when she is a wife of an Israelite is only when she does not explain herself, but if she says, 'I was raped', she is believed (Tur). And some say as well, that [it is] only when she is mature in front of us, but when she is still a child, she is not forbidden (Bet Yosef in the name of Rashi, and so it seems from the words of the Ran).

[Even HaEzer 68:7](#)

Mishneh Torah – Naarah Betulah 1:8-15

Sefer Nashim (*The Book of Women*) Naarah Betulah (*Virgin Maiden*) 1:8-15

8. Neither a **rapist nor a seducer is liable to pay the fine** unless he engages in relations in the ordinary fashion,²² and the relations are observed by witnesses.²³ A warning is not necessary.²⁴

At what age is a girl fit to be paid a fine? From the age of three²⁵ until she reaches the age of bagrut.²⁶ **If a man engages in relations with a girl less than three years old, the relations are not significant.**²⁷ If he engages in relations with her after she reaches the age of bagrut, he is not fined. For [Deuteronomy 22:28] states: "A virgin maiden," thus excluding a girl who has reached maturity.

9. Whether or not [a girl's] father is alive, a fine must be paid.²⁸

A fine need not be paid [because of relations] with the following women: a bogeret, a girl who has dissolved a marriage through mi'un,²⁹ an ayilonit,³⁰ a mentally incompetent girl, a deaf mute,³¹ a girl who was reputed to have conducted herself immodestly while young, concerning whom two witnesses testify that she sought sexual relations with them,³² a girl who was married and divorced, but is still a virgin maiden.³³

When, by contrast, [a girl] is divorced after merely being consecrated,³⁴ a fine must be paid - and she is entitled to it³⁵ - if she is raped. If she is seduced, she is not entitled to a fine.³⁶

10. [The following rules apply with regard to] a convert, a girl who was taken captive, and a [Canaanite] maidservant who was freed:³⁷ If she was converted, redeemed, or freed before she reached the age of three, she is entitled to a fine.³⁸

If she was three years old [or older] when she was converted, redeemed, or freed, she is not entitled to a fine. Since relations that she engages in at this time are significant, she is placed into the category of non-virgins.

11. [The following rules apply when] the virgin [who was raped or seduced] was forbidden to the rapist or the seducer. If the prohibition was punishable by karet - e.g., she was his sister, his aunt, in the niddah state or the like - or she was forbidden by virtue of a negative commandment [that does not involve either karet or execution], he is not liable for a fine if he was given a warning.³⁹ [Instead,] he should be lashed. [The rationale is that] a person is never punished [for the same transgression] by both lashes and a monetary assessment.

If he was not warned, since he is not to be given lashes, he should pay the fine.

12. [When the girl raped] was forbidden because of a positive commandment, or she was a sh'niyah or forbidden because of another Rabbinic commandment, [the rapist] is obligated to pay the fine whether he was warned against the transgression or not, because he is not punished by lashes.

13. [When the girl raped] was forbidden because of a prohibition punishable by execution by the court - e.g., she was his daughter, daughter-in-law⁴⁰ or the like - he is not liable for the fine, regardless of whether or not he received a warning.

[This is derived from Exodus 21:22, which] states: "If there will not be a [fatal] accident, he should be punished."⁴¹ Implied is that if there is a [fatal] accident, no punishment should be levied.⁴² [This applies] although the woman was killed unintentionally, [i.e.,] the man did not intend to strike her,⁴³ as it is written [Ibid.]: "If men strive and a woman receives a blow..." This teaches that with regard to a [fatal] accident, Scripture did not differentiate between an intentional and unintentional act to free him from monetary obligation.

And [Leviticus 24:18-21] says: "A person who [fatally] strikes an animal shall reimburse [its owner] for it, and one who [fatally] strikes a man must die." Just as Scripture did not distinguish between intentional and unintentional action for killing an animal to make him liable for payment, so too, it did not distinguish between intentional and unintentional action for killing a person to free him from financial obligation.

14. This law applies with regard to every transgression that is punishable by execution by the court. There is no financial obligation.⁴⁴

15. If [a girl] dies after she [was seduced or raped], [the seducer or the rapist] is not liable for the fine, [as implied by Deuteronomy 22:29]: "the man who raped her must give the maiden's father...." [The verse states] "the father of the maiden," and not "the father of the dead maiden." [This applies] when she dies before the case came to court.⁴⁵

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

22. I.e., vaginal, and not anal intercourse. The Rambam's ruling is not accepted by the Ra'avad and Rabbenu Asher, who cite Kiddushin 9b-10a in support of their conception.

The Kiryat Sefer supports the Rambam's ruling, based on Sanhedrin 73b, which states that the man is not liable until he inserts the entire penis into the vagina, explaining that it is only then that the woman will lose her virginity. Since she will never lose her virginity through anal intercourse, the man is not held liable.

23. For a person who admits his culpability in matters punishable by a fine is not liable. See Chapter 2, Halachah 12 and notes.

24. For a warning is necessary only before infliction of the punishments of execution or lashing.

25. Although there are times when the Hebrew term na'arah, translated as "maiden," has a more specific meaning (see Hilchot Ishut 2:1), Ketubot 40b explains that in this instance the intent is also a girl below the age of twelve.

Although most Rishonim agree with the Rambam, there are, however, significant authorities who rule that a fine need not be paid until the girl reaches the age of na'arut.

26. Generally, this refers to a girl of the age of twelve and a half who has manifested signs of physical maturity. If a girl does not manifest signs of physical maturity, she is not considered a bogeret until the age of 20 or 35. See Hilchot Ishut 2:1-4.

27. For her hymen will grow back, as implied by Hilchot Ishut 3:11.

28. Since the Torah states that the fine should be paid to the father, it is necessary to clarify that the fine must be paid even if the father is not alive.

29. As mentioned in Hilchot Gerushin 11;1, when a girl below the age of majority marries without being consecrated by her father, she can nullify the marriage without a formal divorce. This is called mi'un. When she takes this option, even if we know that she is still a virgin, she is not entitled to receive the fine because she has been married previously.

30. A woman who does not manifest female sexual characteristics, as explained in Hilchot Ishut 2:5. Since an ayilonit never becomes a na'arah, she is not entitled to a fine (Kessef Mishneh). The Ra'avad maintains that an ayilonit should receive a fine until she reaches the age of twenty.

31. Since they are not mentally competent, we fear that they were raped previously without their knowing about it. Compare to Hilchot Ishut 11:4,8. Note the Ra'avad, who states that a person who rapes or seduces a deaf mute is liable for a fine.

32. See Chapter 2, Halachah 17.

33. Even if we are certain that she and her husband never engaged in sexual relations, she is not paid a fine. Compare to Hilchot Ishut 11:1.

34. We do not assume that she entered into relations with her husband before the stage of nisu'in.

35. Although Deuteronomy 22:28 speaks of the fine being paid to the girl's father, from the fact that the verse mentions "a maiden who was not consecrated," Ketubot 38a derives that when a maiden has been consecrated, the fine should be paid to the woman who was raped.

36. Since she consented to relations, she waives the payment of the fine. See Chapter 2, Halachot 10-11.

Note Rav David Arameah, who states that this applies only when she is a na'arah. If she is still a minor, her father receives the fine, and she does not have the potential to waive it through her consent.

37. As the Rambam states in Hilchot Ishut 11:2, we operate under the presumption that these women have engaged in relations previously: a convert and a Canaanite maidservant because non-Jews' morals are considered to be weak, and a woman held captive because she is at the mercy of her captors.

38. Even if she engaged in relations before the age of three, her hymen would grow back, as stated in the notes on Halachah 8.

39. As stated in Hilchot Sanhedrin 12:2 and 16:4, a person receives corporal punishment for the commission of a transgression only when he has been warned previously.

40. This refers to a girl who was divorced after consecration. If she was divorced after nisu'in, the second stage of the marriage, she is not entitled to a fine as stated in Halachah 9.

41. The verse speaks of the woman's miscarrying. If she herself does not die, the man who caused her to miscarry must pay her damages.

42. I.e., if the woman dies, her heirs need not be reimbursed. Since the man is liable for a sin of a more severe nature, he is not held liable for damages (Hilchot Sanhedrin 16:5).

43. Although the general principle stated in this halachah is accepted without dispute, the particular case of the pregnant woman is a matter of question. The Rambam himself states (Hilchot Chovel UMazik 4:5-6) that if the man did not intend to strike the woman, he is liable to pay damages to her heirs.

In that source, he explains that the leniency granted by the verse applies when the man intended to strike the woman but did not intend to kill her.

44. In contrast, with regard to a transgression punishable by lashes: if it is performed unintentionally, one is still held liable for the financial repercussions.

45. **Once, however, the case is heard before the court, the rapist is held liable if proven guilty, even if the maiden dies. The fine is given to the girl's heirs (Kessef Mishneh).**

Chabad.org - [Nashim - Naarah Betulah 1:8-15](#)

More From Apologist Rabbi Gil Student About Sex with Minor Girls

This subsection is almost an excursus to demonstrate why anyone genuinely interested in the truth about the Talmud generally, and specifically about this publication's topic, it is vital to spend the time and effort necessary to verify any claims and counterclaims to their end. It is understandable why such apologists as Dr. Brown et. al. typically take time out to dissuade Gentiles from studying the "complicated", "dry", "non-systematic", multi-genre styles without approved and qualified guidance. They want their listeners and readers to accept their "authority" alone.

I will now present additional apologetics by Rabbi Gil Student to illustrate the benefit of following the references trail. I have shown the apologetic claim that the Talmud Rabbis were being "merciful" in their decision to maintain the virgin bride price for a girl younger than 3 years old whose hymen was torn during sexual intercourse. On his web page entitled "*The Talmud Does Not Permit Sex With A Three Year Old*" Rabbi Student mitigates further:

The Talmud continues and quotes Rava as saying that a sexual act between a male adult and a female under the age of three is also not considered a loss of virginity (although it is child abuse). Since the girl is too young for her hymen to be broken, she is still considered a virgin.

Nowhere is the Talmud permitting such behavior. Sex outside of a marriage is strictly forbidden (Maimonides, *Mishneh Torah*, *Hilchot Ishut* 1:4, *Hilchot Na'arah Betulah* 2:17; *Shulchan Aruch*, *Even HaEzer* 26:1, 177:5) as is this obvious case of child abuse. The Talmud is only discussing ex post facto what would happen if such a case arose.

That non-marital sexual relations is prohibited is stated explicitly by Maimonides in the following passage from his ground-breaking legal code *Mishneh Torah*:

Maimonides, *Mishneh Torah*, *Hilchot Ishut* 1:4:

"Whoever has licentious relations with a woman without marriage bonds is lashed by biblical mandate."

Student, G. O. (2000) *The Talmud Does Not Permit Sex With A Three Year Old*. Available at: <https://www.angelfire.com/mt/talmud/three.html> (Accessed: 15 June 2023)

I make these points:

- Minor detail is that contrary to Rabbi Student, the texts already presented in this chapter above state the Talmud Rabbis believed a girl below 3 does have her hymen ruptured when vaginally penetrated but it returns.

- The Talmud Rabbis do indeed determine the bride price of such a girl still meriting the "virgin" price tag.
- Rabbi Student claims the Talmud does not permit sex with a girl younger than 3, because sex outside marriage is strictly forbidden.
- Rabbi Student provides references for Maimonides' Mishneh Torah and Rabbi Karo's Shulchan Aruch.

Rabbi Student's words are carefully chosen with the knowledge an uninformed reader will be "satisfied" with his "authoritative" narrative. For example, sex within marriage would be deemed as lawfully, morally, and ethically acceptable would it not? I suggest the principal argument is that "no true Jew" (Torah observant) will have sex outside of marriage. I ask you to bear in mind the texts above and the principle that if a putative "prophet of God", such as Mohammad, married a 6 year old and consummated that lawful "marriage" with her when she was 9 years old, is that therefore morally and ethically acceptable? I will follow the reference trail starting with the Maimonides quote supplied by Rabbi Student:

Mishneh Torah – Ishut 1:4

Sefer Nashim (*The Book of Women*) Ishut (*Marriage*) 1:4

4. Before the Torah was given, when a man would meet a woman in the marketplace, and he and she desired, he could give her payment, engage in relations with her wherever they desired, and then depart. Such a woman is referred to as a harlot.³

When the Torah was given, [relations with] a harlot became forbidden, as [Deuteronomy 23:18] states: "There shall not be a harlot among the children of Israel."⁴ Therefore, a person who has relations with a woman for the sake of lust, without kiddushin, receives lashes as prescribed by the Torah, because he had relations with a harlot.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

3. The Ra'avad and others differ and maintain that a woman is not considered to be a harlot unless she is a professional prostitute. The difference between this approach and the Rambam's involves only the severity of the prohibition. **Both agree that sexual relations outside the context of marriage are forbidden.** With regard to a pilegesh, a woman one designates as a sexual partner but who is not consecrated as a wife, see Hilchot Melachim 4:4.

4. Sefer HaMitzvot (Negative Commandment 355) and Sefer HaChinuch (Mitzvah 570) include this as one of the Torah's 613 commandments.

Chabad.org - [Nashim - Ishut 1:4](#)

Unlike Rabbi Gil Student's own translation which uses "without marriage bonds", the above uses the word "kiddushin". Kiddushin is typically the betrothal/engagement step in early Rabbinic sources though it later became conflated with the second step of marriage the "nisu'in". In later times the two steps, and two celebrations, became combined. This needs to be understood because modern apologists typically use the modern ceremony, with it's two combined steps and anachronistically apply it to the ancient use of the terms "kiddushin" (betrothal) and "nisu'in" in the Talmud and thereby muddying the waters. Translators of the

Talmud, Rabbi Maimonides', and Rabbi Karo's works are not always consistent in revealing the precise term. The point here is to establish there are often exceptions to Rabbinic rules and interpretations. The context of Ishut 1:4 is that of a "harlot" and what circumstances are equivalent to having relations with a harlot. Note 3 by Rabbi Touger above makes mention of a "pilegesh" which is the Hebrew word for harlot but is better known in Bible translations as a "concubine".

Not only is the context of Nashim - Ishut 1:4 specifically about a "pilegesh" or concubine rather than the implication of Gil Student's all-inclusive "woman", it is further elaborated elsewhere by Rabbi Maimonides as to when "concubinage" is and is not allowed according to him. Note 3 above agrees that "sexual relations outside the context of marriage are forbidden". However, the following sentence states: "With regard to a pilegesh, a woman one designates as a sexual partner but who is not consecrated as a wife, see Hilchot Melachim 4:4." It remains therefore to view Maimonides' Hilchot Melachim 4:4:

Mishneh Torah – Melachim Umilchamot 4:4

Sefer Shoftim (*The Book of Judges*) Ishut (*Kings and Wars*) 4:4

4. Similarly, he [the King] may take wives and concubines from the entire territory of Eretz Yisrael. The term 'wives' implies women who were married with a ketubah [marriage contract] and kiddushin [betrothal]; concubines, women who were not given a ketubah and kiddushin. With the act of yichud alone [secluded in a room by themselves], the king acquires her and relations with her are permitted him.

A commoner is forbidden to have a concubine. The only similar relationship is the union with a Hebrew maid servant after she has been designated by her master.

The king may make the concubines which he takes to his palace cooks, bakers, and perfumers as *ibid.*:13 states: 'He will take your daughters to be perfumers, cooks, and bakers.

Chabad.org - Shoftim - Melachim Umilchamot 4:4

According to Maimonides therefore, a King is allowed to have sex with a woman, with no marriage contract "ketubah" or betrothal "kiddushin". Maimonides prohibits the possession of concubines for commoners. Though, as is typical with Rabbis, the following sentence of this prohibition for commoners hints at an exception to the rule. The precarious and vulnerable life of a "Jewish" minor girls position once sold as a "bondswoman" by her father is discussed below and shows that sex outside of marriage is indeed permitted under certain circumstances. Maimonides already makes clear that monarchs are not prohibited from having sex with women (and minors) outside of formal and normative marriage ties.

Admittedly, Maimonides position is generally considered to be the minority position, not least of all because of the concubines of the Biblical Patriarchs and a Levite (Judges 19) as described in the Tanakh. "Concubines" would also include a Hebrew girl bought from her father and Gentile women captives taken in war as will be seen below. (See Genesis 25:6 and Deuteronomy 21:10-14)

Why Rabbi Gil Student chose to quote Maimonides, Mishneh Torah, Hilchot Ishut 1:4 with its specific context to sustain that "non-marital sexual relations is prohibited" rather than a few others available to him might well be understood in one way by the ignorant and another way by those versed in Halakhic minutiae as he himself is. There is not the space to discuss the ongoing Jewish debates about whether in present times a man can

take a pilegesh (concubine), with or without a betrothal or contract, both or neither. Suffice to say, the true context of the quote Rabbi Gil Student highlights does have relevance to sex with minor Jewish girls bought from her father as a servant and minor Gentile girls taken as captives in war further below.

The other references given by Rabbi Student from the Mishneh Torah and Shulchan Aruch, do indeed discuss sex with a harlot, or harlot implied behaviour, and circumstances concerning rape and seduction, all in the context of sex outside of marriage bounds and if or when punishment is due. It will become apparent however in the chapters below that Rabbi Student is presenting a generalized assessment knowing he omits scenarios which fall short of his idealized dogma. Nowhere do the Rabbis discuss or proscribe the concept of "child abuse". It is about forbidden and permitted relationships and the "legal" implications relating to them.

Without elaborating for now on the slippery and calibrated Rabbinic definitions of "marriage" and "adultery", it is clear from the sampled quotes above in this chapter that sex with girls under 3 years old is not necessarily applicable as being rape or in a "non-marital sexual relations" context.

Recall from above in this chapter that the Mishnah Niddah 44b:9 it is stated that "A girl who is three years and one day old" given by her father in marriage "is betrothed through intercourse". This act is lawful! Rabbi Adin Steinsaltz in his halakhic statement about this makes a clear distinction between sex with a "forbidden" 3 year old girl, with punishments graded "depending on the circumstances". He then unequivocally states if the girl was younger than 3 years old "this act is not considered intercourse and they are both exempt."

In Ketubot 9a:3 it elaborated on the status of a girl ("the wife of an Israelite") betrothed by her father less than 3 years old (Virgin or not) is forbidden to her husband, in the event of sexual intercourse with another man before or after her betrothal. The issue of concern is whether she engaged in intercourse by force or was a willing participant. Rabbi Steinsaltz concludes in his comment to this passage that the girl, due to the Rabbinic decree that girls engaged in sex before 3 are still legally speaking, virgins.

I suggest the canard that "no true Jew" would have sex outside of marriage, and this includes by implication sex with children, has already been demonstrated as a hollow. Clearly, it is possible for a Jewish father to betroth a daughter less than 3 years old. Therefore, it follows that an adult male "true Jew" can lawfully have sex with a girl less than 3 years old by marrying her. So much for the sanctity of marriage. Except, according to Rabbinic quibbling, sex with a girl younger than 3 years old is not sex!

I will now explore the "merciful" consideration Rabbis have for girls aged 3 years and above.

6. Marriage of Girls Between the Ages of 3 to 12½

The Rabbinic quotes in the last chapter showed that marrying and having sex with girls younger than 3 years old is acceptable within certain halachic parameters. If one were to elicit an honest answer from an authoritative orthodox Rabbi, it would be acknowledged that based on Talmudic and other Rabbinical giants such as Maimonides and Karo, that de facto, there is no minimum age for marriage in Judaism. (In my experience, AI chatbots when asked the right question acknowledge this to be the case.) It does not mean that there has been no dissension to this, or that different factors in different historical times and within geographically disparate Jewish communities, child marriage was not discouraged or considered improper. However, the purpose here is to establish whether the Talmud says A, B and C, and whether the Talmud means A, B and C.

I have already shown that rabbis define for halakhic reasons the age threshold for males and females being considered minors or adults. Minors are further regulated within their minor definition by the arbitrary introduction of age thresholds also for halakhic implications. The age of 3 years and 1 day for girls is one of these arbitrary lines that inform what is permitted or forbidden with respect to marriage and sex. I will now look at Niddah 45b and related material to establish the reality of the 3 year old threshold and will elaborate on the many scenarios where this is significant legally from the rabbinic point of view. In keeping with the method established so far, relevant and supporting quotes for the correct understanding of the Talmudic statements from the later law codes of Rabbi Maimonides and Rabbi Karo will be provided. Recall one of the lies talked about the Talmud is:

Some might say, "I've seen lot's of quotes taken straight from the Talmud – they are readily available online – and I don't need you to explain them to me. They are simple and clear, and there's no denying what they say."

Here is the way some of the most commonly cited texts on anti-Jewish websites are interpreted.

[...]

- A Jew may marry a three year old girl (specifically, three years 'and a day' old) (Sanhedrin 55b)

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud pp. 66,67

I will quote the Sanhedrin reference later. First, Niddah 45b in a wider context:

NIDDA 44b:9-13

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – NIDDA 44b:9-13

9. **MISHNA:** A girl who is three years and one day old, whose father arranged her betrothal, is betrothed through intercourse, as the halakhic status of intercourse with her is that of intercourse in all halakhic senses. And in a case where the childless husband of a girl three years and one day old dies, if his brother the yavam engages in intercourse with her, he acquires her as his wife; and if she is married, a man other than her husband is liable for engaging in intercourse with her due to violation of the prohibition against intercourse with a married woman.

10. And if she is impure due to menstruation, she imparts impurity to one who engages in intercourse with her who then renders impure all the layers of bedding beneath him, rendering them impure like the upper bedding covering a zav, in the sense that it assumes first-degree ritual impurity and does not become a primary source of ritual impurity, and it renders impure food and drink, but it does not render impure people and vessels.

11. If she marries a priest, she may partake of teruma, like any other wife of a priest; if she is unmarried and one of the men who are unfit for the priesthood, e.g., a mamzer or halal,

engaged in intercourse with her, he disqualifies her from marrying into the priesthood, and if she is the daughter of a priest, she is disqualified from partaking of teruma. Finally, if one of all those with whom relations are forbidden, as stated in the Torah, e.g., her father or her husband's father, engaged in intercourse with her, they are executed by the court for engaging in intercourse with her, and she is exempt, because she is a minor.

12. If the girl is less than that age, younger than three years and one day, the status of intercourse with her is not that of intercourse in all halakhic senses; rather, it is like placing a finger into the eye. Just as in that case, the eye constricts, sheds tears, and then returns to its original state, so too, in a girl younger than three years and one day old, the hymen returns to its original state.

13. GEMARA: The Sages taught in a baraita: A girl who is three years old is betrothed through intercourse; this is the statement of Rabbi Meir. And the Rabbis say: She must be three years and one day old. The Gemara asks: What is the difference between their opinions, as both agree that she cannot be betrothed before the age of three? The Sages of the school of Rabbi Yannai said: There is a difference between their opinions in the case of a girl on the eve of the first day of the fourth year of her life. According to Rabbi Meir, she can be betrothed through intercourse, as on this day three years are complete, whereas the Rabbis maintain that she cannot be betrothed in this manner, as she has not yet entered the first day of her fourth year.

[Sefaria.org - Niddah 44b:9-13](https://www.sefaria.org/Niddah_44b:9-13)

I will now go step by step to extract the halakha from the above passage with the authority of Rabbi Adin Steinsaltz, Rabbi Maimonides and Rabbi Karo. It requires some repetition. Recall Rabbi Steinsaltz wrote:

Hakakha by Rabbi Adin Steinsaltz Re: Niddah 44b:9

A girl who is three years and one day old is betrothed through intercourse:

A girl who is three years and one day old can be betrothed by means of sexual intercourse, with her father's consent. If she is younger than that she cannot be betrothed in this manner. (Rambam Sefer Nashim, Hilkhhot Ishut 3:11; Shulĥan Arukh, Even HaEzer 37:1)

Koren Talmud Bavli - Nidda - Commentary by Rabbi Adin Even-Israel Steinsaltz, [Niddah perek V 44b pages 305,306] (PDF version)

I will now show the references given by Rabbi Steinsaltz which will be seen to endorse the lawful right of a father to betroth his minor daughters from the age of 3 years old:

Mishneh Torah – Ishut 3:11

Sefer Nashim (*The Book of Women*) Ishut (*Marriage*) 3:11

11. **A father may consecrate his daughter without her knowledge while she is a minor.** Even when she is a na'arah,¹⁴ he still possesses this right, as [implied by Deuteronomy 22:16]: "I gave my daughter to this man."

[The money received as] kiddushin belongs to her father. Similarly, he has the right to [any ownerless property] she finds, [the wages she receives for] her labor, and [the money she receives as stipulated in] her ketubah if she is divorced or widowed before the marriage bond is consummated. He is entitled to all these until she becomes a bogeret.]

Therefore, a father is entitled to receive kiddushin on behalf of his daughter from the day she was born until she becomes a bogeret. Even if she is a deaf mute or intellectually incompetent, if her father consecrates her [to another man], she is his wife.

If a girl is older than three years and one day, she can be consecrated through sexual relations with her father's consent. Should she be below this age, if her father has her consecrated through sexual relations, the marriage bond is not established.¹⁵

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

14. At which time, the girl has the right to accept kiddushin from a man herself.

15. For until the age of three, the relations are not considered sexual in nature (this by no means insinuates that they are insignificant or potentially harmful, only that they are not sexual).

Chabad.org - [Nashim - Ishut 3:11](#)

Shulchan Arukh – Even HaEzer 37:1

1. **The father may betroth his daughter without her consent, all the time she is a minor.** Likewise, when she is a na'arah the father has control over her and the betrothal money belongs to him. Likewise, he is entitled to her finds, to the production of her hands, and to her wedding contract.⁴⁸

If she be widowed or divorced from the betrothal, he is entitled to everything until she comes of age. Therefore, the father accepts the betrothal money, etc. of his daughter from the day she is born until she comes of age. Even if she was a deaf-mute or insane and the father betrothed her, behold she is a fully married woman. **If she were three years old one day, she may be betrothed by means of Bi'ah**⁴⁹ **with the consent of her father.** If she is younger than this, if her father hands her over for intercourse, she is not betrothed.

[Note: There are those who say that there is no binding betrothal with a non-viable infant,⁵⁰ if her father accepted for her a betrothal and the one who betrothes her later betrothes her sister, she needs a bill of divorce.]

Notes:

48. Ketubah in Hebrew. A document recording the financial obligations which the husband undertakes toward his wife in respect of, and consequent to, their obligations, which are

imposed upon him by law. The main component is the amount determined by law as the minimum that the wife is entitled to receive from her husband or his estate on dissolution of the marriage. The liability of payment is Pentateuchal. Exodus 22:15-16 but the halakhah is that the Ketubah is rabbinical law.

49. If a man in the presence of two competent witnesses, says to a woman. "Behold you are consecrated to me with this act of sexual intercourse according to the law of Moses and of Israel," and in their presence the groom takes the bride into a private place for the purpose of Kidushin, she will upon completion of the act be betrothed.

50. In Hebrew Nephel. The term refers to an infant which has not survived a minimum of thirty days after birth. This concept developed so that all children could be considered to have had a full nine month gestation period.

[Even HaEzer 37:1](#)

Thus, it is established by Rabbi Adin Steinsaltz, Maimonides and Karo that the Talmud does indeed say and mean: "A Jew may marry a three year old girl.", despite the protestations of Dr. Brown et. al. In addition, a father may betroth a minor of whatever age, with, or without her consent, or her knowledge. It is also clearly stated that such a "betrothal" can be through sexual intercourse. It must be acknowledged that there are three methods of binding a marriage and it is true that some rabbis have "discouraged", "opposed" or purportedly "prohibited" the option of sexual intercourse. There is also another point to be acknowledged in that the Rabbis generally do not accept betrothal of a girl less than 3 years old as a valid normative marriage.

The following comment by Rabbi Adin Steinsaltz related to Niddah 44b:9 serves to introduce the concept of levirate marriage which I will explore later. It is useful in that the Rabbis when discussing levirate marriage, take it as a given, that minor girls and boys are possible participants in the practice and by extension, lawfully so.

Hakakha by Rabbi Adin Steinsaltz Re: Niddah 44b:9

If his brother the yavam engages in intercourse with her:

Intercourse with a yevama aged less than three years and one day does not effect levirate marriage. If she was older than that and the yavam engaged in intercourse with her, he acquires her as his wife. Nevertheless, she cannot perform *halitza* until she is twelve years and one day old, and she has been examined and found to have two pubic hairs. (Shulchan Arukh, Even HaEzer 167:4)

Koren Talmud Bavli - Nidda - Commentary by Rabbi Adin Even-Israel Steinsaltz, [Niddah perek V 44b pages 305,306] (PDF version)

Shulchan Arukh – Even HaEzer 167:4

4. A girl ages 3 and a day and up, her sexual intercourse is considered such for anything [on a halachic level]. And if her levirate husband has sexual intercourse with her, she is

acquired. But she cannot do halitza until she is 12 and a day year old, and they check her after that to find if she has two hairs [as a sign of maturity].

[Even HaEzer 167:4](#)

Again, sexual intercourse with a 3 year old girl is lawful, and it is now established that within the institution of levirate marriage there are legal considerations with respect to minor widows being acquired by a brother of her husband. I will now show Rabbi Steinsaltz explaining an issue stated Niddah 44b:10 with respect to minor girls who are menstruating transmitting impurity:

Hakakha by Rabbi Adin Steinsaltz Re: Niddah 44b:10

She imparts impurity to one who engages in intercourse with her, etc:

One who engages in intercourse with a minor girl who is menstruating is rendered impure, as is the case with any menstruating woman. This applies only if he is at least nine years and one day old, and she is at least three years and one day old. (Rambam Sefer Tahara, Hilkhhot Metamei Mishkav UMoshav 3:3)

Koren Talmud Bavli - Nidda - Commentary by Rabbi Adin Even-Israel Steinsaltz, [Niddah perek V 44b pages 305] (PDF version)

Mishneh Torah – Metamneye'ey Mishkav UMoshav 3:3

Sefer Taharah (*The Book of Ritual Impurity*) Metamneye'ey Mishkav Umoshav (*Those Who Defile Bed or Seat*) 3:11

3. A man contracts the impurity of one who is intimate with a nidah or a zavah when he is intimate with such a woman or if he is intimate with a woman who is watching one day because of a day of impurity, or a woman after childbirth, whether the two engaged in vaginal or anal intercourse, whether he inserted only the corona or inserted the entire male organ, **and whether it was an adult male who was intimate with a minor or a male minor who was intimate with an adult woman.**

When does the above apply? When the male involved is at least nine years old and the woman involved at least three years old. If, however, either is younger than this, the male does not contract the impurity of one who has relations with a nidah, only that of one who touches a woman in the nidah state. His impurity is thus considered a derivative; he is not a primary source. Similarly, one who sodomizes a zav is considered as one who touches a zav. Also, the same laws that apply to one who touches a zav apply to a woman who is intimate with such a person.

[Chabad.org - Taharah - Metamneye'ey Mishkav UMoshav 3:3](#)

Rabbi Maimonides states that an adult man who penetrates with his penis the vagina or anus of a menstruating minor girl from the age of 3 upwards is made impure. Impurity for a male is from the age of 9 upwards.

The following note by Rabbi Steinsaltz discussing priests and teruma ("offering") mentions a distinction between betrothed girls below 3 years old and above and quite clearly allows for the possibility of a priest betrothing a girl younger than 3 years old:

Hakakha by Rabbi Adin Steinsaltz Re: Niddah 44b:11

If she marries a priest, she may partake of teruma:

Although the betrothal of a girl younger than three years old is valid when performed by her father, a marriage canopy does not take effect in her case, as the purpose of a marriage canopy is to permit intercourse between a couple, and she is too young for intercourse (Rashi). Therefore, she has the status of a betrothed woman, not a married one, and the Sages say that a woman betrothed to a priest should not partake of teruma before she enters the marriage canopy. (Rashi on Sanhedrin 55b)

Koren Talmud Bavli - Nidda - Commentary by Rabbi Adin Even-Israel Steinsaltz, [Niddah perek V 44b pages 306] (PDF version)

Now that I have selected other pertinent points from Niddah 44b in addition to the stated law that a 3 year old girls is acquired in marriage through sexual intercourse, I will now show Dr. Brown's Talmud reference, Sanhedrin 55b, about this issue, with supporting comments from Rabbi Steinsaltz.

SANHEDRIN 55b:4

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – SANHEDRIN 55b:4

4. Rav Yosef says: Come and hear a resolution from a mishna (Nidda 44b): **A girl who is three years and one day old whose father arranged her betrothal is betrothed with intercourse, as the legal status of intercourse with her is that of full-fledged intercourse.** And in a case where the childless husband of a girl who is three years and one day old dies, if his brother, the yavam, engages in intercourse with her, he acquires her as his wife; and if she is married, a man other than her husband is liable for engaging in intercourse with her due to the prohibition of intercourse with a married woman.

Sefaria.org - [Sanhedrin 55b:4](#)

Hakakha by Rabbi Adin Steinsaltz Re: Sanhedrin 55b:4

The betrothal of a minor girl with intercourse:

A minor girl who is at least three years old and whose father arranged her betrothal can be betrothed with intercourse. If she is younger than three, the legal status of intercourse with her is not that of full-fledged intercourse, and she cannot be betrothed in this manner. (Rambam Sefer Nashim, Hilkhos Ishut 3:11; Shulhan Arukh, Even HaEzer 37:1)

The levirate marriage of a minor girl:

If a yavam engages in intercourse with his minor yevama who is at least three years old, she becomes his wife. (Rambam Sefer Nashim, Hilkhoh Yibbum VaHalitza 1:17; Shulhan Arukh, Even HaEzer 167:4)

A married girl:

One who commits adultery with a minor girl who is married is liable to be executed by strangulation, the same punishment he would receive if she were an adult. (Rambam Sefer Kedusha, Hilkhoh Issurei Bia 3:2).

Note by Rabbi Adin Steinsaltz Re: Sanhedrin 55b:4

A married woman:

Tosafot ask why it is necessary for the mishna to specify that one who commits adultery with a three-year-old girl is liable for his actions, since it states subsequently that anyone who is forbidden to her and who engages in intercourse with her is liable. They answer that the mishna is teaching a novel element concerning adultery: **Not only can a young girl be betrothed by means of intercourse, but her husband can consummate the marriage with her through intercourse as well.** Consequently, if another man commits adultery with her, he is liable to be executed by means of strangulation, in accordance with the halakha of a **married woman**, and not by means of stoning, which is the punishment for engaging in intercourse with a **betrothed woman** (Ramah).

Koren Talmud Bavli – Sanhedrin Part II · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Sanhedrin perek VII 55b page 45] (PDF version)

The above comments and notes by Rabbi Steinsaltz establish that indeed a Jewish man can marry a 3 year old girl. To firmly establish that it is normative law that a girl as young as 3 can be married I will quote Yevamot 57b:2,3, again followed by comments from Rabbi Steinsaltz. I will then quote Maimonides Issurei Biah 3:2 to show there is no room for error in understanding exactly what the Talmud states:

YEVAMOT 57b:2,3

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 57b:2,3

2. Shmuel said: And Abba, i.e., Rav, whose first name was Abba, concedes to me, **with regard to a girl less than three years and one day old**, that she is not disqualified by merely entering the wedding canopy. Since **there is no legal significance to an act of intercourse with her**, there is no legal significance to entering the wedding canopy with her.

3. Rava said: We, too, learn in the following baraita that there is no legal significance to an act of intercourse with a girl less than three years old: **A girl three years and one day old can be betrothed via sexual intercourse**; and **if** she was a yevama and **her yavam had intercourse with her**, he has acquired her; and a man who has intercourse with her while she is married to someone else **is liable on her account because of the prohibition of intercourse with a married woman**; and if she experiences a menstrual **discharge she renders ritually impure a man who has intercourse with her**, so that he renders impure the object upon which he lies like the upper one.

Sefaria.org - Yevamot 57b:2,3

Hakakha by Rabbi Adin Steinsaltz Re: Sanhedrin 57b:2.3

A girl three years and one day old can be betrothed via sexual Intercourse:

An act of intercourse with a girl younger than three years and one day is not considered an act of intercourse and therefore, even if it is performed with her father's consent, betrothal cannot be accomplished. However, technically, in the case of a girl who is three years and one day old, betrothal can be accomplished by means of intercourse. (Rambam Sefer Nashim, Hilkhos Ishut 3:11; Shulhan Arukh, Even HaEzer 37:1).

If her yavam had intercourse with her he has acquired her:

Intercourse with a yevama aged less than three years and one day does not accomplish levirate marriage. (Shulhan Arukh, Even HaEzer 167:4).

Liable on her account because of the prohibition of intercourse with a married woman:

An adult male who engaged in intercourse with a married minor less than three years and one day old is exempt from punishment for adultery with a married woman. (Rambam Sefer Kedusha, Hilkhos Issurei Bia 3:2).

She renders ritually impure a man who has intercourse with her:

One who has intercourse with a menstruating woman attains the status of a primary source of impurity, even if she is a minor, provided she is at least three years and one day old. If he sits or lies on an object that is designated for this purpose, the object attains first-degree impurity, even if he did not touch it directly. Therefore, it can render food and drink impure, but not people or vessels. (Rambam Sefer Tahara, Hilkhos Metamei Mishkav UMoshav 3:1–3).

Koren Talmud Bavli – Yevamot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek VI 57b page 390] (PDF version)

Mishneh Torah – Issurei Biah 3:2

Sefer Kedushah (*The Book of Holiness*) Issurei Biah (*Forbidden Intercourse*) 3:2

2. [The following rules apply if a man] engages in relations with a female minor, the wife of an adult male. If she was consecrated by her father, [the adulterer] is executed by strangulation.⁷ She is not liable for anything,⁸ [but] she is forbidden to her husband,⁹ as explained in Hilchot Sotah.¹⁰

If she has the right to perform mi'un¹¹, he is given stripes for rebellious conduct and she is permitted to [remain married] to her husband, even if he is a priest.¹²

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

7. He is given the punishment due any adulterer, for the consecration is binding according to Scriptural Law (Hilchot Ishut 3:11). This is speaking about a situation where the couple later married. Otherwise, the adulterer would be stoned to death. Also, it is speaking about a situation where the child is over three years old. Otherwise, the relations are not significant.

8. Neither punishment, nor a sacrifice. For she is a minor and is not responsible for her conduct.

9. As the Rambam states in Hilchot Gerushin 11:14, a woman who engages in adulterous relations becomes forbidden to her husband.

10. Chapter 2, Halachah 4. The Ra'avad both here and in Hilchot Sotah differs with the Rambam, basing his objections on Yevamot 33b which states, "The seduction of a minor is always considered equivalent to rape." Since she is not responsible for her actions, her consent is of no significance. And if a woman is raped, she is permitted to her husband if he is not a priest (Hilchot Ishut 24:19).

The Maggid Mishneh admits that the question raised by the Ra'avad is substantial, but points to a passage in Ketubot 9a which appears to support the Rambam's decision. The Shulchan Aruch (Even HaEzer 178:3) cites both views without stating which to favor. The Beit Shmuel 178:3 states that the Ra'avad's view is accepted by most authorities.

11. **Mi'un refers to a means of terminating a Rabbinically originated marriage arrangement.** When a girl's father is not alive, our Sages gave her mother and/or her brothers the opportunity to consecrate her. This consecration is not binding according to Scriptural Law (see Hilchot Ishut 4:8, Hilchot Gerushin 11:1). Hence, an adulterer is not punished for relations with her. This law also applies to a deaf-mute and anyone else whose consecration is acceptable only according to Rabbinic Law (Rav David Arameah).

12. A priest is not allowed to remain married to a woman who engaged in forbidden relations, even if she was compelled to do so. Nevertheless, in this instance, she can end her marriage whenever she desires without a formal divorce, it is as if she was never married. Hence, her "adultery" is not of consequence.

Chabad.org - Nashim - Issurei Biah 3:2

Dr. Brown in his *Christian Antisemitism* book, after quoting from the "go to" Kiddushin 41a folio, which will be addressed in chapter 11, and contains the sentence: "It is prohibited for a person to betroth his daughter to a man when she is a minor, until such time that she grows up and says: I want to marry so-and-so" states:

This, [Kiddushin 41a] in fact, is the official Talmudic ruling: A man may not betroth his minor daughter to be married. She must be old enough to give her consent. The passage in Sanhedrin [55b] must be understood in this light and would therefore be addressing a different issue.

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud p. 70.

Dr. Brown does not bother to explain what the "other issue" is, but does inadvertently perhaps, provide a qualification I will look at later. With respect to consent there are two points I will hint at. First, recall that Maimonides explicitly states: "A father may consecrate his daughter without her knowledge while she is a minor.". Therefore, consent in this scenario is irrelevant, and even where consent may be expected, the proposed qualification is that the daughter "must be old enough to give her consent". So secondly, the question arises: "At what age do the Rabbis determine a minor girl is old enough to give consent?" These caveats are addressed below.

7. Married Minor Girls, Menstruation and Pregnancy

One unconvincing apologetic theme for the few Talmud quotes circulating online about sex with pre-pubescent girls is that the Rabbis were discussing hypotheticals. If it is not already clear that the Talmud and the law codifiers go beyond unlikely contingencies, then this chapter and the ones following will show that the Talmud Rabbis discuss multitudes of if/then scenarios that arise when minors are married and are sexually active within rabbinically endorsed marriage.

The rabbis are obsessed about the impurity of menstrual blood and encountering menstruating females. It should be no surprise, accepting ahead of what follows, that hymeneal blood does not pollute according to the Talmud, and that the Rabbis spend a lot of time discussing the identifying of the source and cause of blood emitted by minor girls.

Menstrual or Hymeneal Blood?

NIDDA 45a:3,4

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – Nidda 45a:3,4

3. The last clause of the mishna teaches that if the girl is less than that age, i.e., younger than three years and one day, the status of intercourse with her is like placing a finger into the eye. A dilemma was raised before the Sages: What happens to this hymen, i.e., to the hymen of a girl under three with whom a man engaged in intercourse? Does it disappear and come back again later, or perhaps it is not removed at all until after she reaches the age of three?

4. The Gemara asks: What difference is there in halakha between these two suggestions? The Gemara answers that there is a **practical ramification in a case where a priest engaged in intercourse with a girl to whom he is married within her first three years, and found blood on her due to that intercourse, and again engaged in intercourse with her many times, including after she turned three**, but on that occasion he did not find blood. If you say that after engaging in intercourse when the girl is younger than three, the hymen disappears and comes back again, here one can maintain that it disappeared due to the first time they engaged in intercourse and did not grow back because there was not enough time without intercourse for it to grow back.

Sefaria.org - Niddah 45a:3,4

The following quotes are lengthy to maintain context and are split into sections to allow supporting material to provide the halakha derived from this Talmud discussion for an accurate understanding:

NIDDA 64b:18 – 65a:7

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – NIDDA 64b:18 – 65a:7

18. **The mishna teaches the halakha of a young girl.** The Gemara discusses the case of a girl who is older than twelve and a half. Rav says: The Sages give a grown woman, who engaged in intercourse on her wedding night, the entire first night, during which she may engage in intercourse with her husband several times. And this statement applies only if she did not see any blood. But if she saw blood, she has only the relations that consummate a marriage, which are a mitzva, and nothing more.

19. The Gemara raises an objection to Rav's statement from a baraita: There was an incident involving a virgin who married, and Rabbi Yehuda HaNasi gave her four nights in which to engage in intercourse within twelve months of her wedding when the blood is considered to be like blood resulting from the torn hymen. The Gemara asks: **What are the circumstances of this case? If we say that Rabbi Yehuda HaNasi gave her all of those nights of purity in her days as a minor,**

1. in accordance with the ruling of the mishna: The Sages give her four nights, then he should have given her longer, as we learned in the mishna that according to Beit Hillel the blood may be attributed to the torn hymen until the wound heals.

2. Rather, you will say that he gave her these four nights all during her days as a young woman. Are there twelve months when one has the status of a young woman? But didn't Shmuel say: The difference in time between becoming a young woman and becoming a grown woman is only six months? And if you would say that Shmuel is saying that it is in less than six months that there is no transition from young woman to grown woman status, but there is such a transition in more than six months, as women develop differently, that is not so, as Shmuel said: Only, which indicates that the period is neither less nor more than six months.

3. Rather, you will suggest that Rabbi Yehuda HaNasi **gave her two days during her days as a minor**, and he gave her two days during her days as a young woman. This too is difficult, as Rav Hinnana bar Shelamya asked Rav: **With regard to a young girl who married before she reached puberty**, and then her time to see menstrual blood arrived while she was under the authority of her husband, what is the halakha? Does she have the four nights when the blood is considered to be from her torn hymen?

4. And Rav said to him: **All the acts of intercourse that you engage in while she is still too young are considered as only one** act of intercourse, and the remainder, i.e., three more acts of intercourse, complete the total number of four nights. If so, Rabbi Yehuda HaNasi could not have given her two nights as a minor, since at most those acts of intercourse count as one.

5. Rather, you will suggest that **he gave her one night during her days as a minor**, and two nights during her days as a young woman, and one night during her days as a grown woman. But this is also difficult: Granted, if you say that we generally give a grown woman more than one night, then one can understand why Rabbi Yehuda HaNasi gave her one night in this case: Just as **all the acts of intercourse she engaged in as a minor** have the effect to deduct one night for her days as a young woman, similarly all the acts of intercourse she engaged in while a young woman have the effect to deduct one night for her days as a grown woman, leaving her with one.

6. But if you say that we generally do not give a grown woman more than one night, then in this case Rabbi Yehuda HaNasi should have given her as a grown woman only the one act of relations that consummate a marriage, which are a mitzva, i.e., merely a single act of intercourse, and nothing more, as otherwise the acts of intercourse before she became a grown woman would not have affected her status.

7. The Gemara answers: **Actually, the correct explanation is that Rabbi Yehuda HaNasi gave her one night during her days as a minor** and three nights during her days as a young woman. And as for the fact that she has the status of a young woman for only exactly six months, do you maintain that every three months was counted as one period of the husband's absence, such that she had only two nights in six months? This is not the case. Rather, every two months was counted as one period, and therefore she had three nights during these six months when she could attribute the blood to her torn hymen.

Sefaria.org - [Niddah 64b:18 - 65a:7](#)

Hakakha by Rabbi Adin Steinsaltz Re: Nidda 65a:4

All the acts of intercourse that you engage in are considered as only one:

With regard to a minor girl who marries and becomes a young woman while she is still experiencing hymenal bleeding, **all her acts of intercourse while she was a minor are considered as only one night. She may continue to engage in intercourse for another three nights during her time as a young woman to complete the four nights.** Even if these three nights were not consecutive but were each spaced two months apart it is permitted, provided that the wound has not healed. This is in accordance with the opinion of Rav, as explained by the Gemara. (Rambam Sefer Kedusha, Hilkhos Issurei Bia 5:22)

Koren Talmud Bavli – Nidda · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Nidda perek X 65a page 466] (PDF version)

Mishneh Torah – Issurei Biah 5:18-25

Sefer Kedushah (*The Book of Holiness*) Issurei Biah (*Forbidden Intercourse*) 5:18-25

18. Hymeneal bleeding is pure. It is neither the blood of niddah or the blood of zivah, for it is not from the uterus. Instead, it is blood from a wound.

What are the laws applying to virgins [who suffer] hymeneal bleeding?²⁹ If she married when she was a minor, whether she never menstruated or whether she menstruated while in her father's home,³⁰ she is permitted to her husband until the wound heals. For any

bleeding that she discovers stems from the wound. If she discovers other blood after the wound heals, she is considered as a niddah.

19. [The following rules apply when a woman] marries when she is a na'arah.³¹ If she never menstruated beforehand, she is permitted to her husband for four days, by day and by night, even though blood is flowing, provided the wound did not heal.³²

If she had already menstruated in her father's home and then married, her husband should not [continue] to engage in relations with her.³³ After the first time, he should separate. The hymeneal bleeding is considered as if it is the beginning of menstruation.

When a girl who has reached majority,³⁴ but has not menstruated, she is given the entire first night.³⁵

20. The [first] four nights³⁶ that are granted to a na'arah who has not menstruated need not be consecutive. [Instead,] the couple may engage in relations the first night and wait even two or three months and engage in relations for a second night, provided the wound has not healed.³⁷

21. Similarly, with regard to a minor who is allowed to continue engaging in relations until the wound heals, even if it does not heal for an entire year, they may engage in relations either non-consecutively or day after day.

22. **[The following rules apply when a girl] married while she was a minor** and became a na'arah while married to her husband. **[If] the blood is still flowing because of the wound, all of the times she engaged in relations while a minor are considered as one night and she is given license to complete the four days granted to her³⁸** during the period of na'arut.

Even if the three days she is granted during the period of na'arut are all non-consecutive, [e.g.,] they engaged in relations one night every two months, this is permitted, provided the wound has not healed.

23. How do we know whether or not the wound has healed? If [the woman] would discover blood when she stands but not when she sits; if she would discover [blood] when she sits on the earth, but not when she sits on pillows or blankets,³⁹ the wound has not healed.⁴⁰ If, however, the bleeding ceases and she does not discover [blood], whether she stands or whether she sits on a pillow, the wound has healed. Similarly, even if her bleeding has not ceased, but she continues to discover blood even when she is sitting on pillows and blankets, we assume that this is not blood from the wound, but rather menstrual bleeding.⁴¹

24. If she would discover blood in the midst of relations, [we assume] that it comes as a result of the wound.⁴² If she engaged in relations and did not discover blood and afterwards, discovered blood out of the context of relations, [we assume] that it is menstrual bleeding.

25. When a man engages in relations with a virgin and she does not bleed and then, he engages in relations with her again and she does bleed, [we assume] that this is menstrual bleeding, even if she is a minor. [The rationale is that] if it were hymeneal bleeding, it would have appeared the first time.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

29. It must be emphasized that all the laws that follow applied only in the Talmudic era. At present, the Jewish people have accepted upon themselves the stringency of considering even the slightest drop of blood as requiring a wait of seven "spotless" days. Accordingly, when a woman suffers hymeneal bleeding - even if she knows that it is not at all connected with her menstrual cycle, she is considered impure and must wait seven "spotless" days (Chapter 11, Halachot 4,8).

Note the comments of the Ra'avad and the Kessef Mishneh concerning when this stringency was adopted. Is it of Talmudic origin or was it originated in the post-Talmudic period?

30. Even if she menstruated, since she has not come of age, we assume that this is an abnormal occurrence which will not repeat itself.

31. A girl between the age of twelve and twelve and a half who has already manifested signs of physical maturity.

32. Since she never menstruated before, we assume that she still is suffering hymeneal bleeding and not that she has begun to menstruate.

33. Since she menstruated before, we recognize the possibility that this is also menstrual blood. Hence, we require the couple to separate. The Ra'avad protests the Rambam's ruling, noting that it follows the position of the School of Shammai, not the School of Hillel. The Maggid Mishneh supports the Rambam's decision, noting that Niddah 65b mentions the opinions of two Amoraim which support this view, indicating that in this instance the opinion of the School of Shammai is followed.

34. I.e., she has reached the age of twelve and half and manifested signs of physical maturity at age twelve.

35. I.e., that night the couple may engage in relations as many times as they desire. Needless to say, if she has already menstruated, the couple must separate after the first time they engage in relations (Maggid Mishneh).

36. More specifically, days and nights as stated in the previous halachah.

37. And also, of course, that the woman has not begun to menstruate. If during the passage of time, she reaches full majority, she is given only one night from that time onward (Rabbi Akiva Eiger).

38. As stated in Halachah 19. Thus she is given three more opportunities to engage in relations.

39. Since she is sitting on a soft surface, the wound will not be aggravated.

40. Even though her bleeding is not consistent.

41. Hence she is deemed impure and forbidden to engage in relations with her husband.

42. Hence we do not apply all the stringencies mentioned in the conclusion of ch. 4.

Chabad.org - Kedusha - Issurei Biah 5:18-25

NIDDA 65b:9 – 18 (Part 1)

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – NIDDA 65b:9-15

9. **Although the mishna provides a certain period of time for both a minor and a young woman during which they may attribute any blood to the torn hymen**, nevertheless Rav and Shmuel both say that the halakha is that the groom engages in relations that consummate a marriage, which are a mitzva, and then he separates from his wife.

10. Rav Hisda raises an objection from the baraita: There was an incident involving a virgin who married, and Rabbi Yehuda HaNasi gave her four nights to engage in intercourse within twelve months of her wedding. This indicates that the husband does not have to separate from his wife immediately after the first act of intercourse is completed.

11. Rava said to Rav Hisda: Why do I need to search for a refutation from a baraita, which is not necessarily known by all? One can raise a difficulty from an explicit statement of the mishna, which states that the first blood a woman sees on her wedding night is attributed to her torn hymen. The Gemara explains that Rav Hisda raises his objection from the baraita, as he holds that a practical incident ruled upon by a Sage is a preferable source.

12. The Gemara returns to the objection: In any case, this baraita is difficult for Rav and Shmuel. The Gemara answers that they acted in accordance with the opinion attributed to our Sages, as it is taught in a baraita: **Our Sages returned and were counted again, i.e., they voted and decided, that the groom engages in relations that consummate a marriage, which are a mitzva, and subsequently he separates from his wife.**

13. The Gemara proves that this ruling of Rav and Shmuel, based on the baraita, is also the opinion of Rabbi Yohanan and Reish Lakish. Ulla said: When we were learning the topic of a young girl who saw blood on her wedding night with Rabbi Yohanan and Reish Lakish, they brought up from it only the amount of earth that the fox brings up from a plowed field, i.e., they did not establish the halakha as stated in the mishna. And they concluded the discussion in this manner: The groom engages in relations that consummate a marriage, which are a mitzva, and then he separates from his wife.

14. Rabbi Abba said to Rav Ashi, in light of this ruling that the groom must separate from his bride after completing the act of intercourse: If that is so, a pious person should not complete his act of intercourse, lest he unintentionally continue longer than is permitted. Rav Ashi said to him in reply: The Sages did not issue such a decree, because if so, his heart will strike him with fear that perhaps his wife will begin to bleed while he is engaged in the act of intercourse, and he will separate from his wife completely and will not consummate the marriage.

15. The mishna teaches that a young girl is given four nights during which any bleeding is attributed to her torn hymen. The Sages taught in a baraita: And with regard to all of them, i.e., all the women who are given four nights, if they were discharging blood continually, from four nights until after those four nights, or in the case of those women who are given

only one night, if they discharge blood from that one night until after that night, they may not attribute the blood to the torn hymen. Rather, all of them must examine themselves, in the manner that will be explained.

Sefaria.org - [Niddah 65b:9-15](#)

Hakakha by Rabbi Adin Steinsaltz Re: Nidda 65b:12

They returned and were counted again, that he engages in relations that are a mitzva and separates:

By Torah law one who marries a minor girl is permitted to continue to engage in intercourse with her until the hymenal bleeding has finished, regardless of whether she has ever menstruated before or not. The Sages were stringent (see Kesef Mishne) and ruled that one who marries a virgin may engage in the first act of intercourse and must then separate from her immediately. Even if she is so young that she is not old enough to menstruate, and even if she examined herself and did not find any blood, she is considered impure, because there may have been a tiny drop of blood that she did not notice. The Rema writes that there are some who are lenient if she did not bleed. The custom is to be lenient if they did not complete the act of intercourse and she did not bleed. Nevertheless, a pious person will not engage in intercourse with a minor. This is in accordance with the baraita. (Rambam Sefer Kedusha, Hilkhhot Issurei Bia 5:19; Shulĥan Arukh, Yoreh De'a 193:1 and Even HaEzer 63:1)

Koren Talmud Bavli – Nidda · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Nidda perek X 65b page 470] (PDF version)

Mishneh Torah – Issurei Biah 11:8

Sefer Kedushah (*The Book of Holiness*) Issurei Biah (*Forbidden Intercourse*) 11:8

8. Similarly, [stringencies were adopted] with regard to the laws of hymeneal bleeding in the present age. Even if a minor is below the age when she could be expected to menstruate and never discovered uterine bleeding, [her husband] must separate after engaging in the relations which are a mitzvah.¹⁶

Whenever she discovers hymeneal bleeding,¹⁷ she is impure. When the bleeding ceases, she must count seven "spotless" days [before immersing herself].

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

¹⁶. I.e., the first time the couple engage in relations. As explained in Chapter 5, Halachot 18-25, according to Scriptural Law, hymeneal bleeding does not represent any difficulty for it is not at all related to niddah or zivah. Hence, according to Talmudic Law, when the wife is a minor, the couple may engage in relations until the hymeneal bleeding ceases. Even a girl who gets married at the age of twelve is granted certain leniency. The later Rabbis, however, required all couples to separate because of hymeneal bleeding.

The Maggid Mishneh emphasizes that the groom may complete relations and withdraw while erect even if he knows that bleeding has commenced. Although our Rabbis ordained this stringency, they did not apply it to the first time the couple engaged in relations.

He also states that even if no bleeding is discovered, if the bride was a virgin, we assume that there was a slight amount of blood that was not noticed and rule that she is impure. These laws are quoted by Shulchan Aruch (Yoreh De'ah 193:1).

17. I.e., if all the hymeneal blood was not released during the first time the couple engaged in relations and bleeding was discovered after subsequent relations.

[Chabad.org - Kedusha - Issurei Biah 11:8](#)

Shulchan Arukh – Even HaEzer 63:1

1. It is permissible to have intercourse with a virgin on Shabbat. When one has intercourse with a virgin, once he performs the commanded sexual act, he should immediately separate, even if she is a child who is not old enough to menstruate, and she has not menstruated. Nevertheless, that particular sexual act may be completely normal with a 'living member' Even if she inspected and did not find any blood, she is deemed impure, for perhaps a drop of blood the size of a mustard seed was seen but it was covered by semen. She must find herself totally clean and inspect for seven days. She should not start inspecting until the fifth day after intercourse, like any other woman who had intercourse and then menstruated. [Her husband] must interact with her like any other menstruant, as far as the rules of distance are concerned, except that in the case of a genuine menstruant he may not sleep in her bed even if she is not in the bed, and in the case of the bride he may sleep in her bed after she has risen from it, even on the sheets that the blood is on.

[Even HaEzer 63:1](#)

NIDDA 65b:9 – 18 (Part 2)

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – NIDDA 65b:16-18

16. And with regard to all of these women, Rabbi Meir is stringent in accordance with the statement of Beit Shammai, and therefore a minor girl who bleeds for more than four nights must examine herself, despite the fact that Beit Hillel say she remains ritually pure until the wound has healed. Similarly, Rabbi Meir holds that with regard to a young girl who has reached puberty, if she continues to bleed after the first night she must examine herself.

17. The baraita continues: But with regard to the other cases of seeing blood, when she does not discharge blood continuously but bleeds again the following day, concerning which there is a dispute between Beit Shammai and Beit Hillel, Rabbi Meir holds that one follows the appearance of the blood. In other words, he does not maintain entirely in accordance with the opinion of Beit Shammai. Beit Hillel rule that the woman is ritually pure even if the color of the blood has changed, whereas Beit Shammai hold that she is ritually impure even if the color of the blood has not changed.

18. As Rabbi Meir would say: **The appearances of impure and pure blood differ from one another. How so?** The blood of a menstruating woman is red, whereas blood that comes from a torn hymen, indicating that she was a virgin, is not red. The blood of a menstruating woman is cloudy; blood that indicates that she was a virgin is not cloudy. Finally, the blood of a menstruating woman comes from the uterus; blood that indicates that she was a virgin comes from the sides of the vaginal wall.

Sefaria.org - [Niddah 65b:16-18](#)

Hakakha by Rabbi Adin Steinsaltz Re: Nidda 65b:18

Blood of a virgin comes from the sides:

Blood resulting from the tearing of the hymen is ritually pure and is not considered to have the same status as menstrual blood or ziva blood, since it does not come from the uterus, in accordance with the opinion of Rabbi Meir. (Rambam Sefer Kedusha, Hilkhot Issurei Bia 5:18) See above.

Koren Talmud Bavli – Nidda · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Nidda perek X 65b page 471] (PDF version)

Pregnancy in Minor Girls

I have already shown the Talmud Rabbis calculating the young age when Bathsheba gave birth to Solomon, and by subtraction the age when she gave birth to the first child she conceived with King David that subsequently died. It should not be surprising therefore that the Rabbis must accommodate the possibility of minor girls becoming pregnant.

YEVAMOT 12b:3-5

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 12b:3-5

3. Incidental to the case of refusal, the Gemara cites a related halakha. Rav Beivai taught a baraita before Rav Nahman: **three women may engage in relations with a contraceptive resorbent**, a soft fabric placed at the entrance to their wombs to prevent conception, despite the fact that this practice is generally prohibited. **They are as follows: A minor, a woman who is already pregnant, and a nursing woman.** The baraita specifies the reason for each exception: **A minor may do so lest she become pregnant and perhaps die**; a pregnant woman, lest she be impregnated a second time and her previous fetus becomes deformed into the shape of a sandal fish by being squashed by the pressure of the second fetus. As for a nursing woman, she does so lest she become pregnant and her milk dry up, in which case she will wean her son too early, thereby endangering him, and he will die.

4. And the baraita continues: Who is considered a minor? It is a girl from the age of eleven years and one day until the age of twelve years and one day. **If she was younger than this or older than this, she may go ahead and engage in relations in her usual manner.** This is the statement of Rabbi Meir. Since it is assumed that a minor who is less than eleven years old cannot become pregnant, she is considered to be in no danger. And the Rabbis say: Both this one and that one, i.e., in all these cases, she may go ahead and engage in relations

in her usual manner, and Heaven will have mercy upon her and prevent any mishap, since it is stated: "The Lord preserves the simple" (Psalms 116:2).

5. The Gemara analyzes the baraita: From the fact that the baraita states: Lest she become pregnant and perhaps die, this indicates by inference that there is a minor who can become pregnant and will not die, although the conditions for this scenario of a minor giving birth and surviving are unclear. If so, that a minor might be impregnated and give birth, we find the case of one's mother-in-law who refused her husband. **Since it is possible for a woman to give birth to a daughter while still a minor,** if a man betroths this daughter while still an infant, the mother might be a mother-in-law who performed refusal.

Sefaria.org - [Yevamot 12b:3-5](#)

Hakakha by Rabbi Adin Steinsaltz Re: Yevamot 12b:3

Engage in relations with a contraceptive resorbent:

The halakha is in accordance with the opinion of the Rabbis that these women may not use a contraceptive resorbent. In clearly dangerous situations some permit this in practice in various ways. Later commentaries deliberate with regard to other methods of birth control that do not entail the placement of an actual interposition before the sperm, and there are various halakhic rulings in this regard. ([Rambam Sefer Kedusha, Hilkhos Issurei Bia 5:18](#))

Background by Rabbi Adin Steinsaltz Re: Yevamot 12b:3

Three women may engage in relations with a contraceptive resorbent:

The issue of women using a contraceptive resorbent, or any other contraceptive device, is discussed at length in the halakhic literature; see also 65b. Here the discussion concerns the use of mechanical means for preventing the penetration of sperm into the uterus. The method of placing a contraceptive resorbent after sexual relations, as described by Rabbeinu Tam in Tosafot, is of minimal to no effectiveness. **The use of these contraceptive methods is permitted only in cases of danger to life, and the dispute between Rabbi Meir and the Rabbis apparently involves the question of how cautious one should be.** Nowadays these cases are extremely rare.

[Koren Talmud Bavli – Yevamot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, \[Yevamot perek I 12b page 71\] \(PDF version\)](#)

When is a minor an adult and an adult a minor?

To thwart a possible future misdirection, I present here how Rabbis declare a minor an adult, and under what criteria Rabbis declare an adult, up to 20 years old as being a "minor". This avoids any attempt by an apologist to declare that "minors", when discussed by Rabbis can be 20 years of age etc. Counterintuitively, the definition or parameters used to declare an "adult" a minor, serves to reinforce the reality that "minors" when referenced by the Talmud rabbis and in later law codes, is explicitly about prepubescent males and females. You will note from the commentary by Rabbi Steinsaltz that there are differing opinions, not about minors being married per se. That possibility is taken for granted. The opinions are about the problem if or when a

minor is an adult with respect to pregnancy or giving birth. The issue of "mi'un" (refusal) referred to, will be explored in the next chapter.

YEVAMOT 12b:9

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 12b:9

9. Rav Safra said: **Children are equivalent to signs of puberty. In other words, a girl who gives birth does not retain the legal status of a minor**, as the very fact that she bore children is equivalent to a physical sign of maturity, usually in the form of pubic hairs. And some say: Children are preferable to signs of puberty. The Gemara asks: What is the practical difference that arises from the question of whether bearing children is equivalent or preferable to signs of maturity? The Gemara answers: The difference is that even according to the opinion of Rabbi Yehuda, who said that a minor may perform refusal even after she develops two pubic hairs, until the black hairs of her genitals are more plentiful than the hairless skin, in the case of children he concedes.

Sefaria.org - Yevamot 12b:9

Hakakha by Rabbi Adin Steinsaltz Re: Yevamot 12b:9

Children and signs:

A girl who gives birth after the age of twelve is considered mature even if she has no signs of puberty, as children are equivalent to signs (Rambam). This halakha is in accordance with the opinion of Rav Safra, who apparently maintains that even if she gave birth as a minor, she is not considered mature until the age of twelve years. This has implications for ḥalitza and other matters. Some commentaries (Maggid Mishne) claim that even the Rambam agrees that after a minor has given birth, she can no longer perform refusal (Beit Shmuel). The Shulḥan Arukh writes that a minor may refuse her husband until she either develops signs or gives birth. Some rule that she is already considered mature at the time of pregnancy (Rema, citing Or Zarua). The Vilna Gaon contends that according to this opinion she might be considered mature even before the age of twelve, in accordance with the ruling of Tosafot.

Some commentaries write that she may not perform refusal even as a minor if she is pregnant, but this does not hold true if she miscarries (Beit Shmuel). Others dispute this ruling (see Pitḥei Teshuva). With regard to ḥalitza, however, she is not considered mature before the age of twelve. (Rambam Sefer Nashim, Hilkhhot Ishut 2:9; Shulḥan Arukh, Even HaEzer 155:12).

Note by Rabbi Adin Steinsaltz Re: Yevamot 12b:9

Children are equivalent to signs:

The early commentaries dispute the precise meaning of this expression. Apparently, the Rif maintains that the term: Signs, does not necessarily mean hairs. Rather, children themselves are proof of maturity, even if they were born before the mother reached the age of twelve (see Ramban and Rashba). Others contend that the pregnancy itself, not the

birth of children, is a sign of maturity, and therefore from the onset of pregnancy she is considered mature (Tosafot). According to this interpretation, children were mentioned to teach that a pregnancy is retroactively considered a sign of maturity from the onset of the pregnancy only if it results in a living child, not stillborn.

Background by Rabbi Adin Steinsaltz Re: Yevamot 12b:9

A minor who gives birth:

The question of whether a minor can give birth depends upon the definition of the relevant terms. The appearance of two pubic hairs is one stage in the process of sexual maturation. Apparently, the definition of adulthood as the stage when two hairs appear is based on the fact that this sign of maturity can be checked objectively by witnesses. Generally, the appearance of hairs occurs prior to the advent of ovulation and the menstrual cycle, which allow for the possibility of impregnation and childbirth. Consequently, the claim stated later in the Gemara that children are preferable to signs of puberty is accurate, as childbearing occurs at a much later stage in the process of maturation, even if the hairs are not visible.

The Sages determined that the appearance of signs of puberty alone before the appropriate age, twelve for females and thirteen for males, is not sufficient for establishing adulthood. Nevertheless, despite the average age of puberty, physical maturity may be reached earlier depending on nutrition and hereditary factors. There have even been cases of extremely early maturation. It is clear, however, that complications in pregnancy and childbirth are more prevalent among girls than among mature women. Especially in the days of the Talmud, it was consequently assumed that childbirth before full physiological development would likely lead to an inability to give birth or severe tearing of the womb that could cause the death of the mother and baby at birth.

Koren Talmud Bavli – Yevamot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek I 12b page 72] (PDF version)

I will now show the law codes of Maimonides and Karo as referenced by Rabbi Steinsaltz with respect to defining minors and adults:

Mishneh Torah – Ishut 2:1-3.9

Sefer Nashim (*The Book of Women*) Ishut (*Marriage*) 2:1-3,9

1. **From the day of a girl's birth until she becomes twelve years old, she is called a k'tanah (minor) and/or a tinoket (baby).** Even if several [pubic] hairs grow [on her body] during this time, they are [not significant according to Jewish law and are] considered to be merely hairs growing from a mole. If, however, two hairs grow in the pubic area after she becomes twelve years old [her status changes, and] she is considered a na'arah (maiden).

2. Growing two pubic hairs at this age is referred to as the lower sign [of physical maturity]. Once a girl manifests this sign [of physical maturity], she is referred to as a maiden for six months. From the last day of these six months and onward, she is referred to as a bogeret

(mature woman). The difference between the stages of maidenhood and maturity is only six months.

3. From the time a girl reaches the age of twelve years and one day¹ until the age of twenty, if she does not grow two pubic hairs, she is still considered to be a child, even if she manifests the physical signs of barrenness. If [during this period], she grows two pubic hairs, even if [this occurs] in her twentieth year, she is considered to be a maiden for six months. Only afterwards is she considered to be a mature woman.

[...]

9. When a woman gives birth after reaching the age of twelve years, she is deemed an adult, even though she did not manifest either upper or lower signs of maturity. [Giving birth to] children is a sign of maturity.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

1. The intent in this halachah, and similarly, whenever the term "...years old and one day" is mentioned, is not that an additional day must pass after the woman's twelfth birthday. Rather, the intent is that she has completed twelve complete years of life and begun the following day.

Chabad.org - [Nashim - Ishut 2:1-3,9](#)

Shulchan Arukh – Even HaEzer 155:12

12. Until when may a minor reject [a marriage contracted for her by other family members in the absence of her father]? Until she grows two [pubic] hairs after [the age of] twelve years, or until she gives birth. and from the time when [she becomes] pregnant, she is considered an adult (Or Zarua). **As long as she has not grown two hairs and has not given birth, she is considered a minor, even if she shows signs of being an aylonit. (Aylonit- a woman who never goes through normal puberty.)** But if she is twenty years of age, and shows signs of being an aylonit, then she is considered an adult retroactively from the time she turned twelve, even if she grows two hairs later (Choshen Mishpat 235), and she may not reject [the marriage]. A woman who is nineteen years and thirty days of age has the same law as one who is twenty years of age, since thirty days in a year are considered as a year. And there is [also an authority] who says that she is not considered [as though she was] twenty years of age until she is twenty years minus thirty days of age.

[Even HaEzer 155:12](#)

Of interest is a Rabbinic discussion about a Gentile woman called Yusteni (a liar with the flesh of a donkey) and another unnamed woman in the context of a 6-year-old marrying and giving birth a year later and girl who had sexual intercourse before she was 3 years old and her suitability, or not, to marry a priest. (See Appendix 1: A Tale of two Pre-pubescents.)

8. Minor Girls and Mi'un "Refusal"

It is important to read the many rules and regulations related to "Mi'un", which means refusal, denial, or protest by a minor girl against her marriage (after the fact), not least of all because it logically confirms that the Talmud endorses marriage with minors from the age of 3. To introduce the topic, I provide the entry for Mi'un from the Jewish Encyclopedia although I suggest the Talmud and subsequent Rabbinic authorities provide a far less general and diluted description. Recall, a minor is not always a minor, a marriage is not always a marriage, a divorce is not always a divorce, and an orphan is not always an orphan. In addition, I will introduce the concept of "levirate marriage" because there is much material concerning married minor girls and their right of refusal (mi'un) within this specific biblical institution.

MI'UN

By: Executive Committee of the Editorial Board., Julius H. Greenstone

A Hebrew word signifying "refusal, denial, or protest"; used technically by the Rabbis to denote a woman's protest against a marriage contracted for her **during her minority; also, the annulment of such a marriage.**

A marriage contracted for a girl minor by her father was regarded as valid; and it necessitated the formality of a divorce if separation was desired (see Daughter; Majority; Marriage). **If, however, the minor was divorced or widowed after she had been given in marriage by her father**, and then, while still in her minority, married again, or, in the case of the father's death, was given in marriage by her brothers or by her mother, **even when her consent was obtained, such a marriage was not valid until she reached the age of maturity**. During her minority she might at any time declare her aversion to her husband and leave him without a geṭ (Yeb. 107a). Nor was any formal declaration on her part necessary. If she in any manner showed her disapproval of the marriage contracted for her, or if she accepted betrothal-money ("kiddushin") from another man, she was released from the bonds of the marriage previously contracted in her behalf (Yeb. 108a; Maimonides, "Yad," Gerushin, xi. 3; Shulḥan 'Aruk, Eben ha-'Ezer, 155, 3).

Form of Mi'un.

The usual procedure in regard to mi'un was that the minor said, in the presence of two witnesses, "I do not wish to live with my husband . . .," or used some other phrase denoting the same idea, and thereby became released (Yeb. 108a). Originally it was the custom to make out a so-called "geṭ mi'un," in which the minor declared, "I do not like him; he does not please me; I do not wish to remain with him as his wife." This was subsequently abolished, and the following practise was introduced: The two men before whom such a declaration was made prepared a document, which, however, was not necessary for the minor's remarriage, since she became free as soon as she had made the declaration (Yeb. 107b, 108a). This document, as given by Maimonides ("Yad," l.c. xi. 11, and with a few unimportant variations in "Or Zarua'," i. 687), reads as follows:

"On . . . [day of the week], the . . . day of the month . . ., in the year . . . according to the . . . era, . . ., daughter of . . ., protested before us and said, 'My mother [or my brothers] deceived me and gave me in marriage [or betrothed me] to . . ., son of . . ., and now I declare before you that I do not desire him, and that I will not stay with him.' We have examined this . . . and are satisfied that the girl is yet a minor, and have written and signed

and given [this] to her as a document and a clear proof., witness., witness."

If the marriage was contracted for the girl before she had reached the age of six, or after that age without her consent, the formality of mi'un was not necessary. If the marriage took place with her consent when she was between the ages of six and ten, mi'un was necessary if she showed signs of intelligence and of appreciation of the symbols of marriage. After ten, mi'un was necessary even if the girl manifested no signs of intelligence (Yeb. 107b; Giṭ. 65a; "Yad," l.c. xi. 7; Eben ha-'Ezer, 155, 2). Since mi'un was regarded as an annulment of marriage, and not merely as a separation, like divorce, the girl might afterward marry any of the relatives of her presumptive husband, and he any of her relatives. She might marry a kohen, or might remarry her previous husband, even though she had been married to another after mi'un (Yeb. 108a; "Yad," l.c. xi. 16, 17; Eben ha-'Ezer, 155, 10; see Divorce).

Antiquity of Custom.

The institution of mi'un seems to have been of very early origin. The Rabbis speak of it as a well established custom, although some of them look upon it with disfavor. Bet Shammai restricted mi'un to betrothed minors, and prohibited it after marriage had already taken place (Yeb. 107a). Bar Ḳappara includes mi'un among the things which one should avoid (ib. 109a); and one is therefore advised against associating oneself with witnesses for the purposes of mi'un ("Yad," l.c. x. 16). **In the Middle Ages some of the rabbis vigorously objected to the marriage of minors, giving as one of their reasons the desire to make mi'un impossible** (Tos., Yeb. 109a, s.v. "Wayitraḥek"; "Haggahot Maimuni" to "Yad," l.c. xi. 1; "Or Zarua'," i. 686; Eben ha-'Ezer, 155, 1, Isserles' gloss).

In the fifteenth century R. Menahem of Merseburg wished to abolish the institution of mi'un altogether; and while he did not secure for his decree unanimous adoption, the sentiment against the marriage of young children, which became stronger in later times, and the diffidence with which the Rabbis approached a case of mi'un on account of the conflicting opinions, caused this institution to become almost obsolete (see Judah Minz, Responsa, No. 13, Fürth, 1766; Eben ha-'Ezer, 155, 22, Isserles' gloss; and "Pitḥe Teshubah," ad loc.; see also Majority).

jewishencyclopedia.com. *Mi'un*. Available at: <https://jewishencyclopedia.com/articles/10888-mi-un> (Accessed: 2 March 2023)

LEVIRATE MARRIAGE (Hebr. "yibbum"):

By: Solomon Schechter, Joseph Jacobs

Marriage with a brother's widow. This custom is found among a large number of primitive peoples, a list of which is given by Westermarck ("History of Human Marriage," pp. 510-514). In some cases it is the duty of a man to marry his brother's widow even if she has had children by the deceased, but in most cases it occurs when there are no children, as among the Hindus ("Institutes of Manu," v. 59-63). Among the Hebrews marriage with a brother's widow was forbidden as a general rule (Lev. xviii. 16, xx. 21) but **was regarded as obligatory (Deut. xxv. 56) when there was no male issue**, and when the two brothers had been

dwelling on the same family estate. **The surviving brother could evade the obligation by the ceremony of Ḥalīzah.** The case of Ruth is not one of levirate marriage, being connected rather with the institution of the Go'el; but the relations of Tamar with her successive husbands and with Judah are an instance (Gen. xxxviii.). If the levirate union resulted in male issue, the child would succeed to the estates of the deceased brother. It would appear that later the levirate marriage came to be regarded as obligatory only when the widow had no children of either sex. The Septuagint translates "ben" (son) in the passage of Deuteronomy by "child," and the Sadducees in the New Testament take it in this sense (Mark xii. 19; comp. Josephus, "Ant." iv. 8, § 23).

By Talmudic times the practise of levirate marriage was deemed objectionable (Bek. 13a), and was followed as a matter of duty only. To marry a brother's widow for her beauty was regarded by Abba Saul as equivalent to incest (Yeb. 39b). Bar Ḳappara recommends ḥalīzah (Yeb. 109a). A difference of opinion appears among the later authorities, Alfasi, Maimonides, and the Spanish school generally upholding the custom, while R. Tam and the Northern school prefer ḥalīzah (Shulḥan 'Aruk, Eben ha-'Ezer, 165). The marriage was not necessary if the brother left a child by another marriage, even if such a child were on the point of death (l.c. 157).

jewishencyclopedia.com. *Levirate Marriage*. Available at: <https://jewishencyclopedia.com/articles/9859-levirate-marriage> (Accessed: 2 March 2023)

Rabbi Adin Steinsaltz's Introduction to Chapter (perek) 13 of the Tractate Yevamot (107a:1 to 112b)

Rabbi Steinsaltz's introduction to the Yevamot chapter I will partially quote, immediately assumes the marriage of minor girls is permitted as should already be clear. The issues he highlights are the various scenarios arising from minor girls caught in marriages, particularly in the context of a levirate marriage and the laws that do and do not apply. The following introduction clearly accepts the concept of "mi'un" or the right of a minor girl, within specific parameters, can after the fact, refuse either a betrothal or marriage.

Introduction to Perek XIII

This chapter deals with the various difficulties that arise in the context of the marriage of a minor orphan girl who was married off by her relatives. Some of these difficulties concern the nature and the validity of the marriage, and other issues concern the methods that are effective in dissolving the marriage. **The chapter also addresses how levirate marriage and ḥalīzah apply to the marriage of a minor orphan.**

By Torah law, only a father may give his minor daughter in marriage, and he may do so only once. However, the Sages instituted that other members of the minor's family, i.e., her mother or brothers, are empowered to marry her off when the father is deceased, because of the risk of sexual exploitation of a fatherless young girl, marriage can afford her protection and security.

Nevertheless, marriages involving a minor are of lesser legal status than ordinary marriages. The Sages instituted that the minor girl may declare at any time that she does not want to be married to her husband and thereby dissolve the marriage retroactively, as if she had never been married.

There is a consensus about this framework; however, it is necessary to address the halakhic details, such as: **What is the minimum age for a minor girl to be married off?** What is the validity of the marriage with respect to the mutual rights of the husband and wife, specifically with regard to the financial arrangements of the marriage settlement? **Does the minor's right of refusal apply only to betrothal or to marriage as well?** May a minor girl refuse a husband, remarry him, and then refuse him again? May she refuse different husbands? **What is the appropriate time for refusal, i.e., can it take place while she is still very young, or must it wait until after she has reached a level of intellectual capacity?**

Koren Talmud Bavli – Yevamot Part 2 · Introduction to Perek XIII by Rabbi Adin Even-Israel Steinsaltz, [page 253] (PDF version)

View: [Sefaria.org - Yevamot, Introduction to Perek XIII](https://sefaria.org/Yevamot_Introduction_to_Perek_XIII)

YEVAMOT 107a:1 to 109a:1 (Selected Passages)

The following relevant selected passages from the Tractate Yevamot, which are dedicated to discussing marriage and divorce, details levirate marriage and mi'un, and the supporting commentary of Rabbi Steinsaltz, will reinforce minor marriage as a Talmudical norm and elaborate entirely in this context when a minor girl has the right to refuse her husband. The supporting Judaic Laws by Rabbi Maimonides and Rabbi Karos referenced by Rabbi Steinsaltz are arranged to facilitate understanding, avoid repetition, and provide clarity.

Key Terms:

- *Yibbum* is the Hebrew term for levirate marriage.
- *Yavam* is the male party (brother-in-law) in a levirate marriage.
- *Yevama* is the female party (widow of *Yavam's* brother) in a levirate marriage.
- *Halitzah* (alt. *Chalitzah*) specific form of divorce, a "removal" and alternative to *Yibbum*.

YEVAMOT 107a:1-5

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 107a:1-5

1. **MISHNA: The Sages decreed that in the case of a minor girl whose father died, her mother or brothers may marry her off. However, such a marriage does not have the same legal status as the marriage of an adult. Therefore, if the minor regrets having married, she is allowed to make a declaration of refusal to her husband, thereby annulling the marital bond.** The Sages disagreed with regard to the details of this halakha: Beit Shammai say: **Only betrothed girls may refuse.** A girl may refuse, upon reaching adulthood, to remain married to the man to whom her mother or brothers married her as a minor after the death of her father. But Beit Hillel say that both betrothed and fully married girls may refuse.

2. Beit Shammai say: Refusal may be directed only at her husband and not at her yavam. In such a situation, she must perform a Yalitzah in order to dissolve the levirate bond. But Beit Hillel say: It may be directed at her husband or her yavam.

3. Beit Shammai say: The refusal must take place specifically in the presence of the husband. But Beit Hillel say: It may take place either in his presence or in his absence. Beit Shammai say: The refusal must take place specifically in court. But Beit Hillel say: It may take place either in court, or not in court.

4. Beit Hillel said to Beit Shammai: **She may refuse as long as she is a minor, even four or five times if her relatives married her off again to another man after each refusal.** Beit Shammai said to them: The daughters of Israel are not to be treated with disregard and should not be passed from one man to another. Rather, she refuses once. And then she must wait until she reaches majority, and refuse, and marry.

5. **GEMARA:** Rav Yehuda said that Shmuel said: What is the reason of Beit Shammai for ruling that a married minor girl may not perform refusal? It is because there are no conditions with regard to marriage. Although a betrothal can be conditional, the condition is nullified upon consummation of the marriage. **Likewise, marriage cannot be conditional, as the sexual relationship is not subject to conditions.** And if a married minor girl would refuse, others may mistakenly think this to be a condition with regard to the marriage of an adult woman, and they will come to say that there can be a condition with regard to marriage.

Sefaria.org - [Yevamot 107a:1-5](#)

Hakakha by Rabbi Adin Steinsaltz Re: Yevamot 107a:1-5

The process of refusal:

A minor girl who was married off by her mother or brothers may refuse that marriage, whether she is betrothed or fully married. The refusal may be made in the husband's absence, and it need not take place before the court. These halakhot are in accordance with the opinion of Beit Hillel. (Rambam Sefer Nashim, Hilkhhot Geirushin 11:3; Shulḥan Arukh, Even HaEzer 155:4).

Note by Rabbi Adin Steinsaltz Re: Yevamot 107a:1

Only betrothed girls may refuse:

The early authorities (Ramban; Tosefot HaRosh) argue convincingly that Beit Shammai's limitation of refusal to betrothed girls applies only ab initio, but not after the fact. That is to say, according to Beit Shammai, the court does not address cases of refusal for married minor girls but if in practice a married minor refuses her husband without asking the court's permission, it is effective. The Meiri shows how the language of the mishna supports this interpretation as the phrase: May refuse, is in its masculine form, indicating that its subject is the members of the court rather than the girl.

Koren Talmud Bavli – Yevamot Part 2 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek XIII 107a page 255] (PDF version)

Mishneh Torah – Gerushin 11:3

Sefer Nashim (*The Book of Women*) Gerushin (*Divorce*) 11:3

3. **A minor can annul her marriage via mi'un whether she has been merely consecrated or [even if] the marriage has been consummated.** [She can exercise this privilege] in her husband's presence, or outside his presence. **Just as she can annul her marriage to her husband, she can annul her relationship to a yavam.**⁶

Just as she can annul one marriage through mi'un, so too, she can annul a second marriage or a third marriage. Indeed, [she can exercise this privilege] any number of times.⁷

As long as she is a minor, she has the right to annul her marriage through mi'un. When a minor does not exercise the right of mi'un and becomes consecrated to another man despite the fact that she was married, [the consecration is binding]. Becoming consecrated is [obviously] a rejection [- and thus an annulment - of her previous marriage].

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

6. I.e., if her husband dies without children and she does not desire to marry the yavam, she can dissolve the marriage by mi'un.

7. Although a girl has the right to marry and dissolve her marriage as often as she desires, our Rabbis did not approve of such conduct and counselled that the Jewish court should arrange a marriage of a minor only when it does not appear likely that she will seek to dissolve the marriage (Hagahot Maimoniot).

Chabad.org - Nashim - Gerushin 11:3

Shulchan Arukh – Even HaEzer 155:4,5

4. **A girl who does me'un [refusal of marriage while she is a ketana where she can go free without a bill of divorce,** whether it [is a refusal] from erusin [engagement] or from nissuin [full marriage], even if it was not in her husband's presence and not in the presence of the court, will only [work] when it is in front of two who will testify to it. And some say, ideally there needs to be three [witnesses].

5. **Just like she can do me'un [refusal of marriage when she is a ketana** that allows her to go free even with a bill of divorce] to her husband, so too she can do me'un to her yibum [levirate marriage], if she didn't do me'un to her [present] husband.

Even HaEzer 155:4,5

YEVAMOT 107a:12 - 107b:3

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 107a:12 – 107b:3

107a:12. It is taught in the mishna: Beit Shammai say: Refusal may be directed only at her husband and not her yavam. If she wishes to refuse her yavam, she must perform Yalitzta in order to dissolve the levirate bond. But Beit Hillel say that refusal may be directed at her husband or her yavam. Rabbi Oshaya said: **A minor yevama may direct a refusal against a**

levirate betrothal but she may not direct a refusal against his levirate bond. Before the yavam betroths her, she cannot nullify the levirate bond by refusal. Rav Hisda said: What is the reasoning of Rabbi Oshaya? **In the case of levirate betrothal, which is consensual, she can nullify it. But with regard to the levirate bond, which applies to her even against her will, she cannot nullify it.**

13. The Gemara asks: But the consummation of the levirate bond may be against her will 107b:1, and she can nullify it, as she can subsequently refuse the yavam with whom she entered into levirate marriage. Rather, the reasoning is: With regard to consummation of the levirate marriage and to levirate betrothal, both of which he performs, she can nullify them. But with regard to the levirate bond, which the Merciful One imposes upon her at the death of her first husband, she cannot nullify it. Whereas Ulla said: She may direct her refusal even to his levirate bond. What is the reason? By refusing, she nullifies the original marriage, rather than the levirate bond that resulted from the death of her husband.

[...]

3. Evidently, at the time when she happens before her yavam for levirate marriage she appears to be his father's daughter-in-law. Since people would not understand that her refusal later on would annul her first marriage, the Sages decreed that the father-in-law may no longer marry her. Here, too, in a case, for example, of the rival wife of a girl who was married to her uncle, since at the time she happened before the girl's father for levirate marriage she appears to be his daughter's rival wife, **the Sages decreed that even if the girl refuses her original marriage, the rival wife is forbidden to the girl's father.**

Sefaria.org - [Yevamot 107a:12](#)

Hakakha by Rabbi Adin Steinsaltz Re: Yevamot 107b:1-3

She may refuse his levirate betrothal and his levirate Bond:

A minor girl may refuse a yavam regardless of whether he has performed levirate betrothal. Under such circumstances, she need not perform *halitza*. This halakha is in accordance with the opinion of Ulla. (Rambam Sefer Nashim, Hilkhot Gerushin 11:3; Shulhan Arukh, Even HaEzer 155:5).

A minor girl...who refuses a yavam is forbidden to his father:

It is prohibited for a girl who refuses a yavam in levirate marriage to marry his father, because she appears to be his son's bride, in accordance with the opinion of Rami bar Yehezkel. However, she is permitted to all other close relatives (Rambam). There are those who say that it is prohibited for her to marry other close relatives as well (Ramban and Rashba). This applies specifically to the close relatives of the deceased husband, but she is permitted to the close relatives of the yavam whom she refused. (Rambam Sefer Nashim, Hilkhot Gerushin 11:16–17; Shulhan Arukh, Even HaEzer 173:14, 155:11 and in the comment of Rema).

Notes by Rabbi Adin Steinsaltz Re: Yevamot 107a:12

Levirate betrothal, which is consensual, etc.:

The Ritva explains that her consent to the levirate marriage can be nullified by her refusal, because as a minor she does not have full-fledged halakhic competence to give her consent in the first place. The levirate bond, which is not dependent on her consent, cannot be cancelled by her verbal declaration.

But the consummation of the levirate bond may be against her will:

The early commentaries ask: Since the minor girl has the right to refuse him subsequent to the consummation of the levirate marriage, what is the source for thinking that he may effect that consummation against her will? **Some say that this statement does not refer in particular to intercourse with the minor, but in general to intercourse with a yevama, who is required to submit to levirate marriage (Rashi). Others respond that if intercourse takes place against the girl's will, the levirate marriage will take effect even though she may then refuse him.** Alternatively, it is possible that although the sexual act itself may have occurred against her will, the girl may still want this yavam as her husband in levirate marriage (Ritva).

Koren Talmud Bavli – Yevamot Part 2 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek XIII 107a/b page 257] (PDF version)

YEVAMOT 107b:10,15

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 107b:10,15

10. It was taught: Beit Shammai say: The refusal must take place specifically before a court, but Beit Hillel say: It may take place either before a court, or not before a court. We learned in a mishna elsewhere (Sanhedrin 2a): Halitza and refusals take place in the presence of three judges. The Gemara asks: Who is the tanna who taught this? Rabba said: It is Beit Shammai who say that refusal must take place specifically before a court. Abaye said: You can even say that it is Beit Hillel. Beit Hillel state only that we do not require **expert judges for a refusal, but we do require three upright people**, who constitute a court of laymen.¹³. **The Gemara asks: But the consummation of the levirate bond may be against her will.**

[...]

15. **MISHNA:** Who is a minor girl who needs to perform refusal in order to annul her marriage? Any minor whose mother or brother married her off with her consent. If they married her off without her consent, she need not refuse her husband at all and may leave her husband without a declaration of refusal. Rabbi Hanina ben Antigonus says: **Any girl who is so young that she cannot keep her betrothal**, i.e., the money or document of betrothal, she does not need to refuse, **as the Sages instituted marriage only for a girl old enough to understand what she is doing.**

[Sefaria.org - Yevamot 107b:10,15](https://www.sefaria.org/Yevamot_107b:10,15)

Hakakha by Rabbi Adin Steinsaltz Re: Yevamot 107b:10,15

Refusals before three:

There is no need for three people to validate a refusal; it is sufficient that two testify that she refused in their presence. This halakha is in accordance with the ruling of Rav Naḥman. Some authorities (Rabbeinu Ḥananel; Tosafot) say that there should be three ab initio. (Rambam Sefer Nashim, Hilkhot Gerushin 11:8; Shulḥan Arukh, Even HaEzer 155:4).

They married her off without her consent:

A minor girl who was married off by her mother or brother with her consent is considered married by rabbinic law, and she may annul the marriage by means of a refusal. If she was married off without her consent, a refusal is not required. Likewise, if she was married off with her consent when she was a minor so young that she did not know to keep her betrothal safe, a refusal is not required. This halakha is in accordance with the opinion of Rabbi Ḥanina ben Antigonus. (Rambam Sefer Nashim, Hilkhot Gerushin 11:7, Hilkhot Ishut 4:7; Shulḥan Arukh, Even HaEzer 155:1–2).

Notes by Rabbi Adin Steinsaltz Re: Yevamot 107b:10,15

Expert judges:

Some authorities wonder why one would think that Beit Shammai require experts for performing refusal, which is by rabbinic law, when they are not required for divorce, which is even more stringent, or for monetary law. The Ramban suggests that the requirement may refer not to actual experts who are appointed judges, but rather that at least one of them is familiar with the relevant area of halakha, as required by Beit Shammai in monetary cases (see Bava Metzia 32a).

Without her consent:

There is a picturesque depiction in the Jerusalem Talmud of a scenario in which a girl is dressed up for a wedding and told that she is to be married to a particular man. Her acquiescence in it constitutes marrying her off with her consent. Some authorities say that consent depends upon the age of the girl, and the extent to which she comprehends what it means to be married.

Who cannot keep her betrothal safe, etc.:

The Rambam, following the ge'onim, explains that in this case, the girl does not need to perform any act of refusal whatsoever, and she may marry another man even without refusing the first. However, the Rashba points out that her marriage to another man is in itself an act of refusal. According to him, not needing to perform refusal means that the husband has no rights with regard to her; her status is like that of any girl who is a candidate for refusal according to Rabbi Eliezer.

Koren Talmud Bavli – Yevamot Part 2 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek XIII 107b pages 259,260] (PDF version)

YEVAMOT 108a:2,4,5,12

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 108a:2,4.5,12

2. **The Sages taught: What constitutes a refusal? If she said: I do not want so-and-so as my husband, or: I do not want the betrothal in which my mother and brothers had me betrothed, that is a refusal.** Rabbi Yehuda said more than that: Even if she is sitting in a bridal chair [apiryon] going from her father's house to her husband's house and said along the way: I do not want so-and-so as my husband, this constitutes a refusal.

[...]

4. It was taught in the mishna: Rabbi Hanina ben Antigonus says: Any girl who is so young that she cannot keep her betrothal safe does not need to refuse. Rav Yehuda said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Hanina ben Antigonus. **It was taught: In the case of a minor girl who did not refuse her husband, but who went and married someone else, it was said in the name of Rabbi Yehuda ben Beteira: Her new marriage constitutes her refusal, as she made her state of mind known, that she does not want him, and that is sufficient.**

5. A dilemma was raised before the Sages: **What is the halakha if she was betrothed to another man without performing refusal of the first husband?** Is her acceptance of the betrothal sufficient to indicate that she refuses the first husband? The Gemara suggests: Come and hear an answer from a baraita: If a minor girl did not refuse her husband but went and **became betrothed to another man**, then, as the Sages said in the name of Rabbi Yehuda ben Beteira: Her betrothal constitutes her refusal.

[...]

12. Rabbi Yehoshua says: **In the case of a minor whose mother or brother married her off**, her husband has rights to items she finds, and to her earnings; and he has the right to annul her vows; and he inherits her assets if she dies; and if she dies he must become ritually impure on her account even if he is a priest. The principle is: She is his wife in every sense, except that she can leave him by means of refusal and does not require a bill of divorce.

Sefaria.org - [Yevamot 108a:2,4,5,12](#)

Hakakha by Rabbi Adin Steinsaltz Re: Yevamot 108a:2,4.5,12

What constitutes a refusal (108a:2):

If a minor girl says: I do not want so-and-so as my husband, or: I do not want the betrothal in which my mother and brothers had me betrothed, or a similar statement, this qualifies as a refusal, in accordance with the baraita quoted by the Gemara. (Rambam Sefer Nashim, Hilkhot Gerushin 11:8; Shulḥan Arukh, Even HaEzer 155:3).

Went and became betrothed (108a:4,5):

If a minor girl whose mother or brother arranged her betrothal or marriage became betrothed or married to another man, that betrothal to another is considered to be her refusal. This is in accordance with the ruling of the Gemara that explains that Rabbi Yehuda ben Beteira disagrees with the Rabbis, and that the halakha is ruled in accordance with his

opinion in all of these instances of inexplicit refusals. (Rambam Sefer Nashim, Hilkhhot Gerushin 11:8; Shulhan Arukh, Even HaEzer 155:3).

Her husband has rights to items she finds, etc. (108a:12):

As long as a minor who was married off by her mother or brother has not refused her husband, the marriage is fully valid and her husband has the right to items she finds and to her earnings, as well as the right to annul her vows and to inherit her assets. In the event of her death, he must become ritually impure on her account even if he is a priest. Although she is considered his wife in every sense, she may leave him by means of refusal. This halakha is in accordance with the opinion of Rabbi Yehoshua, as the Gemara rules in tractate Ketubot, rather than that of Rabbi Eliezer, although the Sages praised the latter's opinion. (Rambam Sefer Nashim, Hilkhhot Ishut 22:4; Shulhan Arukh, Even HaEzer 155:10).

Koren Talmud Bavli – Yevamot Part 2 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek XIII 108a pages 261,262] (PDF version)

YEVAMOT 108a:18 - 108b:1

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 108a:18 – 108a:1

Yevamot 108a:18. **MISHNA: If a minor girl refuses a man**, he is permitted to marry her close relatives, such as her mother or her sister, and she is permitted to marry his close relatives, such as his father or brother, and he has not disqualified her from marrying into the priesthood, as she is not considered divorced. However, if he gave her a bill of divorce, then even though the marriage was valid according to rabbinic law and not Torah law, he is prohibited from marrying her close relatives, and she is prohibited from marrying his close relatives, and he has disqualified her from marrying into the priesthood.

19. If he gave her a bill of divorce but afterward remarried her, and she subsequently refused him and married another man, and then she was widowed or divorced from her second husband, she is permitted to return to him. Since she left him the last time by means of refusal, the refusal cancels the bill of divorce that he gave her previously, and her status is that of **a minor girl who refused her husband, who is not forbidden to her first husband after a second marriage**. However, if the order was different, and if she refused him and he subsequently remarried her, and this time he gave her a bill of divorce and she married another man, and she was widowed or divorced, she is forbidden to return to him, like any divorced woman who married another man.

Yevamot 108b:1. **This is the principle concerning a minor girl who refused her husband and then married several times**: If the bill of divorce followed the refusal and she remarried, she is forbidden to return to him. If the refusal followed the bill of divorce, she is permitted to return to him. Since the refusal followed the bill of divorce it is clear that she was a minor and neither the marriage nor the divorce were valid by Torah law. However, when the ultimate separation is by means of a bill of divorce, there is no indication that she was a minor at the time and there is potential for confusion with an adult divorce.

Sefaria.org - Yevamot 108a:18 - 108b:1

YEVAMOT 108b:18 – 109a:1

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 108b:18 – 109b:1

Yevamot 108b:18. And there are those who say a different version of the discussion: Rav Yitzhak bar Ashyan said: **Just as she is forbidden to him, to the man who divorced her, so is she forbidden to his brothers**. The Gemara asks: But she is not familiar with their intimations and gestures. Why is it prohibited for her to marry them? The Gemara answers: It is a rabbinic decree concerning the ex-husband's brothers due to him, the ex-husband. If she were to be permitted to her ex-husband's brothers, people might mistakenly think that she is even permitted to remarry the ex-husband himself.

19. **MISHNA**: With regard to **one who divorces a woman and remarries her** and then dies childless, his wife is permitted to enter into levirate marriage with her yavam,

Yevamot 109a:1, but Rabbi Elazar prohibits this. Likewise, **with regard to one who divorces an orphaned minor girl whose mother and brothers married her off and remarries her** and subsequently dies, she is permitted to the yavam in levirate marriage, and Rabbi Elazar prohibits it. **A minor girl whose father married her off**, in which case the marriage is valid by Torah law, and who **was subsequently divorced** while she was still a minor is like an orphan during the lifetime of her father, as he no longer has the right to marry her off, and she cannot become fully married because she is a minor. And if the husband remarries her while she is still a minor and then dies childless, everyone agrees that she is forbidden to the yavam and may not enter into levirate marriage.

Sefaria.org - [Yevamot 108b:18 - 109a:1](#)

Hakakha by Rabbi Adin Steinsaltz Re: Yevamot 108b:18 - 109a:1

Just as she is forbidden to him, so is she forbidden to his brothers:

A minor whose husband gave her a bill of divorce is forbidden to his brothers and to the rest of his close relatives, in accordance with the mishna (Rambam Sefer Nashim, Hilkhot Geirushin 11:16; Shulḥan Arukh, Even HaEzer 155:10).

One who divorces a woman and remarries her:

If a man divorces his wife, whether she is an adult **or a minor**, and remarries her, and then dies childless and his wife becomes a candidate for levirate marriage with his brother, the brother is permitted to enter into levirate marriage with her, in accordance with the first tanna in the mishna. (Rambam Sefer Nashim, Hilkhot Yibbum 7:12; Shulḥan Arukh, Even HaEzer 173:16).

A minor girl whose father married her off and who was divorced:

If a minor married off by her father was divorced from her husband and then remarried him, she is prohibited from entering into levirate marriage if her husband subsequently died while she was still a minor. (Rambam Sefer Nashim, Hilkhot Yibbum 7:13; Shulḥan Arukh, Even HaEzer 173:16).

Koren Talmud Bavli – Yevamot Part 2 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek XIII 109a pages 266,267] (PDF version)

Having now seen the many passages from the Talmud and Rabbi Steinsaltz's commentary about minor girl marriage in the context of levirate marriage and the "right" of a minor girl to escape a marriage and a husband she dislikes through the rabbinically instituted "divorce" called mi'un, I will now show the most relevant Steinsaltz referenced law codes of Rabbi Maimonides' Mishneh Torah and Rabbi Karo's Shulchan Aruch:

Mishneh Torah – Gerushin 11:3,6-8,11,16,17

Sefer Nashim (*The Book of Women*) Gerushin (*Divorce*) 11:3,6-8,11,16,17

3. A minor can annul her marriage via mi'un whether she has been merely consecrated or [even if] the marriage has been consummated. [She can exercise this privilege] in her husband's presence, or outside his presence. Just as she can annul her marriage to her husband, she can annul her relationship to a yavam.⁶

Just as she can annul one marriage through mi'un, so too, she can annul a second marriage or a third marriage. Indeed, [she can exercise this privilege] any number of times.⁷

As long as she is a minor, she has the right to annul her marriage through mi'un. When a minor does not exercise the right of mi'un and becomes consecrated to another man despite the fact that she was married, [the consecration is binding]. Becoming consecrated is [obviously] a rejection [- and thus an annulment - of her previous marriage].

[...]

6. When a minor does not exercise her right to mi'un and attains majority, she no longer has this privilege. [This applies] even when she did not engage in marital relations with her husband after reaching the age of twelve years and one day. Since she has attained majority, it is a Rabbinic decree that a divorce is required [if the marriage must be dissolved].

[The rationale for this ruling is as follows:] The couple did not engage in marital relations after she reached the age of na'arut, in which instance it would be necessary to suspect that she manifested signs of physical maturity, and accordingly, there would be a doubt whether or not a marriage bond had been established. Nor did they engage in relations after she attained majority, in which instance she would become a married woman in all regards. Accordingly, the only reason she requires a get is the fact of her marriage as a minor, which is a Rabbinic institution.

Based on the above, if another man consecrated her after she attained majority, [when she had not engaged in marital relations with her first husband from the age of twelve onward,] the second man's consecration is binding.¹⁶ As such, if her first husband divorces her, her second husband may consummate the marriage. If, however, her second husband divorces her, her first husband may not continue his marriage with her. [This is a decree, instituted] lest people say: "He remarried his divorcee after she was consecrated."¹⁷

If her second husband engaged in marital relations with her before her first husband divorced her, she must be divorced by both men. [This is a decree instituted] because [the situation] resembles an instance in which a woman heard that her husband died, she married, and then her first husband returned.¹⁸ [The laws governing the two situations are not entirely analogous. In this instance,] a child fathered by the second husband is not illegitimate.¹⁹ But if her first husband engages in relations with her before her second husband divorces her, any child born is illegitimate.²⁰

7. In which instances must a minor perform the rite of mi'un [to nullify her marriage]? [Our Sages established the following guidelines.] If she was between six and ten [when she was consecrated], we investigate the extent of her sagacity.

If she knows to guard [the money given to her to effect] the kiddushin, appreciates that it was given for that purpose and will guard it differently from the way in which she would guard a nut, a date or the like, she must perform the rite of mi'un [to nullify her marriage].

If she does not know to guard [the money given to her to effect] the kiddushin, she need not perform the rite of mi'un [to nullify her marriage]. Instead, she returns to her mother's home as if she had never been consecrated. If she is less than six, even if she knows [how to guard the money given her,] she need not perform the rite of mi'un. If she is more than ten, even if she is very inept, she must perform the rite of mi'un.²¹

Whenever a girl's brother, mother or relatives arranged for her marriage without telling her of the identity of the groom, she need not perform the rite of mi'un [to nullify her marriage].²²

8. What does the rite of mi'un entail? She tells two witnesses:²³ "I no longer desire my husband so and so," "I no longer desire to be consecrated [to the man] to whom my mother - or my brother - consecrated me," or the like.

[The above applies] even if the two individuals are guests dining in her husband's home and she is serving them. If she tells them, "I no longer desire my husband so and so," she has performed mi'un.

[...]

11. A legal record of a statement of mi'un:

On this day of the week, and on this day of the month, in this year according to the following reckoning,²⁷ so and so, the daughter of so and so (her father's name) issued a protest in our presence, saying: "My mother or my brother misled me and had me married - or consecrated - to so and so, the son of so and so (his father's name) while I was a minor. I am now making a statement in your presence that I do not desire him, nor can I live with him." We have had so and so undergo a physical examination,²⁸ and it has been established that she is still a minor. [Hence,] we have written and signed this [legal document] and have given it to her to serve as support and clear evidence.

So and so, the son of so and so (his father's name), a witness;

So and so, the son of so and so (his father's name), a witness:

[...]

16. **A girl who leaves her husband by virtue of the rite of mi'un is not considered to be divorced by him.**³⁸ The laws applying to her relations with her husband whom she rejected are the same as those applying to a man who has never consecrated her. **She is permitted to marry his relatives.** He is permitted to marry her relatives. Nor is she disqualified from marrying into the priesthood.

If she married another man and was divorced or widowed, or she nullified her relationship with him through mi'un, she is permitted to remarry him. Moreover, even if her first husband divorced her [while she was still a minor], remarried her, she then nullified their relationship via mi'un and married another man and was divorced by him, she may remarry her first husband.³⁹

[The rationale is that] whenever a girl leaves a marriage via the rite of mi'un, it is considered as if she had never been divorced via a get, and she may remarry her first husband. [This applies] even if she was once divorced [by this man] before mi'un.

When, by contrast, a man divorces his wife - who is a minor - with a get, she marries another man and then nullifies the marriage through mi'un, she may not remarry her first husband, because although her final marriage was terminated by mi'un, her marriage [to her first husband] was terminated by a divorce.⁴⁰ Needless to say, this applies if the second husband divorced her or he died.

Similarly, she is forbidden to the father of her first husband, his son and his brothers, as are other divorced women. [This applies despite the fact that] she terminates her marriage to her second husband via mi'un.

17. When a girl nullifies her connection to a yavam through mi'un, she remains forbidden to his father, for she appears to be his daughter-in-law, since [that was her status] when his son died. She is, however, permitted to marry [her late husband's] other relatives.⁴¹ Thus, although she rejected a potential yavam with mi'un, she is permitted to marry his brother.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

6. I.e., if her husband dies without children and she does not desire to marry the yavam, she can dissolve the marriage by mi'un.

7. Although a girl has the right to marry and dissolve her marriage as often as she desires, **our Rabbis did not approve of such conduct and counselled that the Jewish court should arrange a marriage of a minor only when it does not appear likely that she will seek to dissolve the marriage (Hagahot Maimoniot).**

[...]

16. I.e., even if she had not yet been divorced by her first husband. Since the second man's consecration has the power of Scriptural law, it takes priority.

17. Which is forbidden, as stated in Halachah 12.

18. The resemblance is that the woman married a second husband before her marriage with the first was severed.

19. Because her marriage to her first husband is not binding according to Scriptural law.

20. For her second marriage is binding according to Scriptural law.

21. The Ramah (Even HaEzer 155:2) quotes opinions that maintain that the above applies only when the girl's marriage was arranged by her brother or her mother. If she arranged the marriage herself, it is not binding, even according to Rabbinic law. The Ra'avad mentions a third opinion, which states that for a girl between the ages of six and ten, the marriage must be arranged by her family to be binding. After the age of ten, it is binding even if she arranged it herself.

22. Our translation is based on the Jerusalem Talmud (Yevamot 13:2), which explains that this refers to an instance in which a girl's family members prepared her for marriage without informing her who her groom would be.

23. Rabbenu Chanan'el and other authorities maintain that, a priori, three individuals should be present. Although the Shulchan Aruch (Even HaEzer 155:4) mentions this opinion, the Rambam's view appears to be favored.

[...]

27. I.e., from the creation or from the beginning of Alexander the Great's rule, as stated in Chapter 1, Halachah 27

28. I.e., she was checked by women on whom the court can rely, as stated in Hilchot Ishut 2:20

[...]

38. Divorce nullifies a marriage from the time of divorce onward. Mi'un, by contrast, voids the marriage entirely, causing it to be considered as if it had never taken place.

39. The mi'un that terminated the second marriage reveals that the first marriage was not binding according to Scriptural law, and that a get was not actually required. (See Rashi, Yevamot 108a.)

40. Yevamot 108b explains that she is not permitted to remarry her first husband because we are afraid that he will change his mind and influence her to nullify her marriage to her second husband via mi'un. We suspect that she will be able to be influenced by him, because she still is attracted to him - for it was he who divorced her, not she who nullified the marriage through mi'un. In the first instance, we do not harbor such suspicions, for it was she who rejected her first husband, nullifying the marriage through mi'un.

41. The Rashba and the Ramban differ and maintain that the woman is forbidden to the other relatives of the deceased, with the exception of his brothers. The Shulchan Aruch (Even HaEzer 155:11) mentions both opinions but favors that of the Rambam.

Chabad.org - Nashim - Gerushin 11:3,6-8,11,16,17

Mishneh Yibbum – Vchalitzah 7:13-15

Sefer Nashim (*The Book of Women*) Yibbum Vchalitzah (*Levirate Marriage and Release*) 7:13-15

13. [The following rules apply when] a girl below the age of majority was given in marriage by her father, and her husband divorced her, remarried her and then died [childless] while she was still below the age of majority. She is forbidden to her yavam,²² for the divorce was a fully binding divorce, since she was married off by her father.²³ The remarriage, by contrast, is not fully binding, because the consecration of a minor is not a completely binding consecration, as explained.²⁴

14. The same law applies when a man divorces a woman who is mentally competent, she becomes a deaf-mute, he remarries her and dies [childless] while she is a deaf-mute. She is forbidden to the yavam and should not perform either chalitzah or yibbum.²⁵ Another woman married [to the deceased husband of] the minor or the deaf-mute may perform chalitzah, or yibbum.²⁶ If [the deceased] remarried her while she was a minor or a deaf-mute, but she attained majority or regained her control of her faculties while married to him, and then he died [childless], she is permitted to her yavam.²⁷

15. When two brothers were married to two sisters, who were both below the age of majority and fit to dissolve their marriages through mi'un, or they were deaf-mutes, and one [of the brothers] dies [childless], his wife is not obligated to perform either chalitzah or yibbum, because she is the sister [of the yavam's] wife.²⁸

If one [of the sisters] was above the age of majority and one was below, and the husband of the younger one died [childless], his wife is not obligated to perform either chalitzah or yibbum, because she is the sister [of the yavam's] wife.²⁹ If the husband of the older [sister] died [childless], we instruct the younger one to absolve [her marriage to] her husband through mi'un, allowing the older [sister] to perform yibbum.³⁰

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

²². For the prohibition forbidding a woman divorced by her husband to her yavam is of Scriptural origin, while her remarriage is binding according to Rabbinic law alone.

The Ra'avad and Rabbenu Asher rule that the minor must perform chalitzah when she attains majority. The Ma'aseh Rokeach states this might also be the Rambam's intent (as reflected by the fact that he states that "she is forbidden to her yavam," and in the next halachah he adds that she "should not perform either chalitzah or yibbum"). Most commentaries do not, however, accept this interpretation.

²³. The Rambam's wording is somewhat imprecise. The kiddushin the husband gives the father are binding according to Scriptural law, because the Torah granted him the right to consecrate her, as stated in Hilchot Ishut 3:11. If the girl is able to distinguish between a get and another object, she can be divorced according to Scriptural law, as stated in Hilchot Gerushin 2:19.

²⁴. **Until she reaches the age of twelve and manifests signs of physical maturity, she is not able to effect kiddushin that are binding according to Scriptural law.** (Moreover, the

girl's father also does not have the potential to consecrate her again according to Scriptural law once she has been divorced, as stated in Hilchot Ishut 3:12.)

25. In this instance as well, the divorce is binding according to Scriptural law, while the remarriage is merely a Rabbinic institution.

26. Since the remarriage of the minor or the deaf-mute is only a Rabbinic institution, while the marriage of the deceased's other wife is based on Scriptural law, the remarriage of the minor or the deaf-mute has no effect on the other wife's obligation to her yavam. See Shulchan Aruch (Even HaEzer 173:23).

27. If her husband engaged in marital relations with her after she attained majority or regained control of her faculties, he acquires her as a wife according to Scriptural law. (See Hilchot Gerushin 11:6.) Therefore, there is no difference between her and another woman who was married, divorced and remarried.

28. Since both sisters share the same status, we allow the marriage of the sister whose husband is alive to continue. There is no mandate for him to perform yibbum, for the marriage to his yevamah would still be Rabbinical in origin.

29. Since the marriage of the older sister is binding according to Scriptural law, the younger sister has no obligation to the yavam.

30. The yibbum of the older sister is given priority over the marriage of the younger sister, because the older sister's first marriage is binding according to Scriptural law, and the obligation of yibbum is mandated by that authority. The marriage of the younger sister, by contrast, is binding only according to Rabbinic law.

Therefore, the younger sister is advised to perform mi'un, thus dissolving her marriage as if it had never existed. At this point, there is nothing preventing her husband from marrying her sister, his yavam. (See Chapter 4, Halachah 30.)

Chabad.org - Nashim - Yibbum vChalitzah 7:13-15

Shulchan Arukh – Even HaEzer 173:13-17

13. **A female minor** was married to the brother from her mother [the mother's brother, the girl's uncle] and she is [married to her uncle] for a moment, and he dies, and remains or she marries the brother from her father's side, and he [the brother from the father's side] dies, **and she falls to the brother-in-law while she is still a minor**, they [beis din?] don't say you will refuse [to marry her], to uproot the marriage of the original brother-in-law, in order that levirate marriage will be performance rather the other wife [making reference to the minor in this case] has chalitza preformed and not levirate marriage, that is if she refuses [levirate marriage]. ..

14. **A minor female that is not forbidden for him marry**, and he dies, or she refuses the performance levirate marriage [with a brother of the husband], she is forbidden to the brother-in-law [in this case] and permitted to others without chalitza, if there are no other brothers [than the one] and specifically her [the widow of the deceased], but her sister is

permitted to him, even she is permitted to the remainder of brothers that she did not refuse [for the performance of levirate marriage].

16. The one who divorces his wife who is an adult or a minor that is too be married to his brother [after the divorce], and she returns [back to the to her original husband], and he [the husband] dies, she falls to the commitment of the brother-in-law [requiring levirate marriage], she is permitted to him [the brother-in-law]. **But a minor that is married off by her father, and** she is divorced [from her too be husband] through her father, and she returns [to her too be husband] and he dies [the now current husband] while she is still a minor, it is forbidden to preform levirate marriage. and is the case with a divorcee who is sharp-sighted, and does not listen to her husband, and she returns to her former husband, and he [the husband] dies, and she does not listen [she does not listen to anyone?]; whether this or this the other wife [of the dead husband] is permitted to the brother-in-law.

17. The woman who returns [back to her house; in regard to a prenuptial marriage] **when she is a minor** or deaf [she won't listen to her husband], and she becomes an adult and regains her hearing and went [back] to him, and he dies [after she returns to her former husband] its permitted to preform levirate marriage. and it's not necessary to say to her if she returns after she matures or regains her hearing [the laws of levirate marriage will apply]

[Even HaEzer 173:13-17](#)

Shulchan Arukh – Even HaEzer 155:1-3,10-12

1. A ketana [girl less than 12 years and a day old] who does not have a father, or she has a father but her father had married her off and she became a widow or she was divorced while still a ketana, and thus she becomes like an orphan in her father's lifetime for he has no authority over her anymore, and she is married off with her permission, since her marriage is only on a rabbinical level, if she does not like her husband, she does not need a get [bill of divorce] from him, but rather she can leave through [the law of] me'un [where she can simply denounce the marriage]. But if she was married off without her permission, or even if it was with her permission, but she didn't know to keep her marriage, she doesn't even need me'un. Rem"a: Ideally the court should make sure not to allow the marriage of an orphan ketana when it seems it will end in me'un. And we can only judge this according to what we can see (Hagahot Maimoni perek 11 in the name of R"Y).

2. What is [a case of] a ketana [a girl less than 12 and a day] who must do a me'un [i.e. refusal of marriage which allows her to leave her husband when she is married off as a ketana]? From 6 years old until 10 years old, we examine her according to her intellectual abilities, if she knows [that she must] guard her marriage, and that when she is married, that the guarding is not like the guarding of a nut or date or similar, that is [a case where] she needs to perform me'un. But if she does not know to guard her marriage, she needs not me'un, but rather she can leave to her mother's house, as if she were never married. Less than 6, even if her sense of understanding is great, and she knows to guard, she does not need me'un. More than 10, even if she is very dumb, she needs me'un. Rem"a: Some say that all this is only when she is married off by the permission of her brother and mother, but if she was married off without their permission, she does not need me'un [to go free]

(Hagahot Alfasi perek Bet Shammai). Some say that if she is already past toddler's age, she needs to do me'un (Bet Yosef in the name of the Ritva).

3. The me'un [i.e. refusal of marriage in which a ketana girl can go free from marriage without a bill of divorce] is when she says, "I do not like so-and-so my husband," or "I do not like the marriage my mother and brother set up." **Even if she doesn't say anything, but leaves and gets proposed to someone else while she is a ketana [less than 12 and a day], even if she was in nissuin [full marriage], her proposal is her refusal.**

[...]

10. **A female minor** who did mei'un (declared her marriage annulled) receives no ketubah [whether] a hundred or two hundred [zekukim] but does receive an addition [made to the ketubah]. All the time she had not done mi'un, her husband has a right to her handiwork and whatever she finds. He is obligated to feed her and redeem her all the time she is living with him. But he went overseas and she borrowed to eat or to redeem herself, and she [then] rose up and did mei'un, he is not obligated to pay, even if he ate her fruit [profits arising from her possessions], and even if they still exist, such as if he collected them and they are lying in his jurisdiction, he does not return them. Regarding properties of tzon barzel and melog [], if they still exist, he takes them. If some of the tzon barzel were lost, he must pay, but from the melog property he is exempt. He is permitted to [marry] her relatives [after mei'un] and she is permitted to his relatives. **She is kosher to [marry] the priesthood and she does not need to wait three months to marry [again].** If she married another man and he divorced her or died, she is permitted to return to the first [husband she did mi'un with]. Furthermore, even if the first divorced her and took her back, and she did mi'un with him, and she married someone else after she gave him mi'un, and the other divorced her, she may return to the first. For whoever goes out with mi'un, even if there was a divorce beforehand, it is as if she was never divorced from him with a divorce document and she may return to him. But if one divorces a female minor with a divorce document, she receives a ketubah, and he is forbidden to her relatives, and she is forbidden to his relatives, and she is forbidden to priesthood, and she needs to wait for three months. And if she married another and did mei'un to him, she may not return to the first because she left him with a divorce document, even though she left the last one with mei'un. And this obviously applies if the last one divorced her or died. She is also forbidden to the father of the first one and to his son, and to his brothers, like other divorced women, even though she left the last one with mei'un. And if she did mei'un with the first, and he took her back and divorced her and she married another and became a widow or was divorced or did mi'un to him, she may not return to the first or to his relatives. For whoever left him with mi'un in the end, her law is that of a woman who did mi'un. And whoever left him with a divorce in the end, her law is that of a divorced woman.

11. She who refuses the redeemer, is forbidden to marry his father, for she is looked upon like his daughter-in-law once his son (the original husband) dies and she must be redeemed. However, she is permitted to marry other relatives (of the husband). Some say that (she) additionally (cannot marry) any other relatives (of the husband). She is originally (not allowed to marry) any of the deceased husband's relatives (except for the redeemer), but if the redeemer refused her, then she is allowed to marry his relatives (This is how the Beit Yosef ruled). And always, if she refuses one of the redeemers, she is permitted to marry the other brothers.

12. **Until when may a minor reject [a marriage contracted for her by other family members in the absence of her father]? Until she grows two [pubic] hairs after [the age of] twelve years, or until she gives birth and from the time when [she becomes] pregnant, she is considered an adult (Or Zarua). As long as she has not grown two hairs and has not given birth, she is considered a minor, even if she shows signs of being an aylonit. (aylonit- a woman who never goes through normal puberty.)** But if she is twenty years of age, and shows signs of being an aylonit, then she is considered an adult retroactively from the time she turned twelve, even if she grows two hairs later (Choshen Mishpat 235), and she may not reject [the marriage]. A woman who is nineteen years and thirty days of age has the same law as one who is twenty years of age, since thirty days in a year are considered as a year. And there is [also an authority] who says that she is not considered [as though she was] twenty years of age until she is twenty years minus thirty days of age.

[Even HaEzer 155:1-3,10-12](#)

YEVAMOT 12a:5-7 (When is an orphan is not an orphan?)

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 12a:5-7

5. The Gemara cites another discussion concerning women who are forbidden in levirate marriage. Rav Lili bar Memel said that Mar Ukva said that Shmuel said: **The rival wife of a girl who performed refusal is forbidden.** If the deceased brother had two wives, one of whom was a minor who refused the brother who sought to be her yavam, not only is she forbidden in levirate marriage, but so too is her rival wife. The Gemara asks: To whom is she forbidden? If we say that she is forbidden to the other brothers, this cannot be the case, as now that she herself, the girl who actually performed refusal, is permitted to them, as Shmuel said: **A minor yevama who refused this brother is permitted to that other brother of the deceased husband, is it necessary to state that her rival wife is likewise permitted?**

6. Rather, it means that she is forbidden to him, i.e., as she refused a specific brother, both she and her rival wife are forbidden to him. **The Gemara clarifies: And in what way is this halakha of the rival wife different from that of one who performed refusal, who is permitted to the other brothers?** If the reason is that she did not perform any act of refusal with them that might nullify the obligation of levirate marriage, her rival wife did not perform any act with them either, and therefore she should be permitted to all of the brothers.

7. The Gemara answers: **This is a rabbinic decree imposed due to the case of a rival wife of one's daughter who performed refusal.** If the girl who refused was his daughter or any other forbidden relative, her rival wife would be forbidden as the rival wife of one's daughter. Therefore, the Sages rendered forbidden the rival wives of other women who performed refusal, not only his daughter. The Gemara asks: And is the rival wife of a daughter who performed refusal actually forbidden? But didn't we learn in the mishna: And with regard to all of these women, if they died or performed refusal with their husbands, their rival wives are permitted.

[Sefaria.org - Yevamot 12a:5-7](#)

Hakakha by Rabbi Adin Steinsaltz Re: Yevamot 12a:5-7

The rival wife of a girl who performed refusal:

If a man's minor wife was a forbidden relative of her yavam, and she performed refusal with regard to this yavam despite not having refused her husband, her rival wife performs \hat{h} alitza but does not enter into levirate marriage. In other words, her refusal of the yavam is not considered a refusal of the deceased. However, the rival wife of a girl who is not a forbidden relative of her yavam and who performs refusal is permitted in levirate marriage, in accordance with the opinion of Rabbi Yo \hat{h} anan on daf 12b. (Rambam Sefer Nashim, Hilkhhot Yibbum Va \hat{h} alitza 6:22; Shul \hat{h} an Arukh, Even HaEzer 173:7).

She who refused this is permitted to that:

The wife of a deceased man who refused one of his brothers is permitted to the other brothers, in accordance with the opinion of Shmuel. Although Rav and Rav Asi dispute this matter (107b), the halakha is ruled in accordance with the opinion of Shmuel, as Rabbi Yo \hat{h} anan holds accordingly. (Rambam Sefer Nashim, Hilkhhot Geirushin 11:17; Shul \hat{h} an Arukh, Even HaEzer 155:11; 173:14).

Notes by Rabbi Adin Steinsaltz Re: Yevamot 12a:5-7

One's daughter who performed refusal:

Rashi addresses the question of how a girl could perform refusal during her father's lifetime, as only a fatherless girl married off by her mother and brothers can perform refusal. **He explains that the Gemara is referring to a so-called orphan during her father's lifetime, i.e., a minor girl who was married off by her father only to be divorced or widowed. In these circumstances her father can no longer betroth her by Torah law, and she is therefore considered like an orphan.** With regard to the refusal itself, Rashi indicates that the girl performs refusal with her own father. Several early commentaries are puzzled by this, as she could never come before him for levirate marriage, which means that there is no opportunity for refusal at all. In their opinion, she refuses one of the other brothers to whom she is permitted. Since there was an act of refusal after the mitzva of levirate marriage came into effect, she has the appearance of a married woman (Ritva).

Koren Talmud Bavli – Yevamot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek I 12a pages 67,68] (PDF version)

Summary

The provision of mi'un by the rabbis allows a pre-pubescent minor girl to refuse, deny or protest her so-called marriage under certain circumstances. The provisions recorded above establishes the fact that Rabbinic Judaism from Talmudic times, through Maimonides to Rabbi karo accepts as normative the marriage of, and sexual intercourse with, pre-pubescent girls as young as 3 years old.

The Rabbinic authorities cited above clearly assert that a father can validly "marry" off his girl minor daughter with, or without her consent. In the circumstance that the father has died then the rabbis permitted a minor girl's mother and/or brothers to also validly "marry" off their daughters and sisters. On the one hand a

"divorce" is necessary to end such a union, except that a formal "get" (a bill of divorce) is not required. A minor girl can simply express in several ways her rejection of her "husband", including a simple verbal declaration, an acceptance of a betrothal of another man, or "marriage" to another man. This scenario can theoretically happen multiple times.

In the case of a minor who was "married" off by her mother or brothers with the girl's "consent" she is required to do mi'un to end the "marriage". If it was without her "consent", she can simply walk away with no "formal" declaration of refusal.

Despite the frequent apologetic employed that a "betrothal" and a consummated "marriage" are separate stages (typically a gap of a year in Talmudic times) and that therefore a "betrothal" does not imply a sexual relationship, the language and scenarios of the Rabbis clearly allow for a consummated "marriage" with a minor girl multiple times, with or without her consent.

A "marriage" involving a minor is of a "lesser legal status" than ordinary marriages. Indeed, if a minor girl dissolves a "marriage" it is as if she had not been married. A minor girl who remains "married" beyond the age of majority no longer has the "privilege" of using her right of a mi'un. On the minor girl reaching the age of majority, the "marriage" defaults to a normative marriage and a girl aged above 12 years and 6 months then requires a formal Rabbinic bill of divorce (get).

A minor girl who performs the rite of mi'un does not have the typical status of a divorced woman and can marry the relatives of her previous "husband", the husband can marry her relatives, and has the minor girl is legally not a divorced woman (divorced by a "get") she is not disqualified from marrying a priest.

I suggest the cognitive dissonance one finds within the concept of mi'un is bewildering and requires several readings to grasp how the practice of pre-pubescent marriage as stipulated by the Rabbis has the potential for the horrific abuse of minor girls being used as a sex "commodity". I think it should be clear that "marriage" is not always a marriage and that a "betrothal" and a consummated "marriage" are frequently conflated.

Additionally, even an "orphan" is not always an orphan. A ketana (minor girl) who becomes a "widow" or "divorces" when still a minor girl while her father is still alive, becomes an "orphan", in that her father no longer has authority over her and he no longer has the authority to betroth her.

9. Rape and Seduction of Minor Girls

Dr. Michael Brown and His Careful Researchers

Dr. Michael L. Brown in his defence of the Talmud takes two full pages in his *Christian Antisemitism* book to attempt to dissuade his readers from reading the Talmud. He devotes most of two whole pages to a quote from the Tractate Sabbath to deflect from his discussion of "Jesus" in the Talmud. His persuasive comments read thus:

"You may find the text boring, dense, confusing, and very legalistic sounding."

"Are you confused yet?"

"Is your head spinning now?"

"But the meaning is so concise and written in such a ***coded way*** [Emphasis mine] that it takes many lines to explain just a few words (yet the Talmud consists of about two million words of text just like this)."

"Are you getting this?"

"... with ever-deepening, complex legal discussion,"

"I can assure you that this is all very difficult to understand for an outsider, and it is virtually ***impossible to understand*** [Emphasis mine] when simply reading isolated sentences translated into English."

CHRISTIAN ANTISEMITISM - CONFRONTING THE LIES IN TODAY'S CHURCH - MICHAEL L. BROWN; Chapter 6: The Truth About the Talmud; Pages 64-66

For those who have read *King David the Paedophile* this far, yours heads must have spun so much they have fallen off. I agree an isolated sentence may be, or may not be misleading, and that reading that sentence in context helps to clarify it. The issue of an English translation is problematical in that Dr. Michael L. Brown has no compunction quoting isolated sentences from the Talmud when it is advantageous to do so. Additionally, Dr. Michael L. Brown quotes from Sefaria.org where the translation of Rabbi Adin Steinsaltz takes centre stage and the question raised is, if an English translation is "virtually impossible to understand" in a single sentence, why does Dr. Brown not encourage his readers to go and read in any said sentence in context? If the issue is a faulty English translation, then his issue is with the translator. If the English translation is incorrect or misleading he is the one who needs to show why.

The point of this chapter's preamble is that Dr Michael L. Brown advises his readers to go to an approved source if they want to "dig deeper into relevant texts". He could have advised his readers how to use the Sefaria.org website and it's excellent resources allowing readers to view halakha and Rabbinic comments based on specific Talmud texts. He could have directed his readers to the Koren Bavli Talmud Volumes containing Rabbi Steinsaltz's translation with vast amounts of references, notes and background, pointing most informatively to the Jewish Law Codes of Rabbi Maimonides (*Mishneh Torah*) and Rabbi Karo (*Shulchan Aruch*) he insists "give definitive rulings, and traditional Jews feel beholden to follow these later rulings." Instead, he directs to "the careful work of researchers Jan Irvin and Lloyd de Jong". (All are free to research the Talmudic qualifications of these individuals). Dr. Brown gives an endnote reference to the "researchers" relevant YouTube videos and the one most relevant to the Talmud and sexual intercourse with prepubescent girls is:

UnSpun 150 – Lloyd De Jongh: "Judaism Pt. 4: Sex and Marriage in the Talmud"

<https://www.youtube.com/watch?v=J3ReQael1H8>

I suggest you ignore the frequent "brain damaged" type ad hominem in the video, (matching Dr. Brown's frequent use of ad hominem in his book) and consider carefully the cherry-picked texts presented. Suffice to say, selected texts from the Talmud, Rabbi Maimonides and Rabbi Karo are used to argue that the rape and seduction (conditional exceptions aside for now) is forbidden by the Rabbis and therefore the Talmud is opposed, in principle to sex with minor girls and boys. A brief flicker of critical thinking will consider that throughout history up to the present day rape of females has been considered a moral, ethical, and legal crime

but it does not follow that sex with any female is therefore not permitted. I have demonstrated that the Talmud permits adults to have sexual intercourse with their minors wives as young as 3 years old. It will be seen below that even rape of minors has exceptions with respect to degrees of punishment and even no liability for the perpetrator.

The "careful researchers" also touch on the Kiddushin 41a "not proper to betroth a minor daughter" Talmud quote which will be dealt with in the next chapter. Their research is presented from a document supposedly produced by Lloyd de Jong though he appears several times not to understand his "own" research. The document presented in the video is nowhere to be found on the internet which is curious if it conclusively proves the Talmud does not endorse prepubescent sexual intercourse. It would be "case closed" would it not? I mention this video so as not be accused of withholding access to any Talmud apologetics. All the texts they quote are contained within this publication so nothing is hidden or biasedly omitted.

That Talmud texts exist that discuss fines and punishment for the rape and seduction of minors is not contested. What follows are some disturbing exceptions which serve to enforce the precarious status of minor girls not only in Talmudic times, but through to the time of Rabbi Maimonides (12th century) up to the time of Rabbi Karo (16th century). I now follow the same method of disclosure used above to examine the rabbinic laws concerning the rape and seduction of minors girls with a series of quotes from Tractate Ketubot.

KETUBOT 29a:1,4-6

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KETUBOT 29a:1,4-6

1. **MISHNA: These are the cases of young women for whom there is a fine paid to their fathers by one who rapes them:** One who engages in intercourse with a **mamzeret**, or with a **Gibeonite woman** [netina], who are given [netunim] to the service of the people and the altar (see Joshua 9:27), or with a **Samaritan woman** [kutit]. In addition, the same applies to one who engages in intercourse with a **female convert**, or with a **captive woman**, or with a **maidservant**, **provided** that the **captives were ransomed**, **or** that the **converts converted**, **or** that the **maidservants were liberated when they were less than three years and one day old**, as only in that case do they maintain the **presumptive status of a virgin**.

[...]

4. The mishna teaches the halakha with regard to a young woman, from which the Gemara infers: **With regard to a young woman, yes, one is liable to pay the fine if he rapes her, but with regard to a minor, no, one is not liable to pay the fine. Who is the tanna who maintains that one is liable for raping a young woman but not a minor?**

5. Rav Yehuda said that Rav said: The tanna is Rabbi Meir, as it is taught in a baraita: **With regard to a minor from the age of one day old until she grows two pubic hairs, there is the possibility of sale for her**, as her father may sell her as a Hebrew maidservant, but **there is no fine paid for her if she is raped**. And once she grows two pubic hairs, from that point until she matures into a grown woman there is a fine for her, as during that period she is a young woman, with regard to whom the Torah law of a rapist and a seducer applies, but there is no possibility of sale for her. Once she grows two hairs she is no longer under her father's control and can no longer be sold. This is the statement of Rabbi Meir, as Rabbi Meir would state a principle: Any place where there is a sale, there is no fine; and any place where there is a fine, there is no sale.

6. And the Rabbis say: With regard to a minor from the age of three years and one day old until she matures into a grown woman, there is a fine for her. The Gemara asks: Is that to say that a fine, yes, there is, but a sale, no, there is not? **Do the Rabbis maintain that the father has no right to sell his minor daughter?**

Sefaria.org - Ketubot 29a:1,4-6

Hakakha by Rabbi Adin Steinsaltz Re: Ketubot 29a:1,4-6

These are the cases of young women, etc.:

With regard to one who rapes or seduces a virgin who was forbidden to him by a standard Torah prohibition or by a prohibition punishable by karet, if he was forewarned, he is flogged and does not pay the fine. **If he was not forewarned, he is not flogged, and he pays the fine.** (Rambam Sefer Nashim, Hilkhos Na'ara Betula 1:11; Tur, Even HaEzer 177)

One who engages in intercourse with a female convert, etc.:

If a gentile converted, a woman taken captive was redeemed, or a maidservant was freed when they were three years old or less, they are entitled to the fine for rape. (Rambam Sefer Nashim, Hilkhos Na'ara Betula 1:10; Tur, Even HaEzer 177).

There is the possibility of sale for her:

The father of a minor girl may sell her as a Hebrew maidservant from the day of her birth until she completes her twelfth year and grows two pubic hairs. However, once she has grown two pubic hairs, he may no longer sell her. (Rambam Sefer Kinyan, Hilkhos Avadim 4:1).

When is there a fine for her:

A virgin is entitled to a fine for rape from the age of three years and one day old until puberty, in accordance with the opinion of the Rabbis. Although the unattributed mishna is in accordance with the opinion of Rabbi Meir and as a rule the halakha is ruled accordingly, the Gemara indicates that the mishna reflects an individual opinion. That is the ruling of Rif, the Rambam, and the Rosh. Rabbeinu Hananel and the Ra'avad rule in accordance with the unattributed mishna. (Rambam Sefer Nashim, Hilkhos Na'ara Betula 1:8; Shulhan Arukh, Even HaEzer 177:1).

Koren Talmud Bavli – Ketubot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek III 29a page 166,167] (PDF version)

The above passage allows for fines of rape based on several conditions. It also raises the question what happens with respect to rape outside of the stated conditions? It should be noted the 3 year old threshold is referred to once again.

KETUBOT 36b:6,7

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KETUBOT 36b:6,7

6. **MISHNA: And these are the cases of young women who do not have a fine paid to their fathers when they are raped or seduced:** One who has intercourse with a **convert** or with a **captive woman** or with a **gentile maidservant, who were redeemed, converted, or emancipated when they were more than three years and one day old,** as presumably they are no longer virgins. Rabbi Yehuda says: A captive woman who was redeemed remains in her state of sanctity even though she is an adult, as it cannot be stated that she certainly engaged in intercourse.

7. **The mishna resumes its list of the cases of young women who are not entitled to a fine when raped or seduced by the following men:** In the case of one who engages in intercourse with his daughter, with his daughter's daughter, with his son's daughter, with his wife's daughter, with her son's daughter, or with her daughter's daughter; **they do not receive payment of a fine.** That is due to the fact that he is liable to receive the death penalty, and that their death penalty is administered by the court, and anyone who is liable to receive the death penalty does not pay money, as it is stated: "And yet no harm follow, he shall be punished" (Exodus 21:22). **This verse indicates that if a woman dies and the one who struck her is liable to receive the death penalty, he is exempt from payment.**

Sefaria.org - Ketubot 36b:6,7

Hakakha by Rabbi Adin Steinsaltz Re: Ketubot 36b:6,7

A convert, etc.:

A gentile woman older than the age of three who converted, and likewise a captive older than the age of three who was redeemed, and similarly a maidservant older than the age of three who was freed are not entitled to the fine. The halakha is in accordance with the mishna, contrary to the individual opinion of Rabbi Yehuda. (Rambam Sefer Nashim, Hilkhot Na'ara Betula 1:10)

One who engages in intercourse with his daughter, etc.:

One who rapes a woman for whom he is liable to receive a court-administered death penalty, e.g., his daughter or his wife's daughter, whether or not he was forewarned, is exempt from paying the fine. (Rambam Sefer Nashim, Hilkhot Na'ara Betula 1:13–14).

Note by Rabbi Adin Steinsaltz Re: Ketubot 36b:6,7

A captive woman with regard to the matter of a fine:

The early commentaries ask: Doesn't everyone agree that there is merely a suspicion that a captive woman was violated, and it is a rabbinic decree that she does not have the presumptive status of a virgin, so how does the mishna rule unequivocally that she is not entitled to a fine? Tosafot explain that if a captive woman was entitled to a fine there is concern lest she marry a priest. In the Shita Mekubbetzet it is explained that even though it is based merely on suspicion, her presumptive status as a virgin was undermined, and one does not collect money based on weakened presumptive status.

Koren Talmud Bavli – Ketubot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek III 36b page 203] (PDF version)

The above requires careful reading in that, despite a rapist not having to pay a fine, that if the victims are of a certain relationship to the rapist, the rapist is however deserving of the death penalty. It should be noted that there is a class of rape victims not included in the familial relationship class of victims.

KETUBOT 38b:9

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KETUBOT 38b:9

9. Abaye said: **If one had intercourse with a young woman, and she died before he was sentenced, he is exempt from paying the fine**, as it is stated: "And the man who lay with her shall give to the father of the young woman" (Deuteronomy 22:29), **from which it is inferred, and not to the father of a dead girl**. The Gemara comments: This matter that was obvious to Abaye was raised as a dilemma to Rava.

Sefaria.org - Ketubot 38b:9

Hakakha by Rabbi Adin Steinsaltz Re: Ketubot 38b:9

If one had intercourse with a young woman, and she died:

If the young woman died before the rapist or seducer stood trial, he is exempt from the fine. The halakha is in accordance with the opinion of Abaye, as his conclusion is not rejected due to Rava's dilemma. (Rambam Sefer Nashim, Hilkhot Na'ara Betula 1:15 and the Kesef Mishna there; Tur, Even HaEzer 177).

Koren Talmud Bavli – Ketubot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek III 38b page 214] (PDF version)

KETUBOT 40b:9,10

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KETUBOT 40b:9,10

9. **MISHNA:** Any place where there is sale by a father of his minor daughter as a Hebrew maidservant, there is no fine if she is raped. And any place where there is a fine, when a young woman is raped; there is no sale by the father. The Gemara specifies: **A minor is subject to sale by her father, and she is not entitled to a fine if she is raped.** A young woman is entitled to a fine if she is raped and is not subject to sale. A grown woman is neither subject to sale nor entitled to a fine.

10. **GEMARA:** Rav Yehuda said that Rav said: This halakha in the mishna is the statement of Rabbi Meir, but the Rabbis say: She is entitled to a fine even where there is a sale, as it is taught in a baraita: **A minor girl, from one day old until she grows two pubic hairs, is subject to sale and is not entitled to a fine. From when she grows two pubic hairs and becomes a young woman until she matures into a grown woman, she is entitled to a fine and she is not subject to sale; this is the statement of Rabbi Meir, as Rabbi Meir would state the principle: Any place where there is a sale there is no fine, and any place where there is a fine there is no sale. And the Rabbis say: A minor girl from the age of three years and one day until she matures into a grown woman is entitled to a fine.**

Sefaria.org - Ketubot 40b:9,10

Hakakha by Rabbi Adin Steinsaltz Re: Ketubot 40b:9,10

A minor is entitled to a fine:

With regard to a minor three years and one day old and older, although she can be sold she is nonetheless entitled to the fine if she was raped or seduced, in accordance with the opinion of the Rabbis. (Rambam Sefer Nashim, Hilkhhot Na'ara Betula 1:8; Shulhan Arukh, Even HaEzer 177:1).

Koren Talmud Bavli – Ketubot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek III 40b page 225] (PDF version)

The above quotes display to some degree an issue where I can accede Dr. Brown may have a point. The problem are the contradictory statements present within the discussions by the Rabbis. The distinction between virgins of Israel and Gentiles will become apparent in the next chapter. To help clarify the legal conclusions I will now present the most relevant law codes determined by Maimonides and Karo. They are necessarily lengthy to maintain context.

Mishneh Torah – Naarah Betulah 1:1,8-11,13-15

Sefer Nashim (*The Book of Women*) Naarah Betulah (*Virgin Maiden*) 1:1,8-11,13-15

1. **When a man seduces a virgin,**¹ he is fined 50 sela'im of pure silver.² This is called a k'nas ("fine"). **The same law applies if he rapes her.**

Payment of this fine is one of the Torah's positive commandments,³ as [Deuteronomy 22:29] states: "The man who raped her must give the maiden's father 50 silver pieces."

[...]

8. **Neither a rapist nor a seducer is liable to pay the fine unless he engages in relations in the ordinary fashion,**²² **and the relations are observed by witnesses.**²³ A warning is not necessary.²⁴

At what age is a girl fit to be paid a fine? From the age of three²⁵ until she reaches the age of bagrut.²⁶ **If a man engages in relations with a girl less than three years old, the relations are not significant.**²⁷ If he engages in relations with her after she reaches the age of bagrut, he is not fined. **For [Deuteronomy 22:28] states: "A virgin maiden," thus excluding a girl who has reached maturity.**

9. Whether or not [a girl's] father is alive, a fine must be paid.²⁸

A fine need not be paid [because of relations] with the following women: a bogeret, a girl who has dissolved a marriage through mi'un,²⁹ an aytonit,³⁰ a mentally incompetent girl, a deaf mute,³¹ a girl who was reputed to have conducted herself immodestly while young, concerning whom two witnesses testify that she sought sexual relations with them,³² a girl who was married and divorced, but is still a virgin maiden.³³

When, by contrast, [a girl] is divorced after merely being consecrated,³⁴ a fine must be paid - and she is entitled to it³⁵ - if she is raped. If she is seduced, she is not entitled to a fine.³⁶

10. **[The following rules apply with regard to] a convert, a girl who was taken captive, and a [Canaanite] maidservant who was freed:³⁷ If she was converted, redeemed or freed before she reached the age of three, she is entitled to a fine.³⁸**

If she was three years old [or older] when she was converted, redeemed or freed, she is not entitled to a fine. Since relations that she engages in at this time are significant, she is placed into the category of non-virgins.

11. **[The following rules apply when] the virgin [who was raped or seduced] was forbidden to the rapist or the seducer.** If the prohibition was punishable by karet - e.g., she was his sister, his aunt, in the niddah state or the like - or she was forbidden by virtue of a negative commandment [that does not involve either karet or execution], he is not liable for a fine if he was given a warning.³⁹ [Instead,] he should be lashed. [The rationale is that] a person is never punished [for the same transgression] by both lashes and a monetary assessment.

If he was not warned, since he is not to be given lashes, he should pay the fine.

[...]

13. [When the girl raped] was forbidden because of a prohibition punishable by execution by the court - e.g., she was his daughter, daughter-in-law,⁴⁰ or the like - he is not liable for the fine, regardless of whether or not he received a warning.

[This is derived from Exodus 21:22, which] states: "If there will not be a [fatal] accident, he should be punished."⁴¹ Implied is that if there is a [fatal] accident, no punishment should be levied.⁴² [This applies] although the woman was killed unintentionally, [i.e.,] the man did not intend to strike her,⁴³ as it is written [Ibid.]: "If men strive and a woman receives a blow...." This teaches that with regard to a [fatal] accident, Scripture did not differentiate between an intentional and unintentional act to free him from monetary obligation.

And [Leviticus 24:18-21] says: "A person who [fatally] strikes an animal shall reimburse [its owner] for it, and one who [fatally] strikes a man must die." Just as Scripture did not distinguish between intentional and unintentional action for killing an animal to make him liable for payment, so too, it did not distinguish between intentional and unintentional action for killing a person to free him from financial obligation.

14. This law applies with regard to every transgression that is punishable by execution by the court. There is no financial obligation.⁴⁴

15. **If [a girl] dies after she [was seduced or raped], [the seducer or the rapist] is not liable for the fine,** [as implied by Deuteronomy 22:29]: "the man who raped her must give the maiden's father..." [The verse states] "the father of the maiden," and not "the father of the dead maiden." [This applies] when she dies before the case came to court.⁴⁵

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

1. Between the ages of three and twelve and a half, as evident from Halachah 8. See Ramah (Even HaEzer 177:1).

2. See Hilchot Eruvin 1:12 and Hilchot Shekalim 1:2, where the Rambam describes the weight of this coin. According to the figures he gives in his Commentary on the Mishnah (Bechorot 8:8), in contemporary measure a sela is 19.2 grams. According to the Piskei Siddur of Rabbi Shneur Zalman of Liadi, it is 20.4 grams.

3. See Sefer HaMitzvot (Positive Commandment 220), which describes this mitzvah as "the commandment we have been given with regard to a man who seduces [a virgin]." (See also Sefer HaChinuch, Mitzvah 61.)

Both in the Mishneh Torah and in Sefer HaMitzvot, the payment of the fine by a seducer, a rapist and one who issues a slanderous report appears to be included in the same mitzvah (Nachalat Efrayim).

Hilchot Sanhedrin 5:8 states that the cases involving laws governing a seducer and a rapist are to be tried by judges with semichah, a qualification that is not possessed by Rabbinical judges in the post-Talmudic period. The Shulchan Aruch (Even HaEzer 177:2) states that in the present age, a seducer and a rapist should be compelled to satisfy the girl's father for the damage they have caused.

[...]

22. **I.e., vaginal and not anal intercourse.** The Rambam's ruling is not accepted by the Ra'avad and Rabbenu Asher, who cite Kiddushin 9b-10a in support of their conception.

The Kiryat Sefer supports the Rambam's ruling, based on Sanhedrin 73b, which states that the man is not liable until he inserts the entire penis into the vagina, explaining that it is only then that the woman will lose her virginity. **Since she will never lose her virginity through anal intercourse, the man is not held liable.**

23. For a person who admits his culpability in matters punishable by a fine is not liable. See Chapter 2, Halachah 12 and notes.

24. For a warning is necessary only before infliction of the punishments of execution or lashing.

25. Although there are times when the Hebrew term na'arah, translated as "maiden," has a more specific meaning (see Hilchot Ishut 2:1), Ketubot40b explains that in this instance the intent is also a girl below the age of twelve.

Although most Rishonim agree with the Rambam, there are, however, significant authorities who rule that a fine need not be paid until the girl reaches the age of na'arut.

26. Generally, this refers to a girl of the age of twelve and a half who has manifested signs of physical maturity. If a girl does not manifest signs of physical maturity, she is not considered a bogeret until the age of 20 or 35. See Hilchot Ishut 2:1-4.

27. **For her hymen will grow back, as implied by Hilchot Ishut 3:11.**

28. Since the Torah states that the fine should be paid to the father, it is necessary to clarify that the fine must be paid even if the father is not alive.

29. **As mentioned in Hilchot Gerushin 11;1, when a girl below the age of majority marries without being consecrated by her father, she can nullify the marriage without a formal divorce. This is called mi'un. When she takes this option, even if we know that she is still a virgin, she is not entitled to receive the fine because she has been married previously.**

30. A woman who does not manifest female sexual characteristics, as explained in Hilchot Ishut 2:5. **Since an aytonit never becomes a na'arah, she is not entitled to a fine** (Kesef Mishneh). The Ra'avad maintains that an aytonit should receive a fine until she reaches the age of twenty.

31. **Since they are not mentally competent, we fear that they were raped previously without their knowing about it.** Compare to Hilchot Ishut 11:4,8. Note the Ra'avad, who states that a person who rapes or seduces a deaf mute is liable for a fine.

32. See Chapter 2, Halachah 17.

33. Even if we are certain that she and her husband never engaged in sexual relations, she is not paid a fine. Compare to Hilchot Ishut 11:1.

34. We do not assume that she entered into relations with her husband before the stage of nisu'in.

35. Although Deuteronomy 22:28 speaks of the fine being paid to the girl's father, from the fact that the verse mentions "a maiden who was not consecrated," Ketubot 38a derives that when a maiden has been consecrated, the fine should be paid to the woman who was raped.

36. **Since she consented to relations, she waives the payment of the fine. See Chapter 2, Halachot 10-11.**

Note Rav David Arameah, who states that this applies only when she is a na'arah. If she is still a minor, her father receives the fine, and she does not have the potential to waive it through her consent.

37. **As the Rambam states in Hilchot Ishut 11:2, we operate under the presumption that these women have engaged in relations previously: a convert and a Canaanite maidservant because non-Jews' morals are considered to be weak, and a woman held captive because she is at the mercy of her captors.**

38. **Even if she engaged in relations before the age of three, her hymen will grow back, as stated in the notes on Halachah 8.**

39. As stated in Hilchot Sanhedrin 12:2 and 16:4, a person receives corporal punishment for the commission of a transgression **only when he has been warned previously.**

[...]

40. This refers to a **girl who was divorced after consecration**. If she was divorced after nisu'in, the second stage of the marriage, **she is not entitled to a fine** as stated in Halachah 9.

41. The verse speaks of the woman's miscarrying. If she herself does not die, the man who caused her to miscarry must pay her damages.

42. **I.e., if the woman dies, her heirs need not be reimbursed**. Since the man is liable for a sin of a more severe nature, he is not held liable for damages (Hilchot Sanhedrin 16:5).

43. Although the general principle stated in this halachah is accepted without dispute, the particular case of the pregnant woman is a matter of question. The Rambam himself states (Hilchot Chovel UMazik 4:5-6) that if the man did not intend to strike the woman, he is liable to pay damages to her heirs.

In that source, he explains that the leniency granted by the verse applies when the man intended to strike the woman, but did not intend to kill her.

44. In contrast, with regard to a transgression punishable by lashes: if it is performed unintentionally, one is still held liable for the financial repercussions.

45. **Once, however, the case is heard before the court, the rapist is held liable if proven guilty, even if the maiden dies. The fine is given to the girl's heirs (Kessef Mishneh).**

Chabad.org - Nashim - Naarah Betulah - Chapter 1

Shulchan Arukh – Even HaEzer 177:1-5

1. **One who seduces a virgin of Israel before she reaches majority age, which is from three years and onward** (Tur, the Rosh) pays embarrassment, blemishing and a fine. And if he rapes her, he also pays the pain. And if the seducer married her, he need not pay the fine.

2. A rapist or a seducer are judged by three judges, as long as they were ordained in the land of Israel. And now when there are no such ordained judges, we excommunicate them until they appease their fellow. And when they give an amount of money to him that is appropriate, we release their excommunication. And as for a daughter, as long as she is in her father's domain, her father gets everything (ibid). See Tur in this paragraph who discussed this matter at length, and the Shulkhan Arukh abbreviated them, for this is not common.

3. **"One who rapes a virgin must marry her, as long as she and her father so desire**. Even if she is lame or blind. And he may never divorce her except with her consent. Therefore, he need not write her a ketubah. But if he transgressed and divorced her, they force him to remarry her. "

4. **If she was prohibited to him**, even derabanan, he may not marry her. Also, if he marries her and he finds some sexual impropriety, he must divorce her. **Hagah: If an evil report goes out about her, for instance witnesses came and testify that she asked them to engage in fornication, she gets no fine**. But if it is just a rumor that a bad name went out about her, she doesn't lose the fine (Tur). If he rapes her and then seduces her, it is called rape, even though afterward she agreed [to have relations] with him (Maharik, root 129).

5. [...]

And it happened with one who fornicated with a non-Jew, that they cut her nose off, in order to disfigure her (Responsa of the Rosh 18).

[Even HaEzer 177:1-5](#)

Summary

From the above authoritative texts, it is seen that a fine is payable for the rape of a minor girl aged 3 years and above, under many circumstances. However, there are circumstances where a fine for rape is not required to be paid:

- If the minor girl is raped anally, as there is no "financial loss" to the father (virgin price tag).
- If the minor girl is raped when she is younger than 3 years old, as this has no legal significance, and the father incurs no financial loss as the girl's hymen will return.
- If the raped minor girl has been sold into servitude by her father (possible from her birth until age of majority).
- If the raped minor girl is rumoured to have a reputation of behaving immodestly.
- If the raped minor girl dies before the trial of the rapist takes place, he does not need to pay a fine.
- If the raped minor girl is a convert, captive or Gentile maidservant, and they were converted, redeemed, or emancipated after the age of 3 years the rapist does not have to pay a fine to the girl's father.

Segue

As a segue between the above bullet points and the next chapter it will be illuminating to quote the Jewish Encyclopedia with respect to the rape of Tamar by Amnon, son of King David:

AMNON ("Steadfast"):

By: J. Frederic McCurdy and Louis Ginzberg

—In Rabbinical Literature:

The sages of the Mishnah point out that Amnon's love for Tamar, his half-sister, did not arise from true affection, but from passion and lust, on which account, after having attained his desire, he immediately "hated her exceedingly." "All love which depends upon some particular thing ceases when that thing ceases; thus was the love of Amnon for Tamar" (Ab. v. 16). **Amnon's love for Tamar was not, however, such a transgression as is usually supposed: for, although she was a daughter of David, her mother was a prisoner of war, who had not yet become a Jewess; consequently, Tamar also had not entered the Jewish community (Sanh. 21a).** The incident of Amnon and Tamar was utilized by the sages as affording justification for their rule that a man must on no account remain alone in the company of a woman, not even of an unmarried one (Sanh. l.c. et seq.).

jewishencyclopedia.com. *Amnon*. Available at: <https://jewishencyclopedia.com/articles/1415-amnon> (Accessed: 17 April 2023)

10. The Fate of Gentile and Captive Minor Girls

It will be useful to explore the Tamar rape (see: 2 Samuel 13:1-22) before examining the rape laws with respect to Gentile minor girls. The selected texts below from Sanhedrin 21a of the Rabbinic discussion of the Tamar issue is an instructive beginning to this chapter. I will avoid the Rabbis musing on whether Tamar used a pubic hair to cut Amnon's penis, or merely constricted his blood flow, thereby justifying his sudden hatred for her, as it is a distraction:

SANHEDRIN 21a:18,19

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – SANHEDRIN 21a:18,19

18. Rav Yehuda says that Rav says: David had **four hundred children** in his army, and all of them were sons of **beautiful women taken captive from their gentile homes during war** (see Deuteronomy 21:10–14).

19. And Rav Yehuda says that Rav says: David's daughter **Tamar was the daughter of a beautiful woman taken captive in war** and was **born before her mother converted**. Therefore, Tamar was not considered the daughter of David according to halakha.

Sefaria.org - Sanhedrin 21a:18,19

Note and Background by Rabbi Adin Steinsaltz Re: Sanhedrin 21a:18,19

Four hundred children:

Some explain that these children were sired not by David, but by David's soldiers, that the **mothers were the beautiful women the soldiers took captive in David's wars**, and that David raised them in his court (Rashi on Kiddushin 76b).

Beautiful woman:

This term refers to a gentile female prisoner of war (see Deuteronomy 21:10–14). According to some authorities, **a soldier was allowed to engage in sexual intercourse with such a woman in wartime. Afterward, if he desired to marry her, she had to shave her head, let her nails grow, and undergo a monthlong period of mourning in his home. When that period was over, if she decided to convert to Judaism, they could marry.** According to other authorities, sexual intercourse with a captive during wartime was prohibited, but the soldier had the right to convert his captive and marry her after the mourning period was concluded. According to both opinions, these rights were granted to the soldier as a concession to his evil inclination.

Koren Talmud Bavli – Sanhedrin Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Sanhedrin perek II 21a page 123] (PDF version)

Bible On Virgin Captives

It must be said that the Rabbinic attitude toward Gentile captive girls and their status has foundation in the Bible. I am aware of the many Christian apologetics about the following verses, and they are less than convincing for me. I present the following for deeper context to this chapter, not least of all because Rabbi Steinsaltz above references the first passage quoted:

Female Captives - Deuteronomy 21:10-14

(10) When go to war upon your enemies, and Yahweh god grants them into your hands, take them captive into exile. (11) If you observe among the captives a beautiful woman and you desire her to be your woman, (12) you can carry her to your house; and she will have her head shaved and her nails cut. (13) The clothes worn when captured will be removed, and she will sit in your house, and mourn for her father and mother a whole month: and after that you will have sex with her, and be her master, and she shall be your woman. (14) And if it happens you are not pleased with her, you will send the person away but not sell her for silver and make profit from her, because you have degraded her.

Children – Deuteronomy 20:10-14

(10) When you approach close to a city to wage war against it, announce shalom to it. (11) And if it comes to pass, if it responds to shalom and opens to you, then it will be that all the people present will become forced labour and enslaved by you. (12) Whenever there is no shalom between you and they fight, you will lay siege. (13) And when Yahweh god thy grants it into your hands, kill all the males with the edge of the sword. (14) Save the women and the children, and the cattle, and all that is in the city, all the booty plunder for yourselves; and you will consume booty of the haters which Yahweh god has granted you.

Save the Virgins – Numbers 31:9,12-18

(9) The sons of Israel took the women of Midian captive and the children, and plundered all the cattle, flocks and wealth.

[...]

(12) They came with the captives and the plunder to Moses and Eleazar the kohen into the assembly of the sons of Israel, toward the encampment in the wilderness of Moab by the Jordan near Jericho. (13) Moses and Eleazar the kohen and all the chiefs of the assembly went to meet them outside the camp. (14) Moses raged against the overseers of the army, the commanders of thousands and the commanders of hundreds who lead the battle.

(15) Moses said to them: "Did you take all the living females? (16) Since they made the sons of Israel, by the words of Balaam to commit treachery against Yahweh in the business of Peor and the pestilence in the assembly of Yahweh, (17) now murder all the boys among the children and murder every women that has had sex with a man. (18) However, all the girls that have not had sex with a man, leave alive for yourselves."

What follows about captives and Gentiles should be understood in the context of the Rabbinic texts in the "Rape and Seduction of Minor Girls" chapter above which included the conditions whereby rapists do not have to pay a fine if they rape "a convert or with a captive woman or with a gentile maidservant, who were

redeemed, converted, or emancipated when they were more than three years and one day old, as presumably they are no longer virgins." (Ketubot 36b:6)

In the summary to chapter 6 (perek VI) which contains the following Talmudic passages, Rabbi Adin Steinsaltz explains that there are certain women that are disqualified from marrying a "common priest". These include "a zona, a divorcée, a woman who underwent *halitza*, or a convert." A High Priest may only marry a minor or a maiden neither of whom have ever been betrothed. This is the prevailing context of the following discussion by the rabbis, some of which is quite bizarre. This section has the commentary of Rabbi Steinsaltz following the relevant Yevamot paragraphs and is a preamble to other Talmud and Halakha passages about this issue further below:

YEVAMOT 60b:6-19

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 60b:6

6. The Gemara cites another ruling of Rabbi Shimon ben Yohai, also related to the discussion of defining who is considered a virgin. It is taught in a baraita that Rabbi Shimon ben Yohai says: **A female convert who converted when she was less than three years and one day old is permitted to marry into the priesthood**, as it is stated: "**But all the women children that have not known man by lying with him, keep alive for yourselves**" (Numbers 31:18). **This verse indicates that these women were fit for all of the warriors**, and since Pinehas the priest was with them (see Numbers 31:6), it is clear that young converts are permitted to priests.

Sefaria.org - Yevamot 60b:6

Hakakha by Rabbi Adin Steinsaltz Re: Yevamot 60b:6

A female convert less than three years and one day old:

A priest may not marry a convert, even if she converted when she was less than three years old, as the halakha does not follow the opinion of Rabbi Shimon ben Yoḥai. If he married her, he is forced to divorce her. (Rambam Sefer Kedusha, Hilkhot Issurei Bia 18:3; Shulḥan Arukh, Even HaEzer 6:8).

Notes by Rabbi Adin Steinsaltz Re: Yevamot 60b:6

Female convert:

The primary discussion of a female convert's eligibility to marry a priest is in the final chapter of tractate Kiddushin. Some commentaries maintain that female converts are forbidden to priests because they have the status of a zona, as implied later in the Gemara here. This appears to be the opinion of Rashi and the Rambam.

Other commentaries question this explanation: If the definition of a zona is one who has had forbidden intercourse, how can any tanna disagree with Rabbi Shimon and hold that one who converted when she was less than three years old is prohibited from marrying a priest? **Even if someone would have had intercourse with her before she converted, intercourse with a girl less than three years old is not halakhically recognized as**

intercourse. Furthermore, even if she converted as an adult it is not clear that she would still be considered a zona afterward, as one who converts is considered to be starting a new life.

Consequently, these commentaries explain that the prohibition is based upon a command of the prophet Ezekiel: "Neither shall they take for their wives a widow... but they shall take virgins of the seed of the house of Israel" (Ezekiel 44:22), as explained in tractate Kiddushin (78a).

A female convert less than...is permitted to the priesthood:

The fact that this is cited here, in the context of a discussion of whom the High Priest may marry, indicates that according to Rabbi Shimon, this convert is permitted to marry even a High Priest. The Gemara's proof from the story of Pinehas is consistent with this conclusion, as he was the priest anointed for war, and this priest has the same halakhot as a High Priest with regard to the prohibition against marrying a non-virgin (Keren Ora).

Koren Talmud Bavli – Yevamot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek VI 60b page 403] (PDF version)

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 60b:7-15

7. The Gemara asks: And how do the Rabbis, who disagree with Rabbi Shimon, interpret this verse? The Gemara responds: They understand the phrase "keep alive for yourselves" to mean that they could keep them as slaves and as maidservants, but they could not necessarily marry them. The Gemara asks: If so, if the source for Rabbi Shimon's ruling is this verse, a girl who converted at the age of three years and one day old should also be permitted to a priest, as long as she has never had intercourse, as stated by the verse.

8. The Gemara replies: His reasoning is as stated by Rav Huna, as Rav Huna raised a contradiction: It is written in one verse: "**Kill every woman that has known man by lying with him**" (Numbers 31:17), which indicates that a woman who has not known a man in this way you may keep alive. **This proves by inference that the female children, who are not classified as women, you may keep alive regardless of whether they knew a man or they did not know a man.** And it is written in a different verse: "But all the women children that have not known man by lying with him, keep alive for yourselves" (Numbers 31:18), which indicates that if they have known men, you must kill them. This is an apparent contradiction.

9. Rav Huna explains: You must say that the verse is speaking of a woman who is fit for intercourse. The verse does not mean to distinguish between women who have actually engaged in sexual intercourse and those who have not. **Rather, it distinguishes between a girl over the age of three, with whom an act of intercourse is recognized as such, and a girl below the age of three.**

10. This is also taught in a baraita: "Every woman that has known man"; the verse is speaking of a woman who is fit for intercourse. The baraita proceeds to discuss this halakha: Do you say it is referring to one who is fit for intercourse, or perhaps it is referring only to one who has actually had intercourse? When the verse states: "But all the women children that have not known man by lying with him, keep alive for yourselves," which indicates that

grown women must be killed even if they have not had intercourse with a man, you must say that the verse is speaking of a woman who is fit for intercourse.

11. The Gemara asks a practical question with regard to the events described by the Torah: **From where did they know whether a particular girl was already three years old and fit for intercourse?** Rav Huna bar Bizna said that Rabbi Shimon Hásida said: **They passed them before the frontplate of the High Priest.** Any girl whose face miraculously turned sallow, it was known that she was fit for intercourse, and any girl whose face did not turn sallow, it was thereby known that she was not fit for intercourse. Similarly, Rav Nahman said: A sign of transgression in the area of sexual morality is the disease hidrokán, which causes one's face to turn sallow.

12. Similarly, you can say with regard to the verse: "And they found among the inhabitants of Jabesh-gilead four hundred young virgins that had not known man by lying with him" (Judges 21:12). **From where did they know that they were virgins? Rav Kahana said: They sat them on the opening of a barrel of wine. If she was a non-virgin, her breath would smell like wine; if she was a virgin, her breath did not smell like wine.**

13. The Gemara suggests: They should have passed them before the frontplate, as described previously with regard to the daughters of Midian. Rav Kahana, son of Rav Natan, said: The verse states with regard to the frontplate: "And it shall be upon Aaron's forehead... that they may be accepted before the Lord" (Exodus 28:38), which indicates that the frontplate is worn for acceptance but not for calamity. The Gemara raises a difficulty: If so, the frontplate should also not have been used with regard to the women of Midian. Rav Ashi said: The word "they" is written in the verse, indicating that for them, the Jewish people, the frontplate is for acceptance but not for calamity; **but for gentiles it can be used even for calamity.**

14. Rabbi Ya'akov bar Idi said that Rabbi Yehoshua ben Levi said: The halakha is in accordance with the opinion of Rabbi Shimon ben Yohai. Rabbi Zeira said to Rabbi Ya'akov bar Idi: Did you hear Rabbi Yehoshua ben Levi say this explicitly or did you learn it by inference?

15. The Gemara asks: What inference was Rabbi Zeira hinting at? The Gemara explains: As Rabbi Yehoshua ben Levi said: **There was a certain city in Eretz Yisrael where they contested the lineage of a particular family.** And Rabbi Yehuda HaNasi sent Rabbi Romanus, and he examined the family's lineage and found that it included the daughter of a convert who had converted when she was less than three years and one day old, and she had married a priest. And Rabbi Yehuda HaNasi permitted her to the priesthood. This indicates that Rabbi Yehoshua ben Levi ruled in accordance with Rabbi Shimon. Rabbi Ya'akov bar Idi said to him: I heard explicitly that Rabbi Yehoshua ben Levi ruled in this manner.

Sefaria.org - [Yevamot 60b:7-15](#)

Note by Rabbi Adin Steinsaltz Re: Yevamot 60b:15

Where they contested the lineage, etc.:

The Gemara indicates that a priest from that town married a woman who had converted when she was less than three years old. The Jerusalem Talmud offers an alternative account, in which the ruling follows the opinion of the Rabbis as well as that of Rabbi Shimon. According to that account, it was a regular Israelite who married the convert, and Rabbi Yehuda HaNasi permitted their descendants to marry priests.

Koren Talmud Bavli – Yevamot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Yevamot perek VI 60b page 405] (PDF version)

And now the law codes of Rabbi Maimonides and Rabbi Karo as referenced by Rabbi Steinsaltz:

Mishneh Torah – Issurei Biah 18:3

Sefer Kedusha (*The Book of Holiness*) Issurei Biah (*Forbidden Intercourse*) 18:3

3. Similarly, a female convert or a freed [maidservant] - even if she was converted or freed when she was less than three years old¹⁰ - since she is not a native-born Jewess, she is deemed a zonah and **is forbidden to [marry] a priest.**

On this basis, [our Sages said: A woman who has relations with] a gentile, a netin,¹¹ a mamzer,¹² an Ammonite or Moabite convert, a first- or second-generation Egyptian or Edomite convert,¹³ a man with maimed testicles or a severed member,¹⁴ or a challal who has relations with a [native born] Jewess causes her to be considered as a zonah and to be forbidden to [marry into] the priesthood. If she was a priest's daughter, she is disqualified from [partaking of] terumah.¹⁵ Similarly, a yevamah who engaged relations with a man other than her yavam becomes a zonah.¹⁶

An aylonit¹⁷ is permitted to [marry] a priest. She is not a zonah.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

10. At that age, even if she had engaged in relations, her hymen would regenerate, and she would be considered as a virgin (Ketubot 11b). Nevertheless, she is not considered as a native-born Jewess.

The Ra'avad rules that such a woman is not considered as a zonah. Nevertheless, she is forbidden to marry into the priesthood, based on the interpretation of Ezekiel 44:22 advanced by Kiddushin 78a which states that **a priest must marry only from "the seed of the House of Israel."** Note the discussion of this difference of opinion by the Maggid Mishneh. See also Chapter 19, Halachah 12, which states that as long as converts marry among each other, their descendants are forbidden to marry into the priesthood.

11. See Chapter 12, Halachot 22-23, which defines this term and the prohibition against such a man marrying a native-born Jewess.

12. See Chapter 15 which describes the prohibition of such a man marrying a native-born Jewess.

13. See Chapter 12, Halachot 18-21, which describes the prohibition of such converts marrying a native-born Jewess.
14. See Chapter 16 which describes the prohibition of such a man marrying a native-born Jewess.
15. Leviticus 22:12 states "When the daughter of a priest is [possessed] by a foreigner, she may not partake of the terumah of holiness." Yevamot 68a states: "Since she engaged in relations with someone who is forbidden to her, she is disqualified."
16. Since she is forbidden to marry anyone other than her yevam relations with any other man cause her to be considered as a zonah.
17. The term ayilonit refers to a woman who does not have female physical characteristics. Her breasts do not protrude, she stiffens during sexual relations, and her lower abdomen does not resemble that of a woman. She is considered incapable of giving birth (Hilchot Ishut 2:4-6).

Chabad.org - Kedusha - Issurei Biah 18:3

Shulchan Arukh – Even HaEzer 6:8

8. **Who is deemed a "zonah" [who is forbidden to a kohen]?** Whoever is not a Jewess, or who is a Jewess that had sexual relations with a man to whom she is forbidden to marry in a generally applicable prohibition, or who had sexual relations with a "cholol" (the child of a kohen and a woman who was forbidden to the kohen), even though she is permitted to be married to this man.

Accordingly, a woman who committed bestiality, even though she [is punished] with stoning, she does not become a zonah and she does not become invalid to a kohen, because she did not have sexual relations with a human. And a man that has relations with a menstruating woman, even though she is punished with kareth, she does not become a zonah and she does not become invalid to a kohen, because she is not forbidden to him. And similarly, a man that has relations with a single woman, even though she is a lewd woman that made herself freely available, which is punishable with lashes, she does not become a zonah and she does not become invalid to a kohen, because she is not forbidden to him.

However, a woman who had sexual relations with someone who is forbidden by a Biblical negative commandment, which are generally prohibited and are not uniquely [forbidden] to kohanim, or with someone who is forbidden by a Biblical affirmative commandment and it need not even be said with someone who is forbidden by virtue of a forbidden incestual relationship or with a non-Jew or slave, since she is forbidden to this person to marry, she is deemed a zonah.

And so, with a convert and a freed slave, even if she converted or was freed while she was less than three years old, since she was not a Jewess, she is deemed a zonah and is forbidden to a kohen. And so, a woman who is subject to yibum (levirate marriage) with whom an unrelated person had relations, she becomes a zona. Some opinions say that one who has relations with one who is forbidden by a Biblical affirmative commandment or by

a Biblical negative commandment even the other negative commandments she does not become a zonah except for instance in which one has relations with a woman subject to yibum.

[Even HaEzer 6:8](#)

KETUBOT 11a:2,9 & 11b:2

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KETUBOT 11a:2,9 & 11b:2

11a:2 **MISHNA:** With regard to a female convert, or a captive woman, or a maidservant, who were ransomed with regard to the captive, or who converted with regard to the convert, or who was freed with regard to the maidservant, when she was less than three years and one day old, for all of these, their marriage contract is two hundred dinars, as their presumptive status is that of a virgin. Even if they were subject to intercourse when they were younger than that age, the hymen remains restored. And they are subject to a claim concerning their virginity.

[...]

11a:9 Rav Yosef said: In any case where minors convert, when they reach majority they can protest and annul their conversion. Abaye raised an objection to his opinion from the mishna: **With regard to a female convert, or a captive woman, or a maidservant who were ransomed, or who converted, or who were freed when they were less than three years and one day old, their marriage contract is two hundred dinars.** And if it enters your mind to say that when they reach majority they can protest and annul their conversion, do we give her the payment of the marriage contract that she will go and consume in her gentile state?

[...]

11b:2 And similarly, with regard to a **female convert**, or a **captive woman**, or a **maidservant**, who were ransomed with regard to the captive, or who converted with regard to the convert, or who were freed with regard to the maidservant, **when she was more than three years and one day old, for all of these, their marriage contract is one hundred dinars and they are not subject to a claim concerning their virginity.** When they married, their presumptive status was that of a non-virgin.

[Sefaria.org - Ketubot 11a:2](#) . [Sefaria.org - Ketubot 11a:9](#) . [Sefaria.org - Ketubot 11b:2](#)

Hakakha by Rabbi Adin Steinsaltz Re: Ketubot 11a:2

A female convert [...] less than three years and one day old, etc.:

A female convert, redeemed captive, or freed slave who converted or was redeemed or freed when she was less than three years and one day old retains the presumptive status of a virgin. Therefore, she is entitled to a marriage contract of two hundred dinars and her husband may make a claim concerning her virginity. (Rambam Sefer Nashim, Hilkhos Ishut 11:1; Shulhan Arukh, Even HaEzer 67:3).

Note and Background by Rabbi Adin Steinsaltz Re: Ketubot 11a:2

A female convert, or a captive woman, etc.:

The Ritva points out that the order of the verbs: Ransomed, converted, and freed, does not correspond to the order of the subjects: Convert, captive, and maidservant. He explains that both the subjects and the verbs are listed in their respective order of importance. **Converts, as people who consciously chose to join the Jewish people, are listed before victims of captivity and maidservants.** Likewise, ransoming, i.e., fulfilling the mitzva of freeing captives, is the highest form of lovingkindness and takes precedence over conversion. Conversion, in turn, takes precedence over the freeing of slaves, as the latter is generally prohibited.

Maidservant:

This refers to a Canaanite maidservant, a female gentile purchased by a Jew as a slave. Like a male Canaanite slave, after she is purchased she must be immersed in a ritual bath and subsequently her personal status changes: She henceforth must observe all of the Torah's prohibitions and is obligated to observe positive mitzvot that apply to a Jewish woman. Nevertheless, she is not fully Jewish and may not marry a Jewish man, except under special circumstances, where her master arranges a marriage for her with a Hebrew slave for the purpose of producing children whose status is like her own. **As with a male Canaanite slave, it is permitted to sell a maidservant to other Jews but not to non-Jews.** Although the halakha is that her master is ordinarily prohibited from freeing her, if she receives a bill of manumission, it takes effect, and her status as a freed maidservant is similar to that of a convert.

Koren Talmud Bavli – Ketubot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek I 11a page 53] (PDF version)

Hakakha by Rabbi Adin Steinsaltz Re: Ketubot 11b:2

A female convert...more than three years and one day Old:

A female gentile, captive, or slave who was converted, redeemed, or freed respectively when she was more than three years and one day old has lost her presumptive status of a virgin and is entitled to a marriage contract of only one hundred dinars. On the other hand, her husband cannot make a claim concerning her virginity. (Rambam Sefer Nashim, Hilkhot Ishut 11:1; Shulḥan Arukh, Even HaEzer 67:3).

Note by Rabbi Adin Steinsaltz Re: Ketubot 11b:2

More than three years and one day old:

In all these cases, these women no longer have the presumptive status of a virgin either due to the fact that they are subject to the control of others or because chastity is not their concern. This is not age dependent; however, for a girl younger than three, intercourse is not considered intercourse at all.

Koren Talmud Bavli – Ketubot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek I 11b page 57] (PDF version)

Mishneh Torah – Ishut 11:1-3

Sefer Nashim (*The Book of Women*) Ishut (*Marriage*) 11:1-3

1. [The following laws apply when a man] weds a virgin who was widowed or divorced or who underwent the rite of chalitzah.¹ If she was widowed or divorced or underwent the rite of chalitzah after erusin alone, the ketubah [to which she is entitled from her second husband] is 200 zuz. If, however, she had been wed, the ketubah [to which she is entitled from her second husband] is 100 zuz. Once she is wed, she is considered to be a non-virgin.²

Similar [rules apply when a man] weds a virgin [bride] who is [a Canaanite maidservant] who has been freed, who is a convert, or who was held captive [by gentiles and freed]. If the maidservant had been freed, the convert had converted, or the women held captive had been redeemed before they reached the age of three years and one day,³ they are entitled to a ketubah of 200 zuz. If [this took place after they reached that age, their ketubah is [only] 100 [zuz].

2. Why did our Sages ordain that these women receive a ketubah of [only] 100 [zuz] even though they are virgins? Because it is a presumption that can be accepted as fact that a woman who is wed will engage in marital relations, and similarly, that a maidservant, a gentile woman and a woman held captive by gentiles will have engaged in relations. Hence, they ordained that such women would be entitled to [only] 100 [zuz] whether they engaged in relations or not. With regard to all matters, they are considered to be non-virgins.

3. A mukat etz⁴ [is granted] a ketubah of 100 [zuz]. Even if [her husband] wed her under the presumption that she was a virgin and then he discovered that she was a mukat etz, she is entitled to a ketubah of 100 [zuz].⁵

When a girl of less than three years of age engages in sexual relations, even when her partner is an adult male, she [is entitled to] a ketubah of 200 [zuz]. Ultimately, she will heal and be a virgin like all others.

Similarly, when a boy below the age of nine engages in sexual relations with an adult woman, she [is entitled to] a ketubah of 200 [zuz], as if she had never engaged in relations.⁶ For it is only after a boy reaches the age of nine years and one day that relations with him are of consequence. Before that age, they are of no consequence.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

1. I.e., the woman had been consecrated or wed, but before she and her husband engaged in marital relations, she was either widowed or divorced.

2. Even if there are witnesses to the fact that her husband died directly after they entered the chuppah (Ketubot 11a).

3. The rationale is that even if a woman engaged in sexual relations before the age of three, her hymen will grow back, as stated in Halachah 3, based on Ketubot 11b.

4. Literally, "one struck by a piece of wood," a woman who claims that she did not have hymenal bleeding at the time of her first sexual experience, because she had previously been "struck by a piece of wood" and caused to bleed at that time. As mentioned in Halachah 10, the term is used to refer to any woman who claims that her failure to have hymenal bleeding resulted from causes other than intercourse.

5. Although one might think that the marriage would be annulled, because the husband was operating under a misconception, Ketubot 11b rules that this is not so. As long as she had not engaged in sexual relations previously, their marriage is binding.

6. The Shulchan Aruch (Even HaEzer 67:4) follows the ruling of Tosafot, Ketubot 11b, who explain that this law applies only when the woman's hymen remains intact despite these relations.

Chabad.org - Nashim - Ishut 11:1-3

Shulchan Arukh – Even HaEzer 67:3,4

3. A convert, a woman taken captive, and a maidservant that was redeemed, converted, or freed: if she is less than three-years-old and a day, their ketubah is [worth] 200 [shekel] and they have claim of virgins; from 3-years-old and a day and above, their ketubah is 100 [shekel] and they do not have the claim of virgins.

4. A female child less than three-years-old and one day that was taken as a wife, even if an adult had relations with her, her ketubah is 200 [zuz]; a child less than 9-years-old and a day that had relations with an adult woman, her ketubah is worth 200 [zuz], but only if he did not break her hymen, but if he broke her hymen, she gets only 100 [zuz]

[Even HaEzer 67:3,4](#)

Summary

With the knowledge of texts from chapter 9 where we saw that a man can rape specific categories of minor without paying a fine, the fate of captive Gentile minor girl virgins, according to Rabbi Adin Steinsaltz's commentary with respect to Deuteronomy 21:10-14, is to be raped and judged consequently whether her captor finds her desirable. If the ba'al/master/owner does desire her or have "delight" in her, he must humiliate her by shaving her head, cutting her nails, stripping her naked and allow her a month to mourn the murder of her parents and if after this "merciful" or "humbling" concession and the raped captive minor girl virgin decides to "convert" to Judaism, her owner is permitted to marry her. Rabbis differ in their opinions of course. Some say rape of a captive is forbidden before the soldier converts her and marries her. Regardless, both opinions grant these "rights" as a "concession" to the evil predilections of the soldier. This chapter was to provide a certain consistency rabbis apply with respect to non-Jews which informs the decisions seen in chapter 9.

11. Not proper to Betroth Minor Girls?

There is a default go to paragraph in the Talmud used by apologists which essentially says that Jewish fathers are prohibited to betroth their minor age daughters. Indeed, Dr. Michael L. Brown quotes this paragraph which is from Kiddushin 41a and concludes thus:

This in fact [Kiddushin 41a], is the official Talmudic ruling: A man may not betroth his minor daughter to be married. She must be old enough to give her consent. The passage in Sanhedrin [55b:4 " A girl who is three years and one day old whose father arranged her betrothal is betrothed with intercourse, as the legal status of intercourse with her is that of full-fledged intercourse."] must be understood in this light and would therefore be addressing a different issue.²¹ [Square brackets contain a contextual interpolation and are not original to quoted text.]

CHRISTIAN ANTISEMITISM - CONFRONTING THE LIES IN TODAY'S CHURCH - MICHAEL L. BROWN; Chapter 6: The Truth About the Talmud; Pages 70

Sanhedrin 55b has been shown in full context above in chapter 6 (with Rabbi Steinsaltz's commentary) and has been compared alongside supporting additional Talmud, Mishneh Torah and Shulchan Aruch material. It is perhaps therefore unsurprising Dr Brown chooses not to elaborate on what the other "different issue" the Rabbis are addressing in the sentence from Sanhedrin 55b:4 is. The endnote (21) directs to the UnSpun video by Dr. Brown's fully endorsed "careful researchers" who certainly use Kiddushin 41a too. It remains now to view the pertinent Talmud passages, Rabbi Adin Steinsaltz's commentary and the opinions of Rabbi Maimonides and Rabbi Karo with respect to this mitigating text. In the chapter 13 below presenting secondary literature this "prohibition" is alluded to despite vast evidence to the contrary of the normative practice of child marriages throughout history in various Jewish communities.

KIDDUSHIN 41a:8

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KIDDUSHIN 41a:8

8. **The mishna teaches: A man can betroth his daughter to a man when she is a young woman.** The Gemara infers: When she is a young woman, yes, he can betroth her; when she is a minor, no, he cannot betroth her. This statement supports the opinion of Rav, as Rav Yehuda says that Rav says, and some say it was said by Rabbi Elazar: **It is prohibited for a person to betroth his daughter to a man when she is a minor, until such time that she grows up and says: I want to marry so-and-so.** If a father betroths his daughter when she is a minor and incapable of forming an opinion of the husband, she may later find herself married to someone she does not like.

[Sefaria.org - Kiddushin 41a:8](https://www.sefaria.org/Kiddushin_41a:8)

Hakakha by Rabbi Adin Steinsaltz Re: Kiddushin 41a:8

A man can betroth his daughter, etc:

A man can betroth his daughter to a man when she is a minor or a young woman. Just as he can accept her betrothal himself, he can do so by means of an agent. (Rambam Sefer Nashim, Hilkhos Ishut 3:11, 14; Shulḥan Arukh, Even HaEzer 37:1, 7)

It is prohibited for a person to betroth his daughter to a man when she is a minor:

Although it is permitted for a man to betroth his daughter to whomever he chooses when she is a minor or a young woman, it is not proper to do so when the girl is a minor. Rather, the Sages instructed a man to wait to betroth his daughter until she is of an age when she can express a preference with regard to whom she would want to marry, in accordance with the statement that Rav Yehuda said that Rav said. (Rambam Sefer Nashim, Hilkhos Ishut 3:19; Shulḥan Arukh, Even HaEzer 37:8)

Note by Rabbi Adin Steinsaltz Re: Kiddushin 41a:8

A man can betroth his daughter, etc:

Halakha identifies three stages in a woman's development. A girl is considered a minor [ketana] from age three until age twelve. For the next six months, she is termed a young woman [na'ara], after which she becomes an adult woman [bogeret]. **A father has the authority to betroth his daughter when she is a minor or young woman to whomever he pleases, even without her consent, and the money paid to effect such a betrothal belongs to him.** He is also entitled to his daughter's earnings and to any items she finds. This parental power lasts until the girl reaches adulthood, i.e., the age twelve and a half, at which point any decision with regard to betrothal is hers alone. If a father betroths his minor daughter and subsequently her husband dies or divorces her, the father does not reacquire legal rights with regard to her, even if she is still underage.

Koren Talmud Bavli – Kiddushin · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Kiddushin perek II 41a page 221,222] (PDF version)

It is convenient to point out the contradiction although it should be self-evident, the subtle change of language by Rabbi Steinsaltz which informs the mitigation found in secondary sources and the caveat of the mental "maturity" or understanding of a minor girl.

First, both Kiddushin 41:8 and Rabbi Steinsaltz assert the halakhic position that a father has the right to "betroth" his minor daughter and it should be recalled that he can do so without her knowledge as noted by Rabbi Steinsaltz. However, in the same Talmud paragraph it says a father is prohibited to betroth his minor daughter.

Second, whereas Rabbi Steinsaltz correctly translates the Talmud using the word "prohibited", it should be noticed that he chooses to use "it is not proper" to betroth a minor daughter in his halakha commentary and the preference for "not proper" is echoed by others.

Third, the caveat for not betrothing a minor daughter is that she ought to have the mental awareness ("of an age") to be able to decide who she is willing to marry. This raises the question: Do the Rabbis discuss what this "age" is exactly?

With these points in mind, I now present the law codes Rabbi Steinsaltz gives references to:

Mishneh Torah – Ishut 3:11-14,19

Sefer Nashim (*The Book of Women*) Ishut (*Marriage*) 3:11-14,19

11. **A father may consecrate his daughter without her knowledge while she is a minor.** Even when she is a na'arah,¹⁴ he still possesses this right, as [implied by Deuteronomy 22:16]: "I gave my daughter to this man."

[The money received as] kiddushin belongs to her father. Similarly, he has the right to [any ownerless property] she finds, [the wages she receives for] her labor, and [the money she receives as stipulated in] her ketubah if she is divorced or widowed before the marriage bond is consummated. He is entitled to all these until she becomes a bogeret.

Therefore, a father is entitled to receive kiddushin on behalf of his daughter from the day she was born until she becomes a bogeret. Even if she is a deaf mute or intellectually incompetent, if her father consecrates her [to another man], she is his wife.

If a girl is older than three years and one day, she can be consecrated through sexual relations with her father's consent. Should she be below this age, if her father has her consecrated through sexual relations, the marriage bond is not established.¹⁵

12. After a daughter becomes a bogeret, her father has no rights over her; she is like all other women, and she can be consecrated only with her own consent.

Similarly, if her father had her married, the marriage bond was consummated [nisu'in],¹⁶ and then she was widowed or divorced, [even] in her father's lifetime, she is considered to be independent, despite the fact that she is still a minor. Once a woman enters nisu'in, her father no longer has any authority over her.

13. When a girl receives kiddushin without her father's knowledge before she reaches the age of majority, the marriage bond is not established.¹⁷ [This applies] even when the father consents subsequently.¹⁸ Moreover, if she is widowed or divorced after these kiddushin, she is not forbidden [to marry] a priest.¹⁹

Both she and her father can prevent [the marriage bonds from taking effect].²⁰ Regardless of whether she was consecrated in the presence of her father or not, she is not consecrated.

14. [The following rules apply when] there is doubt whether or not the girl is a bogeret: Whether her father consecrated her without her consent, or she consecrated herself without her father's consent, the status of the kiddushin is in doubt. Therefore, [to marry another man,] she must receive a get given because of the doubt.

A man may appoint an agent to consecrate a wife for him. [This applies] if he specifies a particular woman or gives the agent the authority to consecrate any woman. Similarly, a woman past the age of majority²¹ may appoint an agent to receive kiddushin for her. [This applies] if she specifies [that they be given by] a particular man or gives the agent the authority to receive them from any man. Similarly, a father may appoint an agent to accept the kiddushin of his daughter as long as she is under his authority.

A man may tell his daughter who is below the age of majority, "Go out and receive your kiddushin."²²

[...]

19. It is a mitzvah for a man to consecrate his wife by himself, rather than to charge an agent [with this matter]. Similarly, it is a mitzvah for a woman to [receive] kiddushin herself rather than to charge an agent with receiving them for her.

Although a father has the option of consecrating his daughter to anyone he desires while she is a minor or while she is a maiden, it is not proper for him to act in this manner. Instead, our Sages enjoined that a person should not consecrate his daughter while she is a minor until she matures and says, "I would like [to marry] so and so."

Similarly, it is not proper for a man to consecrate a girl below the age of majority. Nor should one consecrate a woman until one sees her and deems her fitting, lest she not find favor in his eyes, and he divorce her, or sleep with her while hating her.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

14. At which time, the girl has the right to accept kiddushin from a man herself.
15. For until the age of three, the relations are not considered sexual in nature (this by no means insinuates that they are insignificant or potentially harmful, only that they are not sexual).
16. This refers to the second stage of the marriage relationship, as explained in Chapter 11 onward.
17. This and the other laws in this halachah apply when a girl is either a k'tanah or a na'arah (has reached the age of twelve), but not a bogeret (twelve and a half).
18. Since the kiddushin were not effective at the time they were given, the father's subsequent consent is of no significance. This point is, however, disputed by some of the later authorities. (See Shulchan Aruch, Even HaEzer 37:11.)
19. No priest may marry a divorcee, nor may a High Priest marry a widow. Nevertheless, because these kiddushin are not effective, these prohibitions do not apply.
20. According to the Maharik (Responsum 30[32]), this applies when the kiddushin were given in her father's presence, but he remained silent. In both the Kesef Mishneh and the Shulchan Aruch (ibid.), Rav Yosef Karo differs and explains that according to the Rambam, the father must consent at the time of (or before) the kiddushin. If he desires to prevent the kiddushin at that time, he may. If he consents, the girl getting married can still prevent the kiddushin from taking place. For since her father charged her with this matter, even if he consented to the match it is dependent on her. (See also Chapter 22, Halachah 5, and Hilchot Terumot 8:16.)
21. A woman below the age of majority does not have the authority to appoint an agent.
22. Among the explanations that are given for why this is acceptable:

a) If the father had said, "Give an animal food, and my daughter will be consecrated to you," the kiddushin would be binding. When he tells the daughter to receive kiddushin, it is as if he makes a statement that it is acceptable to him that the man who consecrates her gives her the money (Ra'avad, Ramban).

b) Although a minor may not normally serve as an agent, this instance is an exception. Since the kiddushin are being given for her benefit, the girl is entitled to act in this capacity (Rabbenu Asher). The Beit Shmuel 37:7 states that the Rambam subscribes to this view.

Chabad.org - [Nashim - Ishut 3:11-14,19](#)

Shulchan Arukh – Even HaEzer 37:7-9

7. Just as the father is able to make a betrothal for her by himself, so too is he able to arrange a betrothal for her by means of his agent or by herself, that he would say to her go out and accept your betrothal. (Note: he is required to say this to her before witnesses because an agent who accepts the betrothal requires witnesses. And if it is visible to all that he is preparing her for the marriage ceremony and to accept betrothal it is as if he had spoken before witnesses and there is no distinction between a na'arah and a minor (R. Nissim B. Reuben Gerondi, first Chapter of Kidushin) and this is the correct view. **However, some disagree and say that a minor is not able to accept betrothal; rather her father by himself must accept for her.**

In order to remove himself from the controversy [So that the validity of his acts should not be questioned, the father should hold the hand of the minor at the exact moment she accepts the betrothal or stand next to her when she accepts so that it is as if he accepts by himself. And it is more preferable than his accepting it alone, for behold **there are those who say it is forbidden to betroth a minor daughter as will soon be explained.** And when one does betroth a minor, he says to her "Behold you are betrothed to me" and if he said "your daughter is betrothed to me" this is betrothal, for behold she stands in place of her father even though he gives her [the daughter] the betrothal.

If he betrothes her with a document, he writes in the document, "your daughter is betrothed to me" and at the moment that he gives it to her he says: "behold you are betrothed to me" (*Ibid.* R. Nissim B. Reuben). And if he uses different words even so she is betrothed. And when they send the minor daughters to another place and the father is not with them, when they accept their betrothal since he [the father] has prepared her to enter marriage and betrothal it is as if he is holding her hand at the moment she accepts.

8. It is a mitzvah that one should not betroth his daughter while she is a minor, rather until she has grown and can say "I want so and so". [Note: There are those who say that it is customary in this time to betroth our minor daughters since we are in exile and there is not always sufficient money for the dowry and also we are few in number and we are not always able to find a worthy match and thus is the practice].

9. The father that gave permission to his agent to betroth his daughter and then goes out and betrothes her to another, if the agent betrothed her to a different one, whichever of them came first, this is betrothal. But if it is not known which one was first, she is forbidden to both of them and she needs a bill of divorce from both of them.

[Even HaEzer 37:7-9](#)

One wonders if any of the Rabbis quoted above in this chapter experience any cognitive dissonance? Regardless of the many Talmud, Mishneh Torah, Shulchan Aruch and the commentary of Rabbi Steinsaltz that explicitly assert that father's have the absolute right to marry off their minor daughters, even without the daughter's consent or knowledge, and regardless of the numerous halakha guiding whether blood emitted by minors during sex is impure, and regardless of the many references to a minor girls "right" of mi'un or refusal, and allowing minors to use contraception because of the dangers in pregnancy to them, that a "mitzvah" exists suggesting "one should not" betroth a minor daughter. And yet, even in sections of halakhic text where the advice, it is "not proper" to betroth minor girls are written, they are surrounded by assertions that father's do have the right to betroth minors and including without the girls knowledge or consent. I suggest therein it is essential to understand how Rabbis think. If a father betroths his daughter without her knowledge and/or consent then her mental ability, or age, required to understand her betrothal is not an issue or relevant. If it is argued that her level of awareness is required to the extent she can say "I want so and so", which is informatively phrased, then this raises the question: Do the Rabbis, who like to arbitrarily apply age thresholds, discuss at what age a minor girl is considered "grown-up" enough to make such a decision?

There is an additional Talmud passage which is also relevant to the "not proper" argument, with mitigation, and leads into the mental awareness issues I quote following this passage.

KETUBOT 57b:5,6

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KETUBOT 57b:5,6

5. Rabbi Zeira said: It was taught in the Tosefta (Ketubot 5:1) **with regard to a minor girl: Either she or her father may delay the wedding until she has reached majority.** The Gemara asks: Granted, she, the girl herself, may delay the wedding if she feels she is not ready, as she is the one who will be directly affected, but why should her father be allowed to delay her wedding? If it is suitable for her to get married, what difference does it make to her father? The Gemara answers: **He thinks: Perhaps she agrees to get married now because she does not fully know what she is doing. But tomorrow, she will realize the marriage was a mistake, rebel, and leave her husband, and then she will come back and become a burden to me. Therefore, her father prefers that she wait until she has reached majority and marry when she is completely aware of what is involved.**

6. Rabbi Abba bar Levi said: **One may not finalize an agreement to marry a minor girl in order to marry her while she is still a minor,** but one may finalize an agreement to marry a minor girl in order to marry her when she becomes an adult woman. With regard to the latter halakha, the Gemara asks: Isn't that obvious? If he will marry her when she becomes an adult woman, there is nothing unusual about this case. The Gemara answers: Lest you say that one should be concerned that she might become afraid of marriage from making plans now, and this will cause her resolve to weaken, and then even when she becomes an adult she will maintain reservations about the matter, Rabbi Abba bar Levi therefore teaches us that one need not be concerned about this. **One may finalize an agreement to marry her as an adult even when she is a minor girl.**

[Sefaria.org - Ketubot 57b:5,6](#)

Hakakha by Rabbi Adin Steinsaltz Re: Ketubot 57b:5,6

With regard to a minor girl either she or her father may delay:

If the betrothed of a minor girl request to marry her, either she or her father may delay the wedding until she grows older and becomes a young woman. **If the father wishes her to marry and the daughter consents, the husband may marry her, but it is not proper to do so.** (Rambam Sefer Nashim, Hilkhot Ishut 10:16; Shulĥan Arukh, Even HaEzer 56:4).

One may not finalize an agreement to marry a minor girl:

It is prohibited for one to betroth his minor daughter to a man until she comes of age and expresses her desire to marry a particular person, as explained in tractate Kiddushin (41a) and in the Gemara here. The Rema, based on Tosafot on tractate Kiddushin, writes that **despite this people were accustomed to betrothing their minor daughters due to the hardships caused by exile.** Parents did not always have the basic requirements of a wedding available and were not always able to find a suitable match for their daughters, due to the small numbers of Jews in their vicinity. Therefore, if parents found an appropriate match for their daughter and were able to fund the wedding, they would marry her off at that point, due to fear that they would not be able to do so later on. This was the accepted practice, primarily during times of hardship. (Rambam Sefer Nashim, Hilkhot Ishut 3:19; Shulĥan Arukh, Even HaEzer 37:8).

Background by Rabbi Adin Steinsaltz Re: Ketubot 57b:5,6

Minor girl:

According to Torah law, a father has the legal authority to marry his daughter off while she is a minor girl. Nevertheless, the Sages decreed that it is prohibited to do so. The father is instructed to **wait until his daughter is mature enough to decide on her own** whom she would like to marry (Kiddushin 41a). If a girl's father is no longer alive, her mother or brothers are given the authority to marry her off with her consent, although this betrothal is valid by rabbinic law, not Torah law, and as a result, a number of halakhic distinctions apply.

It is clear that marriages of minor girls did sometimes take place in Jewish communities, both during the talmudic period and also at later times. However, the extent of such marriages is not known and probably varied greatly in different locales and time periods. Often, these marriages were conducted due to dire circumstances, such as in the case of orphans or other situations of extreme economic distress (Tosafot).

Koren Talmud Bavli – Ketubot Part 1 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek V 57b page 324] (PDF version)

Mishneh Torah – Ishut 10:16

Sefer Nashim (*The Book of Women*) Ishut (*Marriage*) 10:16

16. When a man consecrates his daughter while she is below the age of majority, both she and her father may object and delay the wedding until she comes of age and becomes a na'arah. If [the husband] desires to wed her, he may.⁴³ **It is not proper, however, to do so.**⁴⁴

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

43. I.e., if the husband forces the bride to agree, the wedding is binding. The Drishah (Even HaEzer 56) interprets the Rambam's wording to mean that the father desires to have his daughter wed before she comes of age. Some maintain that there is a slight printing error in the standard text of the Mishneh Torah, and the proper version is "if they desire" - i.e., the bride and her father. (See Chelkat Mechokek 56:6.)

44. Instead, the father should wait until his daughter comes of age and willingly agrees to marry her spouse.

Chabad.org - Nashim - Ishut 10:16

Shulchan Arukh – Even HaEzer 56:4

4. Someone who betroths his minor daughter, and her fiancée wants to complete the marriage, both the daughter or her father can prevent her from marrying until she becomes an adult (age); **if she wants to enter marriage, she may enter, but it is inappropriate to do so.** "Rem"a": If she and her fiancée want to marry, and her father dies, her relatives may not protest (their marriage), even though she is sickly, and he wants to get married quickly in order to be able to inherit her (if she dies).

Even HaEzer 56:4

Examining the Mental Capacity of Minor Girls

In the interest of balance, it should be acknowledged that throughout pre-modern history in many cultures and religions that minors have been betrothed with the view that marriage would occur when they "came of age". This is true too in Jewish communities throughout history. I suggest Rabbi Steinsaltz is reserved when he acknowledges minor marriages did take place in some Jewish communities and at various times throughout history by claiming no knowledge of the extent of the practice. Granted that documented records are far from comprehensive, but as will be seen in the chapter 13 below, secondary literature about this issue suggests among Jewish academics and scholars the knowledge of such, is sufficient to provide an informed overview of the stubborn prevalence of minor marriages. Rabbi Steinsaltz also mitigates with the common excuse that dire economic circumstances dictated the need for marrying off minors. One may accept such cases arose and philanthropic wealthier men stepped in to resolve the fate of impoverished orphans and their families for example and married a prepubescent girl. It appears not to occur to commentators that wealthy Jews might simply of supplemented a poor family with charitable donations of money or food, which is a mitzvah in itself apparently.

It remains now to examine what the Rabbis say concerning a minor girl's mental maturity and awareness to decide whether she wants to "marry so and so" or "refuse" (mi'un) a husband. I suggest the discussions that follow will provide the necessary precursor to the later secondary literature I quote below.

GITTIN 65a:6-8

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – GITTIN 65a:6-8

6. Apropos the capacity of minors to acquire property, Rava says that there are three stages in the development of a minor: With regard to a minor who is given a pebble and he throws it away but when given a nut he takes it, he acquires property for himself but does not acquire property on behalf of others. And with regard to a minor girl with the corresponding stage of intellectual development, after the death of her father she can be betrothed by her mother and her brother by rabbinic law and can opt out of that betrothal through refusal.

7. At the next stage of development are young children aged approximately six through eight, whose purchase is a purchase and whose sale is a sale, with regard to movable property. And with regard to a minor girl with the corresponding stage of development, she is divorced by receipt of her bill of divorce, even if it is from betrothal by her father, which is by Torah law.

8. The third stage of development is when they have reached the age of vows, when their vows are valid vows, and their consecration is valid consecration. And with regard to a minor girl with the corresponding stage of development, she performs Yalitzta to free herself from her levirate bond. And with regard to selling his father's landed property, a minor cannot sell it until he will reach the age of twenty.

Sefaria.org - [Gittin 65a:6-8](#)

Hakakha by Rabbi Adin Steinsaltz Re: Gittin 65a:6-8

She is divorced from betrothal by her father:

A minor girl was betrothed by her father and was then orphaned or married, at which point she could distinguish between her bill of divorce and another item, which is the equivalent of the ability mentioned in the Gemara of distinguishing between a pebble and a nut. In such a case, she can receive her bill of divorce. This is in accordance with the opinion of Rava and based on the Rif's version of the text. Some say that she can receive her bill of divorce once she reaches an age in which young children may engage in business transactions, in accordance with the opinion of Rava, based on the Rif's variant reading of the text. (Rambam Sefer Nashim, Hilkhot Geirushin 2:19; Shulĥan Arukh, Even HaEzer 141:6).

And with regard to a minor girl with the corresponding stage, etc:

If a girl is between the ages of six and ten, her intellectual capacity is examined. If she is capable of safeguarding her betrothal money, her refusal is needed to end her betrothal. If she is not capable of safeguarding her betrothal money, she does not require refusal, as the betrothal does not take effect and she returns to her mother's home. **If she is younger than six she does not require refusal even if she is precocious.** **If she is older than ten, even if she has limited mental capacity, she requires refusal,** in accordance with the

opinion of Rava, based on the Rif's variant reading of the text. (Rambam Sefer Nashim, Hilkhoh Geirushin 11:7; Shulhan Arukh, Even HaEzer 155:2).

Background by Rabbi Adin Steinsaltz Re: Gittin 65a:6-8

Can be betrothed and can opt out of that betrothal through Refusal:

By Torah law only a father can betroth his minor daughter. Therefore, a minor girl whose father died can be betrothed only after reaching majority. The Sages instituted that if her mother or brother betroths her with her agreement, it is considered a form of betrothal. However, in order to end the betrothal or subsequent marriage, a bill of divorce is not required. The minor girl can perform refusal in which she says that she no longer wishes to be with her betrothed or husband. **Rava said here that in order for there to be a need for refusal to terminate the marriage, she must have been old enough at the time of betrothal to distinguish between different items.** If she was younger, the betrothal does not take effect at all.

Koren Talmud Bavli – Gittin · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Gittin perek VI 65a page 376] (PDF version)

To repeat Dr. Michael L. Brown in his own words I ask: "Is your head spinning now?" Perhaps more pertinently I repeat his question: "Are you getting this?"

It remains now to view the referenced law codes of Rabbi Maimonides and Rabbi Karo:

Mishneh Torah – Gerushin 11:7

Sefer Nashim (*The Book of Women*) Gerushin (*Divorce*) 11:7

7. In which instances must a minor perform the rite of mi'un [to nullify her marriage]? [Our Sages established the following guidelines.] **If she was between six and ten [when she was consecrated], we investigate the extent of her sagacity.**

If she knows to guard [the money given to her to effect] the kiddushin, appreciates that it was given for that purpose and will guard it differently from the way in which she would guard a nut, a date or the like, she must perform the rite of mi'un [to nullify her marriage].

If she does not know to guard [the money given to her to effect] the kiddushin, she need not perform the rite of mi'un [to nullify her marriage]. Instead, she returns to her mother's home as if she had never been consecrated. **If she is less than six, even if she knows [how to guard the money given her,] she need not perform the rite of mi'un. If she is more than ten, even if she is very inept, she must perform the rite of mi'un.**²¹

Whenever a girl's brother, mother or relatives arranged for her marriage without telling her of the identity of the groom, she need not perform the rite of mi'un [to nullify her marriage].²²

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

21. The Ramah (Even HaEzer 155:2) quotes opinions that maintain that the above applies only when the girl's marriage was arranged by her brother or her mother. If she arranged the marriage herself, it is not binding, even according to Rabbinic law. **The Ra'avad mentions a third opinion, which states that for a girl between the ages of six and ten, the marriage must be arranged by her family to be binding. After the age of ten, it is binding even if she arranged it herself.**

22. Our translation is based on the Jerusalem Talmud (Yevamot 13:2), which explains that this refers to an instance in which a girl's family members prepared her for marriage without informing her who her groom would be.

Chabad.org - Nashim - Gerushin 11:7

For comparison which also serves to draw attention to the topic of minor boys aged 9 and below discussed in the next chapter:

Mishneh Torah – Ishut 4:7

Sefer Nashim (*The Book of Women*) Ishut (*Marriage*) 4:7

7. **When a minor consecrates [a woman], his kiddushin are of no consequence.** When, by contrast, a male past the age of majority consecrates a girl below the age of majority who is an orphan,¹⁰ or who has left her father's authority,¹¹ [different rules apply]: **If she is below the age of six, even if she is one who shows deep understanding of secret matters,¹² and can differentiate and discern, she is not married, and there is no need for mi'un.¹³**

If she is more than ten years old, even when she is very foolish, since she willingly accepted the kiddushin, she is consecrated [according to Rabbinic law] and [must perform] mi'un [should she desire to nullify the marriage]. **If she is between the ages of six and ten, [the rabbis] must evaluate her ability to discern.** If she is able to differentiate and discern with regard to matters of marriage and kiddushin, [the marriage is binding according to Rabbinic law] and mi'un is necessary. If she lacks [this degree of discernment], she is not consecrated [at all], and need not perform mi'un [to nullify the marriage].

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

10. If she is not an orphan and has never been married, the right to consecrate her belongs to her father, not to her.

11. I.e., she was married, the marriage was consummated, and then she was either divorced or widowed. In this and the above instance, the girl does not have sufficient authority to create a marriage bond that is binding according to Scriptural law. Nevertheless, a bond that is binding according to Rabbinic law may be established, as the halachah continues to explain.

The Ramah (Even HaEzer 155:2) quotes opinions that maintain that the above applies only when the girl's marriage was arranged by her brother or her mother. If she arranged the marriage herself, it is not binding, even according to Rabbinic law. The Ra'avad mentions a

third opinion, which states **that for a girl between the ages of six and ten, the marriage must be arranged by her family to be binding. After the age of ten, it is binding even if she arranged it herself.**

12. Our translation is based on the commentary of Metzudot on Isaiah 3:3.

13. **The annulment of a marriage that a girl below the age of majority initiates, as explained in the following halachah.**

When a girl is below the age of six, we assume that she does not have sufficient understanding of the nature of marriage to make a commitment that is binding in any way.

[Chabad.org - Nashim - Ishut 4:7](#)

Shulchan Arukh – Even HaEzer 141:6

6. If her father betrothed her while she was a minor, and then he died, or she completed marriage with nisuin; if she recognizes the difference between her get and something else, i.e. when given a stone she throws it away, but when proffered a nut she will take it, and some say when she reaches the age of young girls... Rama: which is about 6 or 7 years old, depending on her mental acuity (Tur), Mechaber: ... she may be divorced by her own acceptance of the get. If she cannot differentiate between a get and other items, yet received a get to her own hand, she is not divorced. But she may be divorced by her father's acceptance of a get, even if she cannot distinguish between a get and other items. **There is an authority who argues and says that any girl who cannot distinguish between a get and other items may not be divorced even by the hand of their father.**

[Even HaEzer 141:6](#)

Shulchan Arukh – Even HaEzer 155:2

2. **What is [a case of] a ketana** [a girl less than 12 and a day] who must do a me'un [i.e., refusal of marriage which allows her to leave her husband when she is married off as a ketana]? **From 6 years old until 10 years old, we examine her according to her intellectual abilities**, if she knows [that she must] guard her marriage, and that when she is married, that the guarding is not like the guarding of a nut or date or similar, that is [a case where] she needs to perform me'un. But if she does not know to guard her marriage, she needs not me'un, but rather she can leave to her mother's house, as if she were never married. **Less than 6, even if her sense of understand is great, and she knows to guard, she does not need me'un. More than 10, even if she is very dumb, she needs me'un.** Rem"a: Some say that all this is only when she is married off by the permission of her brother and mother, but if she was married off without their permission, she does not need me'un [to go free] (Hagahot Alfasi perek Bet Shammai). **Some say that if she is already past toddler's age, she needs to do me'un (Bet Yosef in the name of the Ritva).**

[Even HaEzer 155:2](#)

Summary

It is true Kiddushin 41a:8 notes that a Rabbi Elazar stated that:

"It is prohibited for a person to betroth his daughter to a man when she is a minor, until such time that she grows up and says: I want to marry so-and-so. If a father betroths his daughter when she is a minor and incapable of forming an opinion of the husband, she may later find herself married to someone she does not like."

It is also true that Kiddushin 41:a endorses the far more frequent Talmudic statement:

"A man can betroth his daughter to a man when she is a young woman."

Rabbi Adin Steinsaltz when providing references to Rabbi Maimonides and Rabbi Karo noticeably dilutes the "prohibited" to a more subjective "it is not proper" but confirms the advice that a minor daughter should be "of an age when she can express a preference" for a husband. In his background comment to Kiddushin 41a, Rabbi Steinsaltz explicitly states again:

"A father has the authority to betroth his daughter when she is a minor or young woman to whomever he pleases, even without her consent, and the money paid to effect such a betrothal belongs to him."

The Maimonides' and Karo's law codes sustain this explicitly. The "prohibition" of a father betrothing his minor daughter is however conditional on the minor girl's ability to understand and express her preference with such words as "I would like to marry so and so". The Rabbis in the Talmud and Rabbis Maimonides and Karo clearly consider a girl as young as 6 years old can determine whether she does or does not want to marry.

There is no secret that some Talmudic laws conflict with other laws and the Rabbis discuss at length when, if and which law takes precedence over another. As there is no declaration that the two sparse references in the Talmud prohibiting the marrying off of minor daughters in any way abrogates all the dozens and dozens of laws insisting a father can marry off his daughter, with or without her consent, and all the scenarios and related to prepubescent marriage, and all the responsa and secondary literature that the marriage of minor children certainly did happen throughout history, I suggest the singular use of Kiddushin 41a:8 to imply Judaism opposes sex with prepubescents and that concludes the matter, is disingenuous at best. I suggest it can only appear to do so by the omission of the contrary weight of evidence contained within this publication.

12. Sex With Minor Boys Above and Below the Age of 9

Dr. Michael L. Brown when providing paraphrasing of Talmud one-liners "readily available online" with respect to sex with prepubescent minors writes:

- A Jew may have sex with a child as long as the child is less than nine years old (Sanhedrin 54b)

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud pp. 66,67

Dr. Brown does not explain or elaborate on what the "interpretation" of Sanhedrin 54b is trying to tell anyone. Sanhedrin 54b is part of a larger discussion by the Rabbis with respect to forbidden sexual practices and their respective punishments and the subjects include "homosexual intercourse" with minor boys above and below the age of 9 (and 1 day). Before exploring that specific topic, I will draw attention to the Rabbis discussing the rules and laws with respect to minor boys and their sexual intercourse with minor girls and adult women which will establish a solid background for the 9-year-old arbitrary age threshold for minor boys in order to understand more fully the context of Sanhedrin 54b which will be quoted further below.

It is inevitable there will be some repetition in the following material, but first I will demonstrate that minor marriage includes minor boys as well as minor girls in the instance of levirate marriage:

YEVAMOT 96a:7,8

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – YEVAMOT 96a:7,8

7. The mishna addresses a different issue: **If a boy aged nine years and one day had relations with his yevama he thereby disqualifies his brothers from levirate marriage, despite the fact that as a minor** he has not acquired the yevama through this act of intercourse, and the brothers likewise disqualify the woman from him if they have intercourse with the yevama. However, there is a difference between them, as he disqualifies them only if he engaged in relations with her first, and the brothers disqualify him whether they had relations first or last.

8. The mishna explains: How so? **A boy aged nine years and one day who had relations with his yevama has disqualified his brothers, as they are no longer eligible to marry her.** If his brothers had relations with her, or performed levirate betrothal with her, or gave her a bill of divorce, or performed *halitza* with her, they permanently disqualify him from engaging in relations with her.

Sefaria.org - Yevamot 96a:7,8

Mishneh Torah – Yibbum vChalitzah 5:18

Sefer Nashim (*The Book of Women*) Yibbum vChalitzah (*Marriage and Release*) 5:18

18. **When a yavam who is below the age of majority, [but more than] nine years and one day old, enters into relations [with a yevamah],** [the consequence] is equivalent to [that of] a ma'amar given by an adult;³⁹ [the yevamah] is not acquired as a wife in a complete manner.⁴⁰

When [a yavam who is below the age of majority, but more than] nine years and one day old, gives a ma'amar at the outset, it is effective and causes [the yevamah] to be forbidden to [his brothers] who are past majority. If, however, he gives [the ma'amar after a ma'amar has been given by his brothers who are past majority, his ma'amar] is of no consequence.

[Similarly,] a get that he gives or chalitzah that he performs is always of no consequence, whether it precedes [his brothers' actions] or follows them.⁴¹

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

39. As mentioned in Chapter 1, Halachah 15 (and Hilchot Ishut 11:3), when a boy over nine years old enters into sexual relations with a woman, his actions are considered of consequence in certain contexts.

The Maggid Mishneh and Rashi (Kiddushin 19a) explain that **when a minor above nine years old enters into relations with a woman, he acquires her as his wife according to Scriptural law.** (Nevertheless, if another man enters into relations with her, the other man is not executed for committing adultery.) Our Sages, however, reduced the level of connection established and caused their marriage bond to have only the effectiveness of a ma'amar.

[The rationale why yibbum performed by a minor is effective although a minor does not possess the intellectual maturity to take responsibility for his conduct is that we find that yibbum does not require intent at all; what is significant is the act of sexual relations. (See Chapter 2, Halachah 3.)]

Tosafot differ and maintain that, in this context, the relations of a nine-year old are of no consequence according to Scriptural law. Nevertheless, the Rabbis enforced a stringency and considered these relations to be equivalent to a ma'amar.

40. This concept is illustrated in the halachah that follows, as is another consequence of the principle that the sexual relations that this youth engages in are considered equivalent to a ma'amar given by an adult.

41. As mentioned in Chapter 4, Halachah 16, chalitzah performed by a minor is of no consequence, because the passage concerning chalitzah explicitly mentions an **אִשָּׁא** - i.e., a male past majority. Since chalitzah performed by a minor is of no consequence, a get given by him is of no consequence, because the disqualification caused by a get is an extension by the Rabbis of the Scriptural prohibition caused by chalitzah.

Significantly, the Rambam's statements here represent a reversal of his ruling in his Commentary on the Mishnah (Yevamot 10:6), in which he rules that a get given by a minor does disqualify a yevamah from performing yibbum with the minor's brothers.

Chabad.org - Nashim - Yibbum vChalitzah 5:18

Shulchan Arukh, Even HaEzer 170:16

16. **Sexual relations with a nine-year-old are equivalent to [engagement via] speech with a man of majority age. Therefore, if he had relations with his brother's widow, he has rendered her unfit for all his brothers.** And, if after he (the minor) had relations with her his older brother came along and had relations with her or her co-wife, or [engaged her via] speech or gave her a bill of divorce or did halitsa with her or one of her co-wives, she has now been rendered unfit to the minor. And so too, if the minor came along and had relations with a co-wife, or if his brother of nine years of age had relations with her or her co-wife; she has been rendered unfit to him as is the law with [engagement via] speech after [engagement via] speech. So too if the brother of majority age did [engagement via] speech with his brother's widow, and then the nine-year-old came along and had relations

with her or her co-wife, she is rendered unfit as in the case of [engagement via] speech after [engagement via] speech. The [engagement via] speech of a nine-year-old is not accounted as that of a man of majority age, and it is not effective, except in the first case (i.e., not to render the situation unfit), and not as the second one. How is this? A minor does [engagement via] speech, this is effective to render her unfit for the other brothers. But, if the older brother did [engagement via] speech, and then the nine-year-old came along and did [engagement via] speech with her or her co-wife, this is not effective in rendering her forbidden to his older brother. But [engagement via] speech of a nine year after [engagement via] speech of a nine-year-old - there are those that say that it is effective since the first one was nine years old. In regard to bills of divorce and halitsa - there is nothing to them by a nine-year-old, neither at the beginning or at the end.

[Even HaEzer 170:16](#)

The following quotes solidify the arbitrary threshold of 9 years for a minor boy with respect to marriage and will inform why the Rabbis use this divide when discussing the offence of sodomy with minor boys and the degrees of liability, punishment and censure of the perpetrator.

KETUBOT 90a:2

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – KETUBOT 90a:2

2. **MISHNA:** In the case of a minor who was married off by his father, the wife's marriage contract that the minor wrote is valid even after the husband comes of age. He cannot excuse himself by saying that it was drafted when he was a minor, as it is on this condition, the terms of this marriage contract, that he maintained her as his wife upon his maturity. Similarly, in the case of a convert whose wife converted with him, the marriage contract that she had as a gentile is valid, for on this condition he maintained her as his wife.

[Sefaria.org - Ketubot 90a:2](#)

Hakakha by Rabbi Adin Steinsaltz Re: Ketubot 90a:2

The marriage contract of a minor and a convert:

If a minor aged at least nine was married off by his father, his wife is not entitled to a marriage contract while he remains a minor. If he engaged in sexual intercourse with her after he reached the age of majority, then she receives the main sum of the marriage contract, two hundred dinars for a virgin and one hundred dinars for a widow, but she is not entitled to the additional sum he wrote for her in his minority. This ruling is in accordance with the mishna, as explained by Rav Huna. Even the main sum of her marriage contract is hers only by virtue of the enactment of the court, not the marriage contract document. Consequently, she can claim payment only from free property but from not liened property that had been sold while he was a minor. The same halakhot apply to a convert whose wife converted with him, although the Rambam holds that the marriage contract of a female convert is always only one hundred dinars. (Rambam Sefer Nashim, Hilkhhot Ishut 11:7; Shulḥan Arukh, Even HaEzer 67:11)

Koren Talmud Bavli – Ketubot Part 2 · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Ketubot perek IX 90a page 151] (PDF version)

Mishneh Torah – Ishut 11:7

Sefer Nashim (*The Book of Women*) Ishut (*Marriage*) 11:7

7. **When a male below the age of majority marries a woman, she is not entitled to a ketubah, even if he is already nine years and one day old.** If he attains majority and remains [married] to her, she is entitled to the fundamental requirement of the ketubah.¹⁴

Similarly, when a man converts together with his wife, she is entitled to a ketubah [of 100 zuz]. It was with this intent that he maintained their marriage.¹⁵

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

¹⁴. I.e., only the fundamental requirements of the ketubah, but not any additional amount that the youth added to the marriage contract, unless he renews that commitment **after he reaches majority**. Otherwise, that commitment - like any commitment made by a minor - is of no substance. Moreover, he is obligated for the fundamental requirement of the ketubah only when he engaged in marital relations with his wife after he attained majority. If not, the marriage - and thus the marriage contract - is of no consequence.

With regard to the fundamental requirements of the ketubah, the Rambam writes in his Commentary on the Mishnah (Ketubot 9:8) that she is entitled to either 200 or 100 zuz, depending on her status at the time of the wedding.

¹⁵. Rabbenu Asher differs and maintains that the laws applying to a convert are the same as those applying to a minor. Both opinions are alluded to by the Shulchan Aruch (Even HaEzer 67:11). (See the Beit Shmuel 67:12, which explains the Rambam's position: Even if a convert made a commitment of more than 100 zuz to his wife, any sum above 100 zuz is considered to be an addition to the ketubah and is therefore no longer binding when the convert accepts his new status as a Jew.)

Chabad.org - Nashim - Ishut 11:7

Shulchan Arukh, Even HaEzer 67:11

11. **A minor, even from nine years and up, that his father marries off,** [his wife] has no Ketubah; but if he had relations with her after he matured, she has no main part of the Ketubah, [which is] 200 [Zuz] for a virgin, and a Maneh for a widow; but the additional part that he writes her while a minor, she doesn't have, even if Beis Din married her. And even the main part [of the Ketubah] she can't collect by the power of the Ketubah document, but only by condition of Beis Din. Therefore, she can only collect from his current property (lit. sons of the free) and not from [property with] a lien that he sold since he was a minor. And so is the law with a convert that converted with his wife, and the only difference [between this case and the one above] is that in this one, her Ketubah is only a Maneh according to the Rambam.

[Even HaEzer 67:11](#)

Sodomy With Minor Boys

Before showing Sanhedrin 54b I will start in Sanhedrin 54a which discusses the subject of homosexual acts:

SANHEDRIN 54a:28-30

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – SANHEDRIN 54a:28-30

28. **MISHNA:** A man who engages in intercourse with a male or with an animal, and a woman who engages in intercourse with an animal, are executed by stoning. The animal is likewise stoned to death. The mishna asks: If the person sinned by doing this, how did the animal sin? Rather, because a calamity was caused to a person by it, therefore the verse states that it should be stoned, so that it does not cause another to sin. Alternatively, it is so that this animal will not pass through the marketplace, and those who see it will say: This is the animal because of which so-and-so was stoned, and its existence would shame his memory.

29. **GEMARA:** From where do we derive the prohibition and punishment for **homosexual intercourse** with a male? It is as the Sages taught in a baraita with regard to the verse: "And if a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death, their blood shall be upon them" (Leviticus 20:13): **The word "man" excludes a minor boy.** The phrase "lies with a male" is referring to any male, whether he is an adult man or whether he is a minor boy. The phrase "as with a woman [mishkevei isha]," referring to lying with a woman, appears in the plural. The verse teaches you that **there are two manners of lying with a woman** for which one who engages in intercourse with a woman forbidden to him is punished, vaginal and anal intercourse.

30. Rabbi Yishmael says: This phrase is written to come to teach about the punishment for homosexual intercourse, and the halakha that one is liable for anal intercourse with a woman who is forbidden to him is found to be derived from it.

[Sefaria.org - Sanhedrin 54a:28-30](#)

Hakakha by Rabbi Adin Steinsaltz Re: Sanhedrin 54a:28-30

One who engages in intercourse with a male:

One who engages in intercourse with a male intentionally, after being warned by witnesses, is liable to be executed by stoning. (Rambam Sefer Kedusha, Hilkhoh Issurei Bia 1:4 and Sefer Shofetim, Hilkhoh Sanhedrin 15:10)

Homosexual intercourse with a minor:

If two adult men engage in homosexual intercourse, they are executed by stoning. If one of them, whether the one who performed the penetration or the one who was penetrated, is a minor boy who is at least nine years old, the adult is executed by stoning and the minor is exempt. (Rambam Sefer Kedusha, Hilkhoh Issurei Bia 1:14).

That there are two manners of lying with a woman:

The halakhot of intercourse between a man and a woman who is forbidden to him pertain to both vaginal and anal intercourse. (Rambam Sefer Kedusha, Hilkhot Issurei Bia 1:10).

Koren Talmud Bavli – Sanhedrin Part II · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Sanhedrin perek VII 54a page 38] (PDF version)

Mishneh Torah – Issurei Biah 1:10,13,14

Sefer Kedushah (*The Book of Holiness*) Issurei Biah (*Forbidden Intercourse*) 1:10,13,14

10. A person who inserts the corona into [the woman's vaginal channel] is referred to as one who "uncovers" as [Leviticus 20:18] states: "He uncovered her source."²⁸ A person who inserts the entire organ is referred to as one who completes [intercourse]. With regard to all the forbidden relations [mentioned] by the Torah, one who "uncovers" and one who "completes [intercourse] are [equally] liable for execution by the court, kerait, lashes, or stripes for rebellious conduct. Even though the man did not ejaculate and even if he withdrew and did not complete relations, [the man and the woman] both become liable.²⁹ **Whether a person engages in vaginal or anal intercourse,**³⁰ when he "uncovers" [the woman], they both become liable for execution, kerait, lashes, or stripes for rebellious conduct. Whether they were lying or standing,³¹ liability is established by the insertion of the corona.

[...]

13. When an adult male enters into relations with any of the women forbidden in connection with the above transgressions who is three years and one day old or more,⁴⁰ he is liable for execution, kerait, or lashes and she is not liable⁴¹ unless she is past majority. **If she is younger than this, both participants are not liable, for the act is not considered as sexual relations.**⁴²

Similarly, **when an adult woman enters into sexual relations with a minor**, if he is nine years and one day old, she is liable for execution, kerait,⁴³ or lashes and he is not liable. **If he is younger than nine years old, they are both free of liability.**⁴⁴

14. When a man enters into relations with a male or has a male enter into relations with him, once the corona is inserted [into the anus] they should both be stoned if they are both adults. As [Leviticus 18:22] states: "Do not lie with a man," [holding one liable for the act, whether] he is the active or passive partner.

If a minor of nine years and a day or more is involved, the man who enters into relations or has the minor enter into relations with him should be stoned and the minor is not liable. **If the male [minor] was less than nine years old, they are both free of liability.**⁴⁵ It is, however, appropriate for the court to subject the adult to stripes for rebellious conduct for homosexual relations⁴⁶ although his companion was less than nine years old.

Notes by Mishneh Torah Translator Rabbi Eliyahu Touger:

28. **This expression is used** with regard to relations with a **woman in the nidah state**. From that instance, Yevamot 54a derives a connection to the entire Torah.

29. If, however, the man merely touches the entrance to the vaginal channel with his organ, he is not liable (see Beit Shmuel 20:3).

30. Based on Leviticus 19:13, Sanhedrin 54a states that both forms of intercourse are equally forbidden.

31. Or Sameach notes that Leviticus 18:23 explicitly mentions a woman standing while engaged in forbidden relates.

[...]

40. I.e., she reaches the date of her third birthday.

41. For a minor is never liable for punishment. Even though she consented to the transgression, she is not subjected to punishment, because she is not considered as responsible for her actions (Nidah44b). Despite the fact that the woman is not punished, the man receives the punishment mandated by the transgression.

42. For until that age, her signs of virginity will regenerate and hence, relations are not of consequence. **Nevertheless, even when the girl is below that age, it is forbidden to enter into such relations.**

43. In his commentary to the Mishnah, the Rambam states that the punishment of kerait is not given until the violator is 20 years of age. Until that age, the person is considered immature and hence, not held liable by the heavenly court.

44. For below that age, relations are not of consequence.

45. For sexual relations with a male below the age of nine are not of consequence. Nevertheless, it is forbidden to enter into such relations (the Rambam's Commentary to the Mishnah, Sanhedrin7:4).

46. Although he is not liable according to Scriptural Law, his act certainly warrants punishment that will discourage him from continuing this pattern of conduct.

Chabad.org - Kedushah - Issurei Biah 1:10,13,14

Care should be taken even when reading paragraphs in an immediate context, in that the context is often about specific scenarios and are not general principles. It should be noted that the above Rabbi Maimonides quote above is from a section entitled "*Forbidden Intercourse*" and it needs to be remembered that the above prohibitions do not necessarily apply in permitted intercourse i.e. "partners" allowed. For example, intercourse with a menstruating woman is forbidden, and obviously that does not forbid intercourse with a non-menstruating woman. Now I show Sanhedrin 54b:

SANHEDRIN 54b:18-20

18. But with regard to one who unwittingly engages in intercourse with a male, and then unwittingly causes a male to engage in intercourse with him, and who unwittingly engages in intercourse with an animal, and then unwittingly causes an animal to engage in intercourse with him, performing all of these actions in one lapse of awareness, in this case, both according to Rabbi Abbahu and according to Abaye, the halakha according to the opinion of Rabbi Yishmael is that he is liable for transgressing three prohibitions; the ones mentioned above and the prohibition of: "There shall not be a sodomite," whereas according to the opinion of Rabbi Akiva he is liable for transgressing only two prohibitions.

19. **The Sages taught: With regard to intercourse with a male, the Torah does not deem a younger boy to be like an older boy;** but with regard to intercourse with an animal, the Torah does deem a young animal to be like an old animal.

20. **The Gemara asks: What does it mean that the Torah does not deem a younger boy to be like an older boy? Rav says: It means that the Torah does not deem the intercourse of one who is less than nine years old to be like the intercourse of one who is at least nine years old, as for a male's act of intercourse to have the legal status of full-fledged intercourse the minimum age is nine years. And Shmuel says: The Torah does not deem the intercourse of a child who is less than three years old to be like that of one who is three years old.**

Sefaria.org – Sanhedrin 54b:18-20

Hakakha by Rabbi Adin Steinsaltz Re: Sanhedrin 54b:18-20

Homosexual intercourse with a minor boy:

If a man engages in homosexual intercourse with a minor who is under the age of nine, whether actively or passively, he is exempt, as with regard to ritual law, Rav's opinion is accepted when it is in conflict with that of Shmuel. (Rambam Sefer Kedusha, Hilkhhot Issurei Bia 1:14).

Koren Talmud Bavli – Sanhedrin Part II · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Sanhedrin perek VII 54b page 41] (PDF version)

Summary

With the issue of minor boys aged 9, which would have been apparent before this chapter, it is clear the Talmudic Rabbis legislated for scenarios where boys of this age could be in a marriage in which sexual relations are taking place, either with a minor girl or an adult women, primarily in the context of a Levirate marriage. Granted, as is a common thread throughout this publication, the status, or degree of such marriages are subject to many conditions. As can be read in Yevamot 96a:7,8 and Ketubot 90a:2 when a yavam consummates his marriage to his yevamah, the wife is not acquired in a complete manner, though the marriage is valid and this is all codified by Rabbi Maimonides and Rabbi Karo.

As is apparent in Chapter 5: "Do the Rabbis Say an Adult Man Having Sex With a Little Girl is Nothing?" where the age of 3 years and one day was an arbitrary Rabbinic threshold for minor girls with respect to her future

virgin price, there is an established arbitrary age for boys with respect to their sexual activity. In chapter 5, it was shown that a boy aged 9 and above, or a boy aged below 9, who had intercourse with an adult woman, determined whether that adult woman was considered to have her virginal status intact or not. This 9 year arbitrary threshold for minor boys informs the decisions of Rabbis with respect to sodomy involving minor boys. The argument for a need to clarify sodomy with minor boys, is that Leviticus 20:13 uses the word “man” (adult), which “excludes a minor boy”.

In Sanhedrin 54a and 54b, the Rabbis uphold the prohibition of the homosexual act between adult males, with the penalty being execution by stoning. If sodomy involves an adult man and a minor boy aged 9 or above, regardless of who is the “active” or “passive” participant, the adult is executed, but the minor is exempt as Rabbi Steinsaltz explains. Rabbi Steinsaltz referenced Maimonides to clarify the codification of these Sanhedrin passages.

As with the distressing decision concerning sex with minor girls younger than 3, as being “nothing” halachically and physiologically speaking, there is a perturbing view of sodomy by an adult with a boy less than 9 years old. Rabbi Steinsaltz's halakha comment on Sanhedrin 54b:20 states an adult man who commits sodomy with a boy younger than 9, either “actively” or “passively” is exempt (as a boy's sexual activity when less than 9 years old does not have the “legal status of fully-fledged intercourse”). It is read in the Mishneh Torah reference that Rabbi Maimonides agrees that with respect to sodomy between an adult man and a boy less than 9 years old, they are both free of liability, though it has to be acknowledged the Rambam suggests it is “proper” for the court to sentence “the adult to stripes for rebellious conduct”.

Rabbi Touger, whose translation Sefaria.org and Chabad.org host, notes that indeed, sexual relations of, or with, a boy less than 9 years old is of no consequence. He does however perplexingly mitigate by commenting that apparently Rabbi Maimonides forbids such acts by an adult, an adult who nevertheless “is not liable according to Scriptural Law”. He also adds that the unsusceptible adult merits punishment regardless (stripes), in order to “discourage” any persistent and repeated behaviour. The adult however is not executed by stoning as he would be had he sodomized an adult.

13. Secondary Sources on Jewish Marriage of Minors

I believe the selections of Talmud texts, supported by the commentary of Rabbi Steinsaltz, the translator of the Talmud used, and the relevant authoritative law codes of Rabbi Maimonides (*Mishneh Torah*) and Rabbi Karo (*Shulchan Aruch*) presented in *King David the Paedophile* provide sufficient proof these Rabbinic texts endorse sex with pre-pubescent children as being permissible within many contexts and scenarios. I could have included twice as much material but felt it unnecessary as they are repetitive to a large degree and are only useful to disclose further nuances and minutiae of various “what if” clauses obsessing the Talmud rabbis.

I now provide two selections of quotes from academic literature from the last hundred years or so. Part 1 will show the wider clear acceptance of the Talmud's sanction of child marriage within Judaism. The less salubrious aspects seen thus far are avoided, at least in English language publications, for obvious reasons I suggest. One source where such isolated texts are occasionally discussed openly and are easily accessible, is the Mi Yodeya Community at <https://judaism.stackexchange.com/>. Part 2 will present quotes from publications discussing the prevalence of child marriage practiced in Jewish communities throughout history up until the 20th century.

As may be expected, there are few publications available discussing the topic of pre-pubescent sex within the Talmud. Those that do, including those below, often skirt the disgusting aspects and only provide quotes or

references in notes etc. and some use mitigating language suggesting "Jewish communities" practiced child marriage despite the "go to" sentence in Kiddushin 41a which says betrothing minors is "not proper". There are frequent, and I suggest a biased number of examples of Rabbis who opposed child marriage, implying it is not Rabbinically permissible. Mostly though, the opposition is not to child marriage per se, but the relatively uncomplicated way a minor girl can exercise her "right of refusal" known as mi'un. The rabbis are more concerned with the termination of a minor's marriage than with the marriage itself. With the Rabbinic texts disclosed so far, it is instructive to consider what is not said below, as much as what is acknowledged. [Where possible I provide links for articles and public domain books.]

Part 1: Examples Acknowledging the Judaic Lawfulness of Minor Marriages

Before beginning the series of passages from Jewish academics and scholars, I will present more of Rabbi Gil Student's apologetic about this issue for comparison with what follows and his narrative that it is all really about premarital sex, or sex outside of marriage:

It is certainly true that there are individual Jews who do not follow the teaching of the Talmud. That is their personal choice, just like many Catholics choose to use birth control and have premarital relations despite their religion's teaching against it. This does not mean that Catholicism permits premarital relations and it does not mean that Judaism (and the Talmud) does either. The personal choices of people whether to follow completely their religion does not reflect on what their religion teaches. Similarly, the fact that certain Muslims drink alcohol and frequent prostitutes does not mean that their religion permits it. It means that these individuals choose to defy their religion.

We leave it to others to deduce why some people would make baseless accusations against the Talmud and, by implication, Judaism and Jews.

Student, G. O. (2000) *The Talmud Does Not Permit Sex With A Three Year Old*. Available at: <https://www.angelfire.com/mt/talmud/three.html> (Accessed: 15 June 2023)

The Minor in Jewish Law by Israel Lebediger

The first comprehensive source is a series of articles published in *The Jewish Quarterly Review* in 1916 by Rabbi Israel Lebediger who graduated at the Jewish Theological Seminary of America in 1914. In the article Rabbi Lebediger writes at length concerning the 20-year-old threshold prevalent in the Bible concerning age of majority in various circumstances. He then states:

But while the age of twenty as the age of majority is found in Talmudic literature as a survival, there looms forth in the same source an age which we do not meet at all in pre-Talmudic literature. That age is the age of physical or sexual ripeness, which is gradually substituted for the age of twenty as the age of majority.²⁸

²⁸. Terumot, I, 3; Yebamot 96b; Nid. V, 9; VI, II, I2; Tosef. Nid. VI, 2, 5, 7-)

Source: *The Minor in Jewish Law - Chapter II. Age Of Majority, B. Age Of Physical Maturity As The Age Of Majority by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 6, No. 4 (Apr., 1916), p. 464,465.*

The Yevamot 96b reference is the Rabbis discussing the rules about a 9 year old boy in a levirate marriage. The Niddah references are discussing the signs of a girl's sexual maturity, as in the two pubic hairs threshold found in several Talmud quotes presented above. Further in the article, Rabbi Lebediger spends time discussing the degrees of “sexual ripeness” and the legal nuances related to it:

Then there are ages that depend on certain physical developments, which, however, are not indications of mental ripeness. A female at the age of three, and a male at the age of nine, attain a certain degree of sexual ripeness, and, therefore, those laws that obtain with certain sexual relationships are in full force when the minors of these respective ages are partners in those relationships. She can be acquired as a wife by the sexual act. Illegitimate intercourse with her brings on the wrongdoer all the punishments due to illegitimate intercourse with an adult female. The same is true of the male of nine years. The Levirate performed by the sexual act is valid. The punishments that relate to illegitimate intercourse are inflicted on those that commit illegitimate intercourse with a minor of this age.

Certain degrees of maturity are also acquired by the attainment of certain degrees of mental ripeness. When a female minor has intelligence enough to take care of her bill of divorce, she can be divorced. When a minor is mentally ripe enough to distinguish between a nut and a splinter, his action of acquisition is valid for himself but not for others. The marriage of a female minor at this age if the father is dead is valid to the extent that it requires at least the action of Mi'un to annul it. If he has sufficient intelligence to return an object given to him, he can also perform the action of acquisition for others.

Source: *The Minor In Jewish Law - Chapter II. Age Of Majority, D. Ages For Different Degrees Or Stages Of Maturity by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 6, No. 4 (Apr., 1916), p. 473,474.*

Rabbi Lebediger endorses that Talmudic laws are applied to sexual relationships of girls aged 3 and boys aged 9 and that girls as young as 3 years old can be “acquired” by the act of sexual intercourse. The level of cognitive dissonance is displayed by the contrast of sexual “maturity” and mental maturity, and is particularly highlighted by suggesting that a minor girl who is sexually “mature” enough to be married, must however be mentally mature enough as a minor to justify her desire for “divorce”. As it has already been shown, what is referred to here is the mi'un declaration which is not a divorce in the normative Jewish sense of a "Get". Rabbi Lebediger goes into more detail about mi'un later but states in this chapter:

Quite unsettled in Talmudic times was the age at which a female minor could exercise the right of Mi'un. According to one opinion, she exercises this power until two hairs appear, and, according to another, until the growth of hair is more marked.

Source: *The Minor In Jewish Law - Chapter II. Age Of Majority, D. Ages For Different Degrees Or Stages Of Maturity by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 6, No. 4 (Apr., 1916), p. 475.*

In chapter 4 Rabbi Lebediger asserts the Talmudic rights of a father with respect to marrying off his daughter, including the right to marry her off without her consent. In addition, he considers the “not proper” declaration in Kiddushin 41a:8 as an ethical preference, not an unequivocal and inviolate law. It should be mentioned again the incongruous nature of a minor girl not having the legal capacity (mental maturity) to contract her own marriage without her father's consent due to her age, yet regardless, she is physically/sexually mature enough to be married:

The father has the exclusive right of giving his minor daughter in marriage.¹⁵⁴ Not only has he the power of giving his daughter in marriage without her consent, but he is, as it were, the real party with whom the marriage is contracted. [...] The marriage of the minor daughter contracted by the father is a real marriage, and Biblically valid. This is so, because the second party to the marriage contract is not the minor daughter but the father who is a person possessing legal powers.

The marriage contracted by the minor daughter against the consent of the father is void, not only because of the legal incapacity due to her minority, but also because she exercises a right which does not belong to her.

¹⁵⁴. Ket. 46 b; Kid. 41 a.

Source: *The Minor In Jewish Law - Chapter IV. B. Giving The Minor Daughter In Marriage by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 7, No. 1 (Jul., 1916), p. 93.*

So much for the legal aspect of the marriage of the minor daughters. From the ethical point of view, Rab and, according to another tradition, R. Eleazar prohibits a man from giving his minor daughter in marriage, until she becomes mature and has intelligence enough to make a proper choice.¹⁷⁰ Yet different circumstances caused people to disregard this moral interdiction. The Tosafot in justification of this disregard say: ' That there is now prevalent among us the custom of giving the minor daughter in marriage, is due to the fact that the exile is becoming more and more pressing on us, so that although a man may, while the daughter is a minor, afford to give a dowry, he may not be able to give it later (when the daughter will have grown up), and she may thus remain unmarried for ever'.¹⁷¹

¹⁷⁰. Kid. 4 a.; ¹⁷¹. Ibid.

Source: *The Minor In Jewish Law – Chapter IV. B. Giving The Minor Daughter In Marriage by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 7, No. 1 (Jul., 1916), p. 97.*

As we have already seen, the very existence of the institution of “mi’un” for a minor girl to utilize, presupposes the logical fact she needs to be married before “divorce” is an option for her:

After the marriage proper, the father cannot receive the bill of divorce for the minor daughter. The complete act of marriage, as we shall see later, emancipates the minor from the power of the father.

Source: *The Minor In Jewish Law – Chapter IV. C. Divorce Of The Minor Daughter by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 7, No. 1 (Jul., 1916), p. 98.*

In the following quote Rabbi Lebediger makes a telling admission which will be addressed in later quotes from other sources. Writing this article for the Jewish Quarterly Review in the year 1916, he explains that the laws related to minor marriage and divorce is now a mere theoretical issue but was not so a short time ago:

Marriage, as well as divorce, of minors is of merely theoretical importance to us now. But, up to a short time ago, both were matters of practical life, and the Rabbis had to render practical decisions in many a case.

Source: *The Minor In Jewish Law – Chapter IV. C. Divorce Of The Minor Daughter by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 7, No. 1 (Jul., 1916), p. 99.*

In chapter 5, Rabbi Lebediger further confirms Talmudic law when he discusses the scenario of an orphaned minor girl:

The power of the father to give his minor daughter in marriage is his exclusive right, and, therefore, he need not legally consult his daughter when he wants to exercise it. But the law giving the brothers and mother the same power was established primarily for the benefit of the daughter. This law meant, then, to secure a right neither for the mother nor for the brothers, but for the minor daughter. Consequently, the mother or the brothers can exercise the power of giving the orphan daughter in marriage, only when they obtain her consent.

[...]

But while the reform brought protection and happiness to some orphans, it certainly marred the happiness of others, since the females who entered into such marriages were of an age at which they did not have intelligence enough to make a proper choice. To offset this evil, another institution arose, which, not less than the giving of the minor daughter in marriage by the mother and by the brothers, is a reform of post-Biblical times. This institution is spoken of by the Rabbis as *Mi'un*, meaning refusing or objecting, and consists in the power the minor female orphan possesses of invalidating the marriage contracted for her either by the mother or brothers. *Mi'un*, as we shall see later, is different from and does not necessitate any bill of divorce. It is simply an objection on her part to live any more with her husband, the procedure of which is performed with very little formalities.

Source: *The Minor In Jewish Law – Chapter V. B. The Marriage Of The Minor Daughter, And The Mi'un Institution by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 7, No. 2 (Oct., 1916), p. 146-147.*

It will be noted in the following quote, and bearing in mind the notion of a minor girl being “mature” enough to say, “I want to marry so and son”, that the age of such mental maturity (or ripeness) is 6 years old:

It is the Rabbis who acknowledged the validity of the marriage of the minor daughter after the father's death, and it is they, who, therefore, have the power to provide means for invalidating this marriage.

The marriage of the female minor orphan is valid, if at least she is intelligent enough to take care of the objects presented to her as the instruments of marriage. Otherwise, the marriage is void, and does not necessitate even the process of *Mi'un* for its invalidation. According to Maimonides, this mental ripeness begins at the age of six.

Source: *The Minor In Jewish Law – Chapter V. B. The Marriage Of The Minor Daughter, And The Mi'un Institution by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 7, No. 2 (Oct., 1916), p. 148.*

Rabbi Lebediger goes on to echo a sentiment we saw in the Jewish Encyclopedia entry on *mi'un*. During the so-called era of the Geonim, from 589 AD to 1038 AD, based in Sura and Pumbedita in Babylonia, there were

two Yeshivas which were considered the worldwide Torah authorities for Jews. They opposed the institution of mi'un (or divorce) by minor girls and consequently and logically discouraged the marriage of minor girls so the potential occurrences of mi'un were avoided. The issue of concern therefore was not prepubescent marriage per se, but the unsatisfactory possibility of minor girl's later "divorcing" their husbands:

In the time of the Geonim, Mi'un was greatly discouraged, a fact due largely to the opposition of the Karaites. To prevent the occurrence of the Mi'un, the marriage of the minor daughter was discouraged altogether. In France and in Germany the practice of Mi'un was much in vogue; some of the authorities of these places even protested against those who wanted to limit the exercise of Mi'un. [...] Mi'un was still practised in different communities, and sanctioned by different Rabbis, until the time came when that which could not be abolished by law or authority was eradicated by necessity.

Source: The Minor In Jewish Law – Chapter V. B. The Marriage Of The Minor Daughter, And The Mi'un Institution by Israel Lebediger; The Jewish Quarterly Review, New Series, Vol. 7, No. 2 (Oct., 1916), p. 152,153.

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Sex Laws and Customs in Judaism by Louis M. Epstein

The following selection of quotes are from Rabbi Louis Epstein's 1948 Sex Laws and Customs in Judaism. Epstein was a Conservative Rabbi and considered an authority on Jewish marriage law. He graduated from Columbia University in 1911 and was ordained at the Jewish Theological Seminary in New York in 1913. Rabbi Epstein was president of the Rabbinical Assembly (1922–25) and chairman of its committee on Jewish Law (1936–40). The first quote refers to minor boys of 9 years old and that sodomy with a boy less than 9 is a lesser offence than sodomy with a boy aged 9 years and above:

To the rabbis, therefore, sodomy is sodomy no matter what the circumstances, and the law applies in all cases, sacred as well as secular, condemning both male participants to death. **The death penalty is by means of stoning, provided neither one of the culprits is below nine years and a day old, for copulation with a boy below that age is not considered a sexual act in the law.** However, though not a capital crime, sodomy with a minor below that age is punishable by flagellation as a matter of public discipline.²¹

²¹. M. San. 7,4; San. 54b; Yad, I. B. 1,14.

Source: Sex Laws and Customs in Judaism by Louis M. Epstein 1948; Chapter V. Natural and Unnatural Sex Conduct, I. Sex Perversions, page 136.

The following is instructive in that Epstein acknowledges that a minor girl is defined in the Bible as being between 3 years old and 12 and a half years old, and that above twelve and a half she becomes a woman. He then determines that a girl is classed as a "child" only below the age of 3. Note that only virgin minor girls, not those under 3 or adult women who are raped, legally prompt the need for a fine to be paid by the rapist:

This fine of fifty shekels is paid by the offender only if the girl be a na'arah, that is, a minor girl, neither child nor woman, and only if she were a virgin. These specifications are contained in the wording of the law in the Bible, and the rabbis stand by them literally. R. Me'ir would say that the more exact definition of na'arah would describe the girl as

between the ages of twelve and twelve and a half, between puberty and majority, but the prevailing view of the halakah applies the term in case of rape or seduction to any girl above the age of three until she attains legal majority, twelve and a half. Prior to three she is a child, above twelve and a half she is a woman.

Source: *Sex Laws and Customs in Judaism* by Louis M. Epstein 1948; Chapter VIII. Rape and Seduction, II. Talmudic Law, pages 184,185.

Epstein clarifies the Rabbinic “logic” with respect to who qualifies as legally a virgin by declaring who qualifies as a “non-statutory virgin”. As we have already seen in earlier chapters, non-virgins are Gentiles, captives and slave girls who have not been converted, ransomed or liberated before they had reached the age of 3 and girls who have a flirtatious reputation whether or not they have engaged in sex. If a man rapes (or seduces) any of these “non-statutory virgins” he is not fined:

The minor orphan girl wedded to her husband by her brother and mother under authority of rabbinic enactment, though her marriage is not valid biblically, has the status of a non-virgin and cannot claim a fine for rape or seduction.²³ Rabbinic law has a list of “statutory non-virgins,” that is, whose life has subjected them to such sexual liberties that they are assumed by law to be non-virgins. These are the gentile, the captive, and the slave. If they have been converted or ransomed or liberated, respectively, below the age of three, they are accounted virgins and can claim the fine, because loss of virginity at that age is not a permanent injury. But if they have remained in their heathen, captive, or slave state beyond the age of three, they are statutory non-virgins and can claim no fine for rape and seduction.²⁴ A girl, too, who has proven herself of easy virtue, who has offered herself to a man, even though her offer was spurned, belongs to the category of statutory non-virgins and can claim no fine.²⁵

²³. Ket. 35b.; ²⁴. M. Ket. 3,1-2.; ²⁵. Ket. 36b.

Source: *Sex Laws and Customs in Judaism* by Louis M. Epstein 1948; Chapter VIII. Rape and Seduction, II. Talmudic Law, page 185.

The following therefore only applies to statutory virgins:

Rabbinic law, therefore, teaches that in rape all fines and indemnities are payable even if the girl had attained legal independence, because the act was an act of violence; but in seduction, if the girl enjoys independence or semi-independence, no payments are due at all, because having consented to the act she has waived all claims on the man, fines as well as indemnities.⁴⁴ The talmudic ruling seems to include in this law even the minor girl with an independent status, apparently assuming that some minors are intelligent enough to give consent to a sexual act and to waive legal monetary claims.⁴⁵ But it stands to reason that a minor girl below that age of intelligence is not capable of waiving legal claims; therefore the young minor girl in that status collects all fines and indemnities for seduction even if she has legal independence.⁴⁶

⁴⁴. Ket. 32a; 42a; Yad, Na'arah Betulah, 2,11.; ⁴⁵. See Ket. ibid, and 36a. The Talmud itself does not definitely distinguish between na'arah and ketanah in respect to her waiving of fines and indemnities, although that interpretation in the above texts is not impossible.;

⁴⁶. See Tosafot Ket. 42a on top. It should be noticed that the case of the insane girl is

different. Although the insane cannot waive any claim, there is no fine or indemnity in her case. The reason is that as for the fine she has the status of a non-virgin, and as for depreciation and humiliation an insane person has neither of these losses (see Rashi Ket. 32a, s. v. be-shotah); as for pain we have said above that the seduced girl has no claim for pain.

Source: Sex Laws and Customs in Judaism by Louis M. Epstein 1948; Chapter VIII. Rape and Seduction, II. Talmudic Law, pages 188,189.

The following speaks for itself:

The rabbis take the position that any ordinary case of adultery should be penalized by strangulation, the easiest death; that any severer penalty represents an exception to the rule. Hence, the exception must be defined as narrowly as possible. The Bible speaks of “a virgin maiden betrothed to a man” in connection with execution by stoning. She must be a maiden (n a'arah) , neither child nor woman, i.e., above the age of three and below the age of twelve and a half.⁶⁴ If she is below three, the act has no sexual status and there is no death penalty at all;⁶⁵ if she is above twelve and a half, strangulation and not stoning is the penalty.⁶⁶

⁶⁴. M Sifre, Deut. 22:23; San. 66b. According to R. Me'ir, she must be above the age of puberty, while the prevailing view includes the maiden who is above the age of three.; ⁶⁵. Nid. 44b.; ⁶⁶. San. 66b. Between the ages of three and twelve the case is a standard one of adultery with a betrothed virgin. The man is stoned to death. But the girl, as a minor, cannot be penalized. Execution of both by stoning is possible only if the girl is between the ages of twelve and twelve and a half.

Source: Sex Laws and Customs in Judaism by Louis M. Epstein 1948; Chapter IX. Adultery, II. In Rabbinic Law, page 204.

Repetition for emphasis:

Finally, the law considers a girl under twelve and a boy under thirteen not responsible for his or her deeds. No matter, then, what the crime is, there is no capital punishment for the minor. The co-respondent in this case, of course, is punished according to the guilt of his or her act, except that if the boy involved is below nine or the girl in the case is below three the act has no sexual significance, and then the co-respondent is also freed.⁹⁰

⁹⁰. Nid. 44b-45a; Yad, I. B. 1,13.

Source: Sex Laws and Customs in Judaism by Louis M. Epstein 1948; Chapter IX. Adultery, II. In Rabbinic Law, pages 210,211.

View article: <https://archive.org/details/sex-laws-and-customs-in-judaism>

Jewish Marriage in Antiquity by Michael L. Satlow

Professor Michael L. Satlow acquired his Ph.D. in Ancient Judaism from the Jewish Theological Seminary of America and specializes in the history of Jews and Judaism in. Professor Satlow, writing of course in the 21st

century, also establishes what is written in the Talmud with respect to prepubescent children and marriage by them, and with them, being permissible.

There is a noticeable pattern in articles and books written by Jewish scholars and academics which directly or indirectly address the issue of minor marriage and the practice of it. As will be apparent in the examples highlighted in this chapter, it is typically the case that earlier works are less inhibited about the facts. Later works either bury halakha in the notes section and/or mitigate the reality of Rabbinic law or suggest the practice of minor marriages is vague, assumed, or less than suggested by others. Of course some Rabbis throughout the centuries opposed minor marriages for various reasons as is alluded to in this chapter, but this has to be understood primarily in two contexts. First, opposing something in their respective time period indicates that it was happening to some degree. Second, any opposition for whatever reason, must be understood in the context that primary Judaic law sources explicitly legislates the lawfulness of the marriage of minors:

AGE AT MARRIAGE: THE IDEAL

The notion that a man should marry his son when he reaches puberty is confined to the Babylonian Talmud.³² Men should marry when young, but women should marry when younger. Tannaitic sources give to a man the legal power to betroth his daughter while she is still a minor (under the age of twelve, and perhaps a little past), and they clearly assume that he will use it. There are many cases throughout tannaitic literature of men betrothing their daughters to prospective husbands, sometimes at very young ages.³³

End notes:

32. It is true, however, that the Mishnah establishes the minimum male legal age of marriage at nine for a male and three for a female.

33. Schremer (70) writes: "The clear and unequivocal impression that arises from these sources is that they are speaking of a real (and even widespread) custom" (my translation). This, however, confuses quantity with quality. The tannaim discuss the marriage of female minors at length precisely because they are so legally problematic and interesting, not because they necessarily are consumed with a set of real problems. There is relatively little material from the Second Temple period on the age of Jewish women at marriage. See Josephus Ant. 19.277, 19.354 and the comments of Ilan 1995, 67-68.

Katzoff 1997 attempts to prove that Jewish women typically married very young from three legal institutions: (1) the tendency of the sources to speak of men betrothing their daughters; (2) the Mishnah (M. Ket. 1:1) establishes that the marriage of a "virgin" should take place on Wednesday so that, if necessary, a man can bring a claim concerning her virginity to the court, which sits on Thursday. The Tosepta (T. Ket. 1:3), however, says that a man cannot bring such a claim against a woman older than twelve and a half or thirteen. Ergo, the position of the Mishnah only makes sense if a "significant number" of women married when under that age; and (3) for the rabbis to establish the radical right of a woman to "refuse" a match made for her by anyone other than her father when she is still a minor demonstrates that it is responding to a "real" situation.

These arguments all are based on assumptions about the relationship between rabbinic law and Jewish society (and even between different rabbinic works) that are, minimally, unsupportable.

Source: Jewish Marriage in Antiquity by Michael L. Satlow 2001; Chapter Five: Making A Match, p. 105; End notes p 307,308.

Next we see some mitigation. It is likely true that the practice of minor marriages was not universal, as in worldwide at all times, but it is clearly difficult to wish the reality of it entirely away:

AGE AT MARRIAGE: REALITIES

There is even less evidence regarding female age at marriage. As noted, the overwhelming impression given in the legal sources is that fathers betrothed their daughters while they were still minors. Without doubt, this happened.⁵² We do not know, however, how often it happened. Several sources indicate that the practice was not universal. A survey of the epitaphs of Jewish women from late antiquity reveals relatively few women who married in their early teens (all from a single Jewish graveyard in Rome), with far more marrying in their mid-teens or later: not a single Jewish inscription from antiquity records a woman married while under twelve years old.

End note:

⁵². In my opinion, the best tannaitic evidence that females (how many?) married while minors is a rabbinic recommendation (or perhaps legislation) that girls who have not yet reached puberty use a contraceptive device.

Source: Jewish Marriage in Antiquity by Michael L. Satlow 2001; Chapter Five: Making A Match, p. 107; End note p 309.

The Rabbinic discomfort with the institution of mi'un is highlighted:

Within amoraic sources there is an increasing discomfort with even the ideal of early betrothal and marriage. Rabbinic law provides an institution by which a woman whose father has died and who is betrothed while still a minor by her mother or brothers can reject the match when she matures; again, the assumption is that she would at least not marry until she was in her early to midteens. Moreover, nearly all of the "cases" cited in rabbinic literature of minor women who exercise their right of refusal are set in the tannaitic period, perhaps reflecting amoraic discomfort with early female betrothal.

Source: Jewish Marriage in Antiquity by Michael L. Satlow 2001; Chapter Five: Making A Match, p. 108.

Marriage Laws in the Bible and the Talmud by Louis M. Epstein

There are several books and articles that explore the topic of levirate marriage and because the Rabbis in the Talmud devoted so much time to the nuances of such a union involving minor boys and girls it is difficult not to mention the issue. Two sources will establish the understanding that minors can indeed find themselves faced with the dilemma of a levirate marriage. First, a couple of quotes from another book written by Rabbi Louis Epstein:

Chapter III Levirate Marriage

If the deceased husband was a minor or insane or a deaf-mute, or if the widow was a minor and acted without her father's authority,⁴⁸ or if she was of age but was insane⁴⁹ or a deaf-mute, there was no levirate situation because the marriage had no full legal validity.

Footnotes:

48. Yeb. 2b. A minor daughter married by her father comprises in every sense a full biblical marriage. Here we refer to a minor girl who had no father, or who gained her independence from her father through a previous marriage. And here, as above, there is no biblical levirate situation but a rabbinical levirate duty.

49. If she was a minor and was married by her father there is a biblical levirate situation, Tos. Yeb. 2,5. But an insane woman who has attained majority cannot be married. Yeb. 112b.

Source: Marriage Laws in the Bible and the Talmud by Louis M. Epstein 1942; Chapter III. Levirate Marriage, page 95.

Chapter VI Other Marriage Prohibitions

Zikah-kinship and halizah-kinship bring to mind a similar type of relation based on a rabbinical marriage. A minor orphan girl, it is well known, cannot contract a biblical marriage, because she is a minor and her father, who is her biblical guardian, is dead. But, to protect her against dishonor and to provide the care of a husband, the rabbis by decree permitted her mother and brother to give her in marriage and declared such a marriage rabbinically valid.

Source: Marriage Laws in the Bible and the Talmud by Louis M. Epstein 1942; Chapter VI. Other Marriage Prohibitions, page 95.

View article: <https://archive.org/details/marriagelawsinbi0000epst>

Levirate Marriage and the Family in Ancient Judaism by Dvora E. Weisberg

Rabbi Dvora E. Weisberg is the Rabbi Aaron D. Panken Professor of Rabbis. She received her B.A. from Brandeis University and her M.A. and her Ph.D. in Talmud and Rabbinic Literature from the Jewish Theological Seminary. Rabbi Weisberg's undergraduate thesis, for which she received highest honours in Near Eastern and Judaic Studies, was titled: "Can the Demands of Jewish Feminists Be Met Within the Halakhic System?"

In discussing levirate marriage Rabbi Weisberg reveals the relative powerless position of a widow and we see later this helplessness includes minor girls:

The inability of the levirate widow to affect her status is affirmed in Mishnah Yevamot. We learn that sexual intercourse between a levir and his sister-in-law effects levirate marriage, even if the sexual act is nonconsensual or is not understood by the woman to be for the sake of effecting levirate marriage.⁴⁸ The widow's surviving brothers-in-law are all legitimate candidates for levirate marriage, but she has no opportunity to choose from among them. Similarly, although any one of a man's wives could enter into a levirate marriage, the choice as to which wife to marry is the brother-in-law's; the wives cannot

decide among themselves which one should marry him. The Mishnah allows a man whose four brothers die to marry one of each of the brother's wives.⁴⁹

Endnotes: 48. M. Yev. 6:1.; 49. M. Yev. 4:11.

Source: *Levirate Marriage and the Family in Ancient Judaism* by Dvora E. Weisberg, 2009; Chapter 5 - *From Wife to Widow and Back Again*, p 133.

The institution of mi'un is acknowledged:

Tannaitic sources indicate some reluctance to force a woman into a levirate union. The School of Hillel indicates that a minor orphan whose husband dies may exercise the right of refusal against her brother-in-law, even if she had not exercised it against her husband, thus obviating the need for levirate marriage or halitza.⁶⁵

Endnote: 65. M. Yev. 13:1.

Source: *Levirate Marriage and the Family in Ancient Judaism* by Dvora E. Weisberg, 2009; Chapter 5 - *From Wife to Widow and Back Again*, p 137.

The "right" of men to own the sexuality minor girls:

Judith Romney Wegner posits that the Mishnah recognizes six types of women: the minor daughter, the wife and the levirate widow, the emancipated daughter, the divorcée, and the normal widow. The first three types have minimal rights because their sexuality is controlled by male relatives; the latter three have broader rights because their sexuality is not assigned to a man. In Wegner's taxonomy, the levirate widow's sexuality is assigned to her levir, and she is more chattel than person.

Source: *Levirate Marriage and the Family in Ancient Judaism* by Dvora E. Weisberg, 2009; Chapter 5 - *From Wife to Widow and Back Again*, p 140.

Rabbi Weisberg accepts the Talmud allows for the possibility of minors, both girls and boys, may be parties involved in levirate marriage and that sexual relations are part and parcel of the institution:

The Mishnah acknowledges that some of the parties affected by a levirate bond would have been minors. It considers the case of two minors, a yevama and her young brother-in-law, who have intercourse, and rules that "they shall grow up together."¹⁰¹ The minor boy's intercourse is effective, but he is too young to give a woman a divorce; the couple must wait until they reach adulthood before the young man can release his sister-in-law. However, the words "they shall grow up together" suggest that the couple could be raised in the same household, perhaps in preparation for affirming the levirate union when they reach adulthood. This case, together with the next case, which imagines an adult yevama "raising" her minor brother-in-law who has had intercourse with her, leaves open the possibility that the yevama will remain in her in-laws' home, even in their care. Such an arrangement suggests parental approval of the levirate union. Similarly, when a minor yevama who was betrothed by her mother or brothers chooses to "refuse" her levir, it seems likely that her family encouraged her to do so.¹⁰²

Endnotes: 101. M. Yev. 13:12.; 102. See M. Yev., ch. 13. A minor girl betrothed by her father could not exercise the right of refusal, but that right was granted to a minor whose father was dead and whose betrothal was arranged by other relatives. The School of Hillel extended this right to a minor whose husband died leaving her subject to levirate.

Source: *Levirate Marriage and the Family in Ancient Judaism* by Dvora E. Weisberg, 2009; Chapter 5 - *From Wife to Widow and Back Again*, p 163.

Part 2: The Extent of Jewish Minor Marriages Throughout the Centuries

Before reading quotes about the practice of child marriage in Jewish society I suggest it is instructive to view Rabbi Gil Student's example of perception management:

The claim that the Talmud, or normative Judaism, permits sexual relations with a minor is almost entirely incorrect. The slight truth in it is that, in certain societies in history, people were sometimes married as young as ten. While this was most recently done in Czarist Russia in order to avoid being drafted into the Czar's army (which was made especially difficult for Jews), it is not currently done. However, even in that case, marriage is required before having sexual relations. Judaism as a religion prohibits sexual relations, indeed even minor touching such as holding hands, outside of marriage.

[...]

We leave it to others to deduce why some people would make baseless accusations against the Talmud and, by implication, Judaism and Jews.

Student, G. O. (2000) *The Talmud Does Not Permit Sex With A Three Year Old*. Available at: <https://www.angelfire.com/mt/talmud/three.html> (Accessed: 15 June 2023)

Review of Maimonides' Mishneh Torah by Leo Landman; The Jewish Quarterly Review.

The following review by Leo Landman of the Yale Judaica Series publication in 1975 of *The Book of Women* from Maimonides' code the *Mishneh Torah* as translated by Dr. Isaac Klein. Leo Landman expresses regret that he needs to find fault with a few issues in an otherwise exceptional work. With all the evidence presented in King David the Paedophile in mind, the following critique is I suggest, entirely justified. In his introduction to *The Book of Women*, the fourth book of Maimonides' *Mishneh Torah*, Dr. Isaac Klein wrote:

"No minimum age for marriage was stipulated, but the Sages strongly disapproved of, though they could not forbid, child marriage. This gave rise to the institution of 'refusal' (mi'un), whereby an orphaned minor girl given in marriage by her mother or her brother could, upon coming of age, summarily terminate this marriage..."

Source: *Introduction (page XXII) The Code of Maimonides, Book Four, The Book of Women*, Publication date 1949; Volume 19 Copyright 1972 Yale University, translator Dr. Isaac Klein.

The following critique by Leo Landman of the above quote essentially echoes the Jewish Encyclopaedias' explanation of the Rabbis wrestling with the minor girls use of mi'un, not with the marriage of minor girls per se. He firstly sets the record straight with respect to the positions taken by giants in the Talmudic era:

The impression is left that the rabbinic aversion to child marriages and their inability to stop them altogether, gave rise to a method of circumvention, by means of which they attempted to nullify these child marriages. Nothing could be further from the truth. They were not opposed to child marriages. They were opposed to mi'un. Thus, the old law was as Bet Shammai insisted [...] Furthermore, the old law stipulated that she can only do so once and may not be remarried another time before she reaches her majority. (Yeb. 107a). Their aversion was not against child marriages, but the haphazard dissolution of a marriage bond without a proper writ of divorce. It was against mi'un that the old law protested. Bet Hillel, too, were not opposed to child marriages.

Source: Review of Maimonides' Mishneh Torah by Leo Landman; The Jewish Quarterly Review, New Series, Vol. 65, No. 3 (Jan., 1975), page 184.

Leo Landman continues his correction of Dr. Isaac Klein by referring to the French and German rabbis from the 12th to the middle of the 15th century collectively known as the Tosafists who wrote critical and clarifying opinions about the Talmud. These explanations and rulings are together called the Tosafot, meaning "additions". These additions were used to practically apply Jewish law which depends on the understanding and interpretation of the Talmud. So, having established the Talmud comments about mi'un, Leo Landman then elaborates on the issue of child marriage during the middle ages:

The Middle Ages brought similar objections. Some criticism was raised by an unnamed Gaon, reiterated by R. Hananel and by some Tosafists. Although other Tosafists disagreed with the Gaonic stand that child marriages should be prevented because they lead to mi'un, nevertheless, they, too, objected to mi'un. (Hagaot Maimuni, Gerushin, XI). Finally, Menahem of Merseburg attempted to abolish mi'un altogether. He was not successful in completely eradicating the practice. (Judah Mintz, 13).

Source: Review of Maimonides' Mishneh Torah by Leo Landman; The Jewish Quarterly Review, New Series, Vol. 65, No. 3 (Jan., 1975), page 185.

And following this brief summarisation, Leo Landman addresses the often used Kiddushin 41a quote used by Talmud apologists and explains how this should be viewed:

The problem was the talmudic statement attributed to Rab [or Rav] Kid. 41a[:8] "It is prohibited for a person to betroth his daughter to a man when she is a minor, until such time that she grows up and says: I want to marry so-and-so." [Original Hebrew in article replaced by Steinsaltz translation]. It is obvious that Rab initiated a number of such rules intended to bolster the status of Babylonian Jewry's morality. Thus, he also said "It is forbidden for a man to betroth a woman until he sees her, lest he see something repulsive in her after the betrothal, and she will become repugnant to him, which will cause him to hate her." [Kid. 41a:5 Original Hebrew in article replaced by Steinsaltz translation]. Neither of these statements was intended to nullify the marriages. **In each instance it was an ideal toward which Rab aimed. These were moral strictures.** In fact, Maimonides joined these two items into one section.

Source: Review of Maimonides' Mishneh Torah by Leo Landman; The Jewish Quarterly Review, New Series, Vol. 65, No. 3 (Jan., 1975), page 185.

Leo Landman goes on to explain that the Tosafists were uneasy with the norm of their day which encouraged minors to marry and the possible contradiction to the opinion expressed by Rav in Kiddushin 41a. The resolution to this ambiguity (accepting the plethora of Talmudic assertions that child marriage is permissible) is a mitigation. The Tosafists declared that due to the “exile” (diaspora) which is a daily grind, and accepting a father may be able to provide a dowry for his minor daughter now, in the future he may not be able to do so and therefore the daughter will remain unmarried forever. Leo Landman then declares what he asserts is a fact:

The fact remains that it was customary in those days for Jews to marry off their children prior to their having reached the age of puberty. We find instances where the bride was found playing in the mud and in fact was pushed into it by her friends. Her mother had to undress her, clean her, and put on her clothes for her. (Judah ha-Cohen, Sefer ha-Dinim; Meir of Rothenburg, Prague, 868). The girl was obviously very young at the time of her betrothal. Similar cases may be found with boys and girls of tender ages. (Mueller, Teshubot Hakamei Zorfat ve'Lotir, Vienna, 1881, 94; Isaac b. Moses, Sefer Maasei ha- Geonim, ed. A. Epstein and J. Freiman, Berlin 1909, p. 61 and Sefer ha-Pardes, ed. H. L. Ehrenreich, Budapest 1924, 299). In one instance, a young girl was married, and when her husband died, performed halitzah to her levir and was betrothed to another man, all at age eleven. (Meshullam b. Kalonymus Teshubot Geonim Kadmonim, ed. Cassel, Berlin 1848, 143).

Source: Review of Maimonides' Mishneh Torah by Leo Landman; The Jewish Quarterly Review, New Series, Vol. 65, No. 3 (Jan., 1975), page 185.

Leo Landman explains that to combat the possibility of the marriages of minors leading to mi'un (divorce), some Jews included pledges of forfeit bound by the concept of herem (used in various ways including excommunication or forfeiture of goods as in “given over to the hand of heaven or the Lord”) in the event of breaching the contract of marriage. Mr. Landman references documented cases, then writes:

These cases obviously show that child marriages were common in the Franco-German centers. Even the method of betrothal was changed to suit child marriages. The groom, instead of giving money or a ring, placed a headdress upon the bride's head. The normal formula could not be performed by the children with any meaning. We are again confronted with the question posed by the Tosafists concerning the propriety of such marriages. It is difficult to understand the fears outlined by the Tosafists of a dim future which prompted them to offer child marriages. Surely, if parents were concerned with the bleak economic future, how did they entrust their daughters to mere youngsters or bind a young boy to a girl whom he could not support ?

Source: Review of Maimonides' Mishneh Torah by Leo Landman; The Jewish Quarterly Review, New Series, Vol. 65, No. 3 (Jan., 1975), page 185.

Mr. Landman explains Rashi decided the Rav sentiment in Kiddushin 41a was aimed at a marriages between a minor and an adult, but not marriages where both parties were minors, again establishing that marriage of minors was however acceptable. Leo Landman then discusses examples in Spain and England:

The same was also the case in the Spanish communities. Ibn Adret ruled that a father should marry off his daughter, a child not yet twelve years old, to a man against her will rather than break a pledge he had made to the man under oath. (IV, 174). Barfat concurred with this decision. They followed the Gaonic custom of young marriages. (Harkavy, Zihron la'Rishonim, 65; Hemdah Genuzah, 162). In every age in the Spanish communities such child marriages were everyday occurrences and excited little comment. (Migash, 115; Adret I, 789, 803; IV, 169, 174, 207, 324; V, 246; VI, 69; VII, 258, 502; VIII, 14-5; Asher, XXXV, 5, 6; Nissim Gerondi, 8; Barfat, 193). How did they resolve the problem of justifying their practice in light of the Talmudic rule against child marriages? Barfat explained that suitable marriages were very important and the fear of [Hebrew] prompted early betrothals which would put a marriage lien on this couple. The reason offered by the Tosafists certainly did not apply to the Spanish communities. The conditions of the Jews of Spain during these centuries was certainly stable. Here the moral concern of youngsters falling prey to temptation led to the trend for early marriages. These were thought to provide the necessary safety valves for the bursts of passion found in youth. The same was true of England where fathers of young brides had to house the couple, since neither was capable of running their own household. (M. D. Davis, Hebrew Deeds of English Jews before 1290, p. 32).

Source: Review of Maimonides' Mishneh Torah by Leo Landman; The Jewish Quarterly Review, New Series, Vol. 65, No. 3 (Jan., 1975), page 186.

Some apologists argue the discussions by Talmudic Rabbis about the marriage of minors is a mere theoretical exercise and that this does not imply child marriage was the norm or acceptable. Clearly Leo Landman provides the view, citing sources, that the marriage of minors, predominantly minor girls, was widely practised throughout the centuries, though it must be said, Jewish communities, geographically and subject to economic status of the families involved, differed in the extent of the practice.

Child marriage in Jewish society in the Eastern Mediterranean during the sixteenth century by Ruth Lamdan

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This article by Ruth Lamdan contains admissions that Jewish child marriage was common in the 16th century, but she does so with mitigating, and I suggest contradictory language, in skirting around the clear endorsement in Halakha for the marriage of minors which has been presented above. She references these very same sources selectively to suggest Jewish communities practised child marriage despite the purported normative opposition of Rabbinic law against the marriage of minors. This article therefore is useful not only for an acknowledgment of the reality of minor marriages, but how the unaware reader can be misdirected from the provable numerous halakhic directives permitting and guiding the practice of minor marriage. Ruth Lamdan starts by declaring that Jewish child marriage was “extremely widespread” in 16th century Palestine, Syria and Egypt:

In the present article I concentrate on **the phenomenon of child marriages** which, in the sixteenth century, **became extremely widespread in the eastern Mediterranean region;**

its implications were discussed at the main rabbinical centres in Damascus, Safed, Jerusalem, and Cairo.

Source: Child marriage in Jewish society in the Eastern Mediterranean during the sixteenth century by Ruth Lamdan 1996; Mediterranean Historical Review page 39.

The following two quotes I have selected are carefully written to suggest “Jewish society” is somehow responsible for empowering fathers to marry off their minor daughters even without their daughters consent. What Lamdan does admit, which is obvious to anyone considering the negative aspects of young girls being forced into marriage, is the likelihood of them suffering multiple forms of abuse:

In Jewish society, however, the power granted to the father to give his daughters away in marriage while they were still minors, with no need whatsoever for their consent or even their physical presence, expressed an additional facet of male domination: where a daughter was concerned, there was no one to challenge the fact that the father alone determined what was good for her, and he not only held full authority to give her away in marriage at his own sole discretion, but could actually enter into a marriage (with kiddushin) in her place.

[...]

From the Hebrew sources it appears that the early age of marriage frequently had serious consequences for the lives of the young couple, and particularly for the woman's future. Cases of women who were beaten, degraded, exploited by the groom and by his family were frequent occurrences, and no doubt they were partly the result of the tender age of the bride.

Source: Child marriage in Jewish society in the Eastern Mediterranean during the sixteenth century by Ruth Lamdan 1996; Mediterranean Historical Review page 40.

In the next quote we meet the term Poskim (plural of posek) which refers to Jewish legal scholars who have the authority to determine how and when halakha should be applied. It is unsurprisingly said the Poskim are not able to create their own halakha but it is admitted there is “a degree of subjective perspective and even creativity” when they interpret halakha. (See: Chabad.org - [What is Halakhah?](http://Chabad.org))

Lamdan notes that the Rabbis when addressing failed marriages involving girl minors have no interest in the age of the girl, but are concerned with the economic and material factors of the marriage. I suggest it is clear from the Talmud, Maimonides, Karo and Steinsaltz quotes in previous chapters why the “Poskim” are not concerned with the actual practice and legitimacy of minor marriage because they know it is permitted and lawful:

An examination of the Responsa indicates that in no case did the Poskim ascribe the failure of married life to the tender age of the bride and in fact they totally ignored this aspect. Their discussions focused on the economic and material aspects of the marriages that had foundered, and generally they were asked to determine the limits of the concessions the bride must make in return for obtaining a divorce from her husband.

Source: Child marriage in Jewish society in the Eastern Mediterranean during the sixteenth century by Ruth Lamdan 1996; Mediterranean Historical Review page 41.

In the following consecutive three paragraph quoted it shows the author obviously and willingly dancing around the existence of the multiple Halakha legislating and guiding for the marriage of minors with the damning evidence hidden in the footnotes. I will split the paragraphs to comment on each to point out the dissembling concerning the Judaic legitimacy of child marriage while admitting the horrors of the practice:

In accordance with Jewish halakha the legal ages of maturity for marital matters were particularly low: 13 for a boy and 12½ for a girl.⁹ The views of the halakha and the Poskim on the marriage of minors varied between total prohibition and the recommendation that it was not proper for a father to give his daughter in marriage while she was still a minor.¹⁰ In reality, however, the decision was left to the father and, as indicated, he was authorized to give his daughter in marriage even if she had not reached the age of 12½; the marriage was of course still considered valid.¹¹

Footnotes:

⁹. More precisely, a girl was considered mature six months after she has grown two hairs and she had reached the age of 12. See Rambam, Marital Halakha, 2,2-3; Caro Yoseph, Shulhan Artikh, Even ha'Ezer, 'Halakhot of Refusal', 155.

¹⁰. Talmud, Kidushin, fol. 41 A, and Rashi's comments there; Rambam, Marital Halakha, 3, 19; Prohibition of cohabitation, 21, 25; Caro, Shulhan Arukh, Kidushin, 37, 8, and comments there (all in Hebrew).

¹¹. Rambam, Marital Halakha, 3, 11. (Jerusalem, 1984), pp. 47-50 (Hebrew).

It has been demonstrated in previous chapters above that indeed the “low” age of 13 for a boy and the age of 12 years and six months for a girl is of significance in “marital matters”. Lamdan implies though that, albeit a “low” age for sexual maturity exists, that threshold is actually when halakha begins to apply in marital matters. This is misleading!

Lamdan references in footnote 9 the Rabbi Maimonides: “Rambam, Marital Halakha, 2,2-3” [SEFER NASHIM (The Book of Women) ISHUT (Marriage) 2:2,3] where he codifies the two pubic hairs maturity marker, from the very same “Marital Halakha” where Maimonides writes in “Marital Halakha 3:11” [SEFER NASHIM (The Book of Women) ISHUT (Marriage) 3:11] “A father may consecrate his daughter without her knowledge while she is a minor.” And “If a girl is older than three years and one day, she can be consecrated through sexual relations with her father's consent. Should she be below this age, if her father has her consecrated through sexual relations, the marriage bond is not established.” To be fair, Lamdan does reference in footnote 11 Ishut 3:11 and I suggest, as many scholars and academics are aware to their advantage, many non-scholars and non-academics do not bother to follow footnote sources.

Lamdan also references in footnote 9 Rabbi Joseph Karo's Shulchan Arukh, Even HaEzer 155 which indeed in 155:12-22 discusses at length the rules concerning two pubic hairs with respect to if and when their appearance allows a “ketana” to perform mi'un, or as Lamdan phrases it 'Halkhot of Refusal'. Recall that Even HaEzer 155:2 says:

“What is [a case of] a ketana [a girl less than 12 and a day] who must do a me'un [i.e. refusal of marriage which allows her to leave her husband when she is married off as a ketana]? From 6 years old until 10 years old, we examine her according to her intellectual abilities, if she knows [that she must] guard her marriage, and that when she is married, that the

guarding is not like the guarding of a nut or date or similar, that is [a case where] she needs to perform me'un. But if she does not know to guard her marriage, she needs not me'un, but rather she can leave to her mother's house, as if she were never married. Less than 6, even if her sense of understand is great, and she knows to guard, she does not need me'un. More than 10, even if she is very dumb, she needs me'un. Rem"a: Some say that all this is only when she is married off by the permission of her brother and mother, but if she was married off without their permission, she does not need me'un [to go free] (Hagahot Alfasi perek Bet Shammai). Some say that if she is already past toddler's age, she needs to do me'un (Bet Yosef in the name of the Ritva)."

So it is perplexing why Lamdan writes in the second sentence that: "The views of the halakha and the Poskim on the marriage of minors varied between total prohibition and the recommendation that it was not proper for a father to give his daughter in marriage while she was still a minor." The "total prohibition" is supported by referencing in footnote 10 that old chestnut Kiddushin 41a, though Lamdan then inconsistently writes "the halakha and the Poskim" recommended against the marriage of minors because it wasn't "proper".

The sentiment of the article that Rabbis (or Poskim) apparently had to address the not "proper", as in prohibited, with exasperation of the Jewish "communities" "widespread" practice of it, continues:

It appears that the reality of the sixteenth century or even of the preceding centuries in no way reflects the recommendations of the Sages: as opposed to Goitein,¹² Abraham Grossman has shown that, starting from the tenth century, the phenomenon of child marriage was not only a matter of routine in Jewish communities in the eastern Mediterranean region, but it also became more widespread in the communities of other Islamic and Christian countries.¹³

In the Responsa and other sources from the sixteenth century there are in fact so many reports on child marriages that there can be no doubt that marriages of the immature and even of baby girls were a normative phenomenon, and one which had negative implications for the life of the married couple.¹⁴ In Jerusalem this phenomenon persisted at least until the beginning of the eighteenth century, when R. Shlomo Abdalla and his court decreed that girls under the age of 12 were not to be married since this led to what he called 'great complications'.¹⁵

[Footnotes with many sources listed redacted as most are in Hebrew. See original article to view them.]

Source: *Child marriage in Jewish society in the Eastern Mediterranean during the sixteenth century* by Ruth Lamdan 1996; *Mediterranean Historical Review* pages 41-43.

The Talmud apologists sometimes assert that there may have been a few child marriages among Jews over time and start pointing elsewhere to argue that non-Jews either did the same, or even more so. These other societies, communities or religions are not exempt from investigation of course, but the issue here is Jewish practice. It is clear in the last two paragraphs above that Jewish minor marriages were considered "routine" in Palestine, Syria and Egypt from the 10th century (known due to more documented evidence being more available than for previous centuries) and had become more prevalent in other Islamic and Christian domains. The "normative phenomenon" of minor marriages, including baby girls, continued until the 18th century.

Lamdan provides many examples of the abusive reality of minor marriages as found in historical evidence and I present two of them here:

Example 1

A number of legal complications were brought to court as a direct result of the attitude described above. Firstly, it became clear that the groom was not always prepared to wait patiently until his bride reached maturity. Thus in one of the cases it was reported that:

“Reuben married the minor daughter of Shimon through her father, and vowed not to become betrothed to or marry another woman until he would go through the wedding ceremony . . . and now Reuben argues that he was ripe for marriage because he was already 18 and his betrothed was a minor of 8, and when he had agreed to make the vow he had believed he would be able to suffer and wait for her to grow up . . .”¹⁸

Footnote: ¹⁸. Mabit, Vol. II, 97; *ibid.*, Vol. III, 119 (the same question was also brought before R. Moshe Alshekh, and see Alshekh, 13).

Example 2

Another case concerned a bachelor already thirty years old (!) whose bride was aged five or six; he had tired of waiting for her to reach maturity and be 'fit for [bearing] sons'.¹⁹

The groom also refused to wait for his bride when the financial expectations awakened by the early match were not fulfilled. One father, who had married off his son out of the desire for money, complained to his son's father-in-law: 'My son is 18 years old, gentle, and my only son, and I have delayed his happiness and was happy to betroth him [to your daughter] who is five, until she reaches ten and becomes fit for marriage[!] . . . and that was for the 500 groshos [silver coins of the period] which will be in my possession these five years before the wedding . . .'²⁰ When the bride's father did not fulfil the conditions there was no longer any reason to wait for his daughter to grow up.

Footnotes: ¹⁹. Maharit, Vol.II, 10, 47.; ²⁰. Lieria, 19; and on the same matter: Ben Arha, 31-4. See also Mabit, Vol. I, 78.

Source: *Child marriage in Jewish society in the Eastern Mediterranean during the sixteenth century* by Ruth Lamdan 1996; *Mediterranean Historical Review* page 44,45.

Lamdan also illustrates the dark reality for minor girls trapped in marriage to adult men:

Relations between the husband and his wife were also negatively affected by marriage at such a tender age. The greater the difference in age between husband and wife the more the girl was subjected to the husband's whims; his seniority in itself imparted greater authority in her eyes while he could also allow himself to adopt the role of a father and even beat her when she did not obey his demands. A girl who from childhood had been accustomed to modesty and obedience was incapable of contending with the demands of a dominant and sometimes violent husband and quite often the contempt and beatings remained her lot even in later periods of her married life.⁵⁴

The low age of marriage resulted in pregnancies and births before the girl was sufficiently mature, both mentally and physically, to become a mother. Not only did this result in frequent cases of miscarriage or the death of the young mothers, but we also hear of women who suffered severe psychiatric problems after giving birth,⁵⁵ partly no doubt due not only to the natural hardships of childbirth but also to the rapid transition from childhood to the burdens of adulthood.

Footnote: 54. On the relations between husband and wife, see *ibid.*, pp. 313-64; Grossman, *Child Marriages*, p. 124.; 55. See Lamdan, 'The Status of Jewish Women', p. 291; Grossman, *Child Marriages*, p. 123.

Source: *Child marriage in Jewish society in the Eastern Mediterranean during the sixteenth century* by Ruth Lamdan 1996; *Mediterranean Historical Review* page 56,57.

As any decent moment of reflection would realize, minor girls suffering sexual relations with an adult man resulted in them being damaged both psychologically and physically. In the conclusion, Lamdan although obviously cognizant with the Halakhic literature she references repeatedly, such as the Talmud, the Mishneh Torah and the Shulchan Aruch, for some reason still presents bewilderment that “no one questioned” the “daily occurrence” of the marriage of minor girls between the ages of 3 and 12. Let the reader learn from this example of wilful dissimulation.

From the conclusion

In fact the questions addressed to the Poskim did not result from the early age of marriage but from certain doubts or misgivings which arose afterwards, such as problems of inheritance, dubious marriages, *ibum* (levirate marriage to the late husband's brother), *igun* (a state of desertion), and the like. Hence it would be reasonable to assume that the many questions dealt with in this article were only the tip of the iceberg and generally speaking — where no problems arose, or when they did not reach the courts — no one questioned the marriages at such a tender age, the phenomenon in fact being a daily occurrence.

Source: *Child marriage in Jewish society in the Eastern Mediterranean during the sixteenth century* by Ruth Lamdan 1996; *Mediterranean Historical Review* page 57.

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Marriage and Divorce Customs in Yemen and Eretz Israel by Aharon Gaimani

The following quotes from an article by Aharon Gaimani, the Jewish History Professor at the Bar Ilan University, Tel Aviv, Israel, describes the reality of child marriage in the Yemenite Jewish community and the issues faced when this community migrated to Israel and the opposition in 20th century Israel to their normative practice of marrying off minor girls. In contrast to Ruth Lamdan above, Aharon Gaimani has the integrity not to skirt around the clear Halacha that exists in the Talmud and elsewhere, that legislated for the marriage of minors. He begins his article thus:

Until the Yemenites' mass immigration to Israel in the years before and immediately after the establishment of the State, Yemenite Jewry preserved several marriage and divorce customs based on the rulings of the Talmud and of Maimonides that had been abandoned

by other Jewish communities. These customs included the marriage of minor girls, levirate marriage (yibum), polygamy, divorce against the wife's will, and compelling a husband to divorce a wife who could not bear to live with him. Economic and social factors also influenced marriage practices in Yemen. Thus under age girls were often betrothed in order to ensure them a good match, or, if they were orphans to save them from forced conversion to Islam. Similar factors contribute to polygamy, which was less prevalent in Yemen than is commonly thought. Yemenite scholars were flexible in their rulings regarding yibum and considerate of the interests of the childless widow (yevamah).

In Israel, most of these customs have disappeared because of the different social conditions prevailing there and the ordinances of the Chief Rabbinate, which forbid the betrothal of girls under the age of 16 and enforce the "ban of Rabbeinu Gershom" regarding polygamy and divorce without the wife's consent.

Source: Marriage and Divorce Customs in Yemen and Eretz Israel by Aharon Gaimani; Nashim: A Journal of Jewish Women's Studies & Gender Issues, No. 11, Yemenite Jewish Women (Spring, 5766/2006), p. 43.

Under the heading "Marriage of Minor and Immature Girls" he states the halakha with respect to the age of a female considered a "minor" by summarizing some of the rules related to the marriage of girls:

A woman is halakhically defined as a minor until she is 12 years old, as an adolescent between the ages of 12 and 12½ (for a period of 6 months), and thereafter as an adult.⁶ A minor girl cannot herself receive the money by which Betrothal (kidushin) is accomplished, but a father has the authority to betroth his minor adolescent daughter to anyone he wishes, and the betrothal is considered binding by law of the Torah (de'oraita, the highest and most absolute degree of religious authority).⁷ If the girl's father has died, her mother and brothers may betroth her as a minor only with her agreement, and the betrothal is binding by rabbinic law (derabanan, considered slightly lower degree).⁸

Endnotes refer to these sources:

6. Maimonides Mishneh Torah, "Laws of Ishut" 2 :1-2.; 7. Mishnah Sotah 3 :8: "The man may betroth his daughter [...]. Maimonides Mishneh Torah "Laws of Ishut 3:11; Shulhan 'arukh: Even ha'ezer 37:1.; 8. BT Yevamot 112b.

Source: Marriage and Divorce Customs in Yemen and Eretz Israel by Aharon Gaimani; Nashim: A Journal of Jewish Women's Studies & Gender Issues, No. 11, Yemenite Jewish Women (Spring, 5766/2006), p. 45.

Then in a sub-section entitled "Reasons for Marriage to Minors" Gaimani acknowledges that marriage of minors was common during the Talmudic era and that an authoritative study by Avraham Grossman concluded that from the 9th to 13th centuries the marriage of prepubescent girls was common among Jews in Muslim and Christian countries:

Even though a minor girl could be betrothed, there were rabbinic scholars who did not look favourably upon this and preferred to wait until the girl grew up and said whom she wished.

In the Mishnaic and Talmudic periods, marriages of minor, sexually immature girls were common in Jewish society. Goitein and Mordechai Akiva Friedman, relying on their

examination of Genizah documents, concluded that this was not the case in Egypt and its surroundings from the ninth to the thirteenth centuries. On the other hand, Avraham Grossman, based on his examination of works by Jewish scholars from around the same period, reached the conclusion that marriage of minor and immature girls was common in Jewish society in both Muslim and Christian Countries.

Source: Marriage and Divorce Customs in Yemen and Eretz Israel by Aharon Gaimani; Nashim: A Journal of Jewish Women's Studies & Gender Issues, No. 11, Yemenite Jewish Women (Spring, 5766/2006), p. 46.

Professor Gaimani provides sample ages of Yemenite Jewish children in with respect to the situation in Yemen:

R. Yosef Kafih wrote that most of the girls in San'a were married between the ages of 11 and 15, and in isolated instances even younger.²⁰ In Haban in southeast Yemen it was customary for parent to marry off their daughters from the age of 7 and up, and in many places it was usual to marry them between the ages of 9 and 13. R. Yitzhak Shaul, who served as Chief Rabbi in Yemen, is said to have tried to prevent the marriage of minors.

Endnote 20 states: [...] In contrast, Brauer gives the age of marriage for girls in the cities, especially San'a, as between 8 and 12 years, while girls in the country married between 12 and 16.

Source: Marriage and Divorce Customs in Yemen and Eretz Israel by Aharon Gaimani; Nashim: A Journal of Jewish Women's Studies & Gender Issues, No. 11, Yemenite Jewish Women (Spring, 5766/2006), p. 47.

Professor Gaimani goes on to discuss the mi'un issue and the less frequent marriage of minors boys and then recounts the devastating effects of marital relations for minor girls. The following of several examples found in the article are highly disturbing. The endnote I suggest is instructive of the Jewish awareness of not being seen to be complicit in the practice or endorsement of minor marriages:

In 1878, R. Yihye Korah (San'a 1840-1881) came out strongly against a new custom, in vogue at the time in the San'a community, of performing the wedding immediately after the betrothal even when the betrothed was a minor. The girl was thus sent to live in her husband's house, though he was cautioned not to have marital relations with her until she was ready. This led to situations in which some grooms could not restrain themselves and caused physical harm to their wives by having marital relations with them while they were still preadolescent. Commenting on the verse that begins "And if a man sells his daughter as maidservant" (Ex. 21:7), Korah expressed his protest:

Whereas there occurred a great mishap in the week in which this verse is read, in this year 2189 [se, i.e., 1878] due to the bad custom that has recently come into fashion in our city, that people marry off their daughters when they are nine or ten years old, and they have no strength, but are like those taken off milk, weaned from the breast [Is. 28:9], and then they cause them great pain in marital relations; at their first intercourse they reach the gates of death [Ps. 107:18], so that they need rest and convalescence more than after birth; and afterwards at each cohabitation there is suffering; "he who rushes with his legs is a sinner" [Prov.1 9:2], since they do not yet have the desire for marital relations. And it already happened that the daughter of a priestly family, aged six or seven years died from

this. And this week one of the Yitzhaki daughters of the seed of Levi died; she had been married some six months, and because of her young age her husband could not cohabit with her, and he restrained himself until this week, even though she is his relative, but this week he injured her and split her like a goat [Judg. 14:6], and he smashed all her organs, and she was gravely ill for three days and died on Monday.⁴²

Endnote: 42: Y. Korah, *Maskil doresh* (Tel-Aviv: Maskil Doresh, 1964), pp. 104-105. "Yitzhaki ... of the seed of Levi" refers to the Yitzhak Halevi family among whose members was R. Yihye Yitzhak Halevi, the Chief Rabbi of Yemen from 1905 until his death in 1932. When the book was published in 1964, descendants of the family complained that the publisher should have omitted then name of the family. However, R. Yosef Tzubeiria, among the eminent Yemenite scholars of the last generation as well as a friend of the family, had proofread the book and seen no need to remove the family name. See A. Gaimani, "New Documents on the Role of R. Yihye Yitzhak Halevi as the Leader of Yemenite Jewry," *Pe'amim*, 76 (1998), pp. 115-126 (Hebrew).

Source: *Marriage and Divorce Customs in Yemen and Eretz Israel by Aharon Gaimani; Nashim: A Journal of Jewish Women's Studies & Gender Issues, No. 11, Yemenite Jewish Women (Spring, 5766/2006), p. 51,52.*

Professor Gaimani goes on to discuss the controversy of minor marriages (note: less than 12 years old initially in 1902, then raised to 16 in 1950) in Eretz Israel when Yemenite Jews emigrated there in the 20th century:

Leaders of the Yemenite community who immigrated to Eretz Israel expressed their opinions about marriage of minors, already well before the mass immigration of the community and its acculturation into the State of Israel. A decision of the Sefardi rabbinical court published on the streets of Jerusalem in 1902 under the title "Notice and Warning" related to marital discord among new immigrants from Yemen ensuing from the employment of Yemenite women as maids in established homes:

"We have also decreed that no Jewish woman in the Yemenite community shall be married to any man until she is twelve years and one day of age, and they shall not be betrothed save at the time of the wedding ceremony. They also shall not sell a minor daughter to an old man. . . ,"

R. Hayim Kesar, among the leading Yemenite scholars in the years immediately after the establishment of the State of Israel, wrote in his commentary on the Mishneh Torah of Maimonides:

"He who marries off his daughter while she is a minor, his iniquity is great, for he brings her into danger, and also her husband into the sin of wasting seed in vain, and he does not thereby fulfil any commandment, and there is a need to warn people about this, and he who hearkens to the words of our Rabbis, of blessed memory, shall dwell safely."

Similarly, R. 'Amram Korah, the last Chief Rabbi of Yemenite Jewry, who immigrated to Israel with the community in 1949, mentions in his book *Sa'arat Teman* some good measures that the Yemenite Jews ought to adopt in Israel. These included "outlawing the marriage of immature girls, as long as the daughter has not reached the age of maturity proper for intercourse."

Interviews with women who were married in Yemen and immigrated to Israel confirm that marriage of minors and immature girls was still prevalent in Yemen until the mass immigration in the early years of the state. There were cases in which the Israeli rabbinate had to issue bills of refusal, as noted by Yedidya Dinari in his study of the institution of mi'un:

After the mass immigration of Yemenite Jewry, several questions arose concerning women who had been married in Yemen while they were still minors. The district rabbinical courts in Petah Tikvah, Jerusalem and the supreme rabbinical court were venues of suits based on the laws of mi'un.

However, the Israeli Chief Rabbinate put an end to the practice with the following ordinance:

"No Jewish man may betroth a woman who is younger than 16 years and one day old, since a woman younger than this age endangers herself in pregnancy, and there is a risk of death for the mother and the foetus, in our times when the generations have declined and the powers have weakened; and also because these marriages are liable to lead to mishaps and to cases of desertion ('igun), as has been proved in many cases. This prohibition applies to the father of the girl, who may not betroth his daughter while she is under this age."⁵¹

Endnote: ⁵¹. These ordinances were instituted by the 1950 rabbinical Congress.

Source: *Marriage and Divorce Customs in Yemen and Eretz Israel* by Aharon Gaimani; *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, No. 11, *Yemenite Jewish Women* (Spring, 5766/2006), pages 53-55.

View article: [Researchgate.net - Marriage and Divorce Customs in Yemen and Eretz Israel](https://www.researchgate.net/publication/312222222)

View article: [Jstor.org - Marriage and Divorce Customs in Yemen and Eretz Israel](https://www.jstor.org/stable/2345678)

14. Jews Opposing Child Abuse (Elephant in the Room)

It would be amiss not to mention that there are individual Jews and Jewish groups who oppose the abuse and exploitation of children and expose the prevalence of it among Jewish communities. The following is I admit only a snapshot, but I use the following sources to highlight that, not dissimilar to some of the academics quoted in the secondary sources, there is no reference to the "elephant in the room".

The first selection of quotes from the Jerusalem Post contain comments from and on, a member of the Israeli Knesset who is described as "far right" and an Orthodox Jew called Avi Maoz. The article is useful as it establishes the present age of consent with respect to the Jewish State of Israel:

The age of consent in Israel is 16 for all genders but can be as low as 14 provided both parties consent and have a 3-year age gap or less.

[...]

Currently, the age of consent in Israel is 16 for all genders. However, that age of consent can go as low as 14, provided the other sexual partner was no more than three years older and both parties consented.

In the speech he gave Tuesday, the Noam MK mentioned how he warned a year and a half ago the State of Israel could legalize pedophilia in the near future, citing examples he claimed were of different countries around the world "weakening" their stances on the issue.

He further cited a new report from the United Nations, which he said called to decriminalize certain sex offenses and mentioned that law enforcement should recognize that people under the age of 18 are able to make decisions about consensual sexual behavior.

[...]

Israel also has had historic issues regarding pedophilia and sex offenders. According to a 2020 report by the **Matzof Association**, there are tens of thousands of pedophiles who operate in Israel every year, leading to about 100,000 victims annually.

Maoz slammed this as "abandoning children in favor of the morbid lusts of adults."

Jerusalem News Staff (2 May 2023) *Israel is trying to legalize pedophilia - Avi Maoz*. Available at: <https://www.jpost.com/israel-news/article-741881> (Accessed: 15 November 2023)

<https://archive.ph/0mY9g>

Note the mention of a group called the Matzof Association who highlight the problem of paedophilia in Israel. The following article, also from the Jerusalem Post, provides a picture, not unlike many countries around the world, of official disinterest in enforcing the law when it comes to child abuse:

"In Israel, tens of thousands of pedophiles operate on a daily basis without any problem," said Eliran Malki, head of the Matzof Association.

"They are not deterred by the police and certainly not deterred by the contemptuous rulings that come from the hands of judges in the various courts," he added, citing an incident in which one particular pedophile was let off by the courts without punishment, despite evidence of thousands of pedophilic items found on his computer, as the court stated that it would "harm his career."

The court does not count the number of victims, and shows disproportionately favorable treatment of the perpetrators, according to Malki.

[...]

A number of pedophiles in Israel are Jewish immigrants who have sought refuge in the country under the law of return, according to a CBS report published in February.

Celia Jean (4 August 2020) *Tens of thousands of pedophiles operate in Israel every year*. Available at: <https://www.jpost.com/israel-news/tens-of-thousands-of-pedophiles-operate-in-israel-every-year-637393> (Accessed: 15 November 2023)

<https://archive.ph/5xlpn>

To draw a contrast with the concerns of the Orthodox Member of the Knesset and what I consider to be the root of the problem especially for those aware of Rabbinic literature, I provide a brief selected quote from the following article which contains a significant admission or understanding other sources readily acknowledge and can be found online:

While Jews are no more likely to be sexually abused than other Americans, individuals who have left the Orthodox community are more than four times as likely to have been molested as children than the general population, a new study has found.

Sam Sokol (19 July 2018) *Study finds widespread history of sexual abuse among formerly Orthodox*. Available at: <https://www.timesofisrael.com/study-finds-widespread-history-of-sexual-abuse-among-formerly-orthodox/> (Accessed: 15 November 2023)

<https://archive.ph/laTit>

The Elephant in the Room

If one visits the websites of Jewish groups and Jewish individuals where there is no holding back from highlighting the problem of child abuse and exploitation within Jewish communities, most notably among fundamentalist religious Jews, it is the absence of mentioning what many of those knowledgeable people must be aware of. The "elephant in the room" is that Orthodox and "traditional" Jews accept and follow the Rabbinic authoritative texts which clearly consider children as sexual beings as young as 3 years old. I suggest, without addressing openly this fundamental view of minor girls and boys as permitted sexual participants within millennia of Jewish practice and dogma entrenched within the Jewish milieu, the root of the issue will not disappear.

15. Conclusion

Thou shalt not bear false witness against thy neighbour. (Exodus 20:16)

I produced this work based on the above principle most people I suggest would openly and publicly agree with, though I additionally suggest some of those people might well be found guilty of some degree of hypocrisy. (I allow for differing opinions on who qualifies as a "neighbour" and for the logical consequence that allows a license therefore to bear false witness against someone who does not qualify as a "neighbour".) I wanted to establish who, at best, is misinformed, and at worst, who is consciously lying.

We can all fall unwittingly into repeating inaccurate, misleading and outright false information. I know many do not have the time and resources to verify every jot and tittle of every claim, or all of the information one is exposed to in life. I suggest this reality allows the disingenuous to wittingly take advantage. The principle of not bearing false witness, as in libeling and slandering for example, is something important to me. I suggest this publication sufficiently demonstrates there are some who wittingly mislead and deflect from the specific subject of the marriage of, and sex with, minor girls and boys being fully endorsed in the Talmud and

subsequent authoritative Jewish legal codes. I mean by this of course that they knowingly deny and obfuscate the fact and then have the audacity to accuse those who expose it with slanderous and libelous ad hominem, with hate being the mantra. The motive charged is almost always unreasoned hate. I do not know the true motive however of those who do this, though one can speculate. It is for them to explain their behaviour.

I mention a caveat. I am not claiming that because I have demonstrated the truth about the Talmud on the subject of sex with prepubescents being permitted, that I necessarily endorse all negative and critical claims about the Talmud. It requires study of each and every claim, in its true context. I know for a fact, not every one-line critical quote taken from the Talmud found and posted online is accurate. If one is to repeat a claim, one is obligated to practice due diligence and verify the claim. This is true for the lists of one-line quotes, or paraphrases of any text of any belief system from the New Testament, the Tanakh, the Quran, or from political ideologies etc. It is also an obligation for anyone denying a negative claim to do more than respond with juvenile ad hominem. For the record, I do not personally identify with any religious belief system or political ideology.

I have attempted to try and be as detached as humanely possible while presenting the evidence in the main body of this publication. I believe any decent human being with even a smidgin of moral integrity will understand the vile nature and horrendous consequences for children of laws allowing for, in legal principle, their abuse, whether cloaked with a thin veneer of some abstract notion of marital sanctity or not. And this returns me to points raised in my introduction and the use of "Paedophile" and "pedophilia". If the principle is, that an adult who has sexual relations with a male or female who is below the legal age of majority, or the legal age of consent, these age thresholds differing around the modern world, is a Paedophile, then what argument, by that principle, can be utilized when the minimum age for marriage is legally established at 3? And if the principle, as argued by Rabbi Gil Student and those that quote him, is that sex outside of marriage is really the overriding issue does that sanctify a blessed union between an adult man and a pre-pubescent girl as acceptable? Did not Mohammad marry Aisha? Do we ignore therefore that he married her at the age of 6 and consummated that union when she was 9? Recall Dr. Michael Brown, in his *Answering Jewish Objections to Jesus Volume 5* asking whether rabbinic statements such as Bathsheba being 6 years old when giving birth to her first child with King David and Rebekkah being 3 years old when she married Isaac should be taken seriously? Might it be suggested that someone who is knowledgeable enough to know the rabbis and Talmud make these claims, and where to find them, would also know that the Talmud, Rabbi Maimonides and Rabbi Karo explicitly and unambiguously legislate that "A girl who is 3 years and one day old, whose father arranged her betrothal, is betrothed through intercourse, as the halakhic status of intercourse with her is that of intercourse in all halakhic senses." (Nidda 44b:9)

I therefore insist that any "Talmud" apologetics on this issue utilizing and misdirecting any cloak of marital sanctity as disingenuous at best and in reality, wholly despicable and clearly dishonest.

Whataboutism

When listening to, or reading, Talmud apologetics about this issue of minor girls and boys, sometimes whataboutism is employed, which is odd for those denying the charge, but I will assume its used in the sense of "nothing to see here, look over there!" Dr. Michael Brown and his "careful researchers" when defending the Talmud with respect to sex with minors, point at Islam, and less so, also at European history. With the body of evidence presented in this publication, it is clear what they truly utilize is the *tu quoque* fallacy. Regardless, it is fairly well-known that Mohammad, and subsequent Sharia Law based on his life, allows for marriage with prepubescent girls, though the mitigation is that sexual relations should not take place until the girl is capable physically, which provides the same subjective license for abuse and disregard as the apologetics by those

Jewish academics and scholars who mitigate with financial distress and a supposed antisemitic milieu arguments for the practice of child marriage. True, a disproportionate number of modern cases of child marriage are found among Muslim communities and nations and is rightly condemned. Pointing out that others commit, or have committed the same outrage does not absolve the one pointing. As the secondary sources show in chapter 13, Jewish communities have been practicing child marriage for thousands of years, up until the 20th century to one degree or another.

It is true that throughout European history, and elsewhere for that matter, there are many documented cases of child marriage and betrothals, particularly among royal houses. (Generally believed to be less practiced among the lower strata of society.) A few examples of the younger aged brides are, in the 11th century, Princess Hedwig of France who was 13. In the 12th century, Matilda of England, daughter of Henry I of England was betrothed at 8 to Henry V, Holy Roman Emperor, and when they married, she was 12 and he was 28. In the 13th century, Marie daughter of William IV of Ponthieu, married at the age of 9 to the 28-year-old Simon of Dammartin. In the 14th century, Katherine Mortimer the Countess of Warwick was 5 when she married the 6-year-old 11th Earl of Warwick, Thomas Beauchamp. Infanta Mariana Victoria of Spain was 10 when she married the 14-year-old José, Prince of Brazil. She had previously been engaged at the age of 3 to her first cousin the 10-year-old Louis XV of France. She was sent to France, where she remained until the age of 7, when Louis reached his majority and rejected her as a bride. Most child brides were teenagers, and it was known for them to marry older men in their twenties, thirties, forties and even fifties. For example, in the 18th century, a Maria Stella Chiappini, who claimed Louis Philippe II, Duke of Orléans was her real father, and regardless of the truth of this, when she was 13 married the 50-year-old Thomas Wynn, 1st Baron Newborough, who was an MP in the British House of Commons for 46 years. Even in the 20th century, Princess Sophie of Greece and Denmark, the sister of Prince Philip, Duke of Edinburgh, at the age of 16 married her second cousin once removed Prince Christoph of Hesse who was 28.

The above examples of European royal child marriages are documented and undeniable, as are many others. For any "European" to deny these facts and label discussion or exposure of them by critics as being lies, distortions, out of context or motivated by hate would only, in my opinion, raise valid questions about the motive and rationality of the apologist.

Therefore, once facts are established and are undeniable in any rational discourse, then if these facts are an issue to someone whatever their objective, the issue must be discussed and addressed with the facts as the starting point.

One may be permitted to ask, is there any other comprehensive and detailed body of texts that legislate for the normative and permitted practice of child marriage for prepubescent boys provisionally starting at the age of 9 (or non liable sex with boys younger than 9), and for prepubescent girls provisionally starting at the age of 3 (or lower), equivalent to Rabbinic halakha found anywhere else, or at anytime throughout history?

[Presentism, Relativism, Historian's Fallacy](#)

I have come across some Talmud apologists addressing unpalatable quotes who oddly throw in a comment such as, and I paraphrase, "even if the Talmud said this, that was then, and no one does it now". I write "oddly" because this mitigation indirectly supposes that the Talmud does contain whatever it is claimed it contains. Personally, I find the "don't judge the past by modern moral standards" rhetoric is often vacuous and replete with glaring inconsistency and subjectivity. Which, or whose modern moral standards are we applying retrospectively? I personally fail to see a consensus, and hardly any unanimity, even within an identifiable group, religion, nation, culture or demographic about most or many issues. I mean in the first instance of moral standards or ethical positions, and then we could also consider the laws, regulations and policies. I avoid

including my own moral judgements so as not to distract from the examples, but is it not fact that many modern nations on this planet forbid homosexuality, both morally and legally, even to the point of exercising capital punishment? Is it not a fact that many modern "western" nations not only morally accept homosexuality but have legislated for the right of same sex couples to marry? So, when historians, or anyone else for that matter, reads that ancient Greece was accepting of homosexuality, whose modern moral standards would we retrospectively apply in judgement anyway? It is not straightforward to simply opine that Islamic scholars would obviously condemn ancient Greece and the more "enlightened" western academia would be unconcerned. Even in the "west" there are both religious (e.g. Christian) and political (e.g. "right-wing") belief systems which would find homosexuality in Ancient Greece objectionable.

For a moment, I hark back to the need for due diligence. There are historians and academics who suggest that the notion ancient Greece was "gay friendly" is based, despite popular understanding, on relatively few sources and these scholars even highlight documented opposition to homosexuality by contemporaries in Ancient Greece. So, allowing for the possible witting or unwitting "sin of omission" by scholars, perhaps, just as in modern times, in past ages, moral standards were not one dimensional, even within one demographic or particular time span. I am not arguing for "moral relativism" per se. I am pointing out what should be self-evident, that there is a spectrum of moral standards present throughout history and has always been so.

So, if for arguments sake we decide Ancient Greece did normatively accept homosexuality, and someone argues this was a progressive and enlightened of them and an example for us today, what might their opinion be about the prevalence of slavery in Ancient Greece, an institution far more attested to in that culture? Would the "moral standards" of Ancient Greece still be an example to admire? I observe that a lot of cherry-picking and omission is employed when retrospective moral judgements are applied. I suggest it is an obligation for anyone doing so for moral equivalence, as it will always be practiced, that they declare their motive for doing so. One can also genuinely do nothing more than academically state this specific culture believed this, or practiced that and contrast it with a specific and defined culture today.

The historian's fallacy is where one assumes that decision makers of the past viewed events from the same perspective and having the same information as those subsequently analyzing the decision. I see this as another can of worms. With respect to the issue of this publication of permitted sex with prepubescent children in Rabbinic writings, there is an increasing attempt in our "modern" time by some, to promote the sexuality of children.

There is a typical human failing too, that some presume an improving, evolving and progressive moral standard through time and therefore what is right or acceptable today, or wrong and unacceptable, is the default superior moral standard, whether it is then applied retrospectively or not. I observe these variables, past and present are rarely applied with consistent principles usually depending on some singular agenda. It rarely occurs to those assuming this view, that they too will be judged by future generations, presumably with even higher "moral standards".

I do not wish to labour the above about presentism etc. I do so because if it is accepted this publication has sufficiently made the case that Judaism, based on authoritative sources, has endorsed normatively the marriage of prepubescent girls and boys, sustained by variable degrees of the practice of it by Jewish communities at various times in history and places, then the go to argument may be one of not judging the attitudes and practices those historical Jewish leaders and communities in the past by modern standards. However, what if there is an unbroken continuum from the past to the present day?

The Problem for Talmud Apologists

I recall the one example of antisemitism by the IHRA I quoted in that "Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews."

The principle, which I personally would apply universally to all on planet earth, is that one cannot hold all responsible, or answerable, for the wrongdoing of one person, or a group of people, even those in authority, of any wider group one may agreeably and willingly, or disagreeably and unwillingly be associated with. I also do not hold with the silence implies consent argument and it is therefore unreasonable to suppose silence from any Jewish individual in not stating their objection to the Rabbinic legal dictates about child marriage is therefore showing an approval for it. I have no evidence to sustain the following statement, but I sincerely believe an overwhelming majority of Jewish fathers, mothers and brothers could not conceive of betrothing or marrying off their 3 year old daughter or sister to another minor, never mind an adult. Or 13-year-old daughter. However, the laws permitting the marriage of, and sex with minor girls and boys are still present in the authoritative Rabbinic law codes and religious texts and Judaism.

In regard to the specific issue of this publication, I suggest those, and their echoers, who have defended the claims that the Talmud and other rabbinic authoritative sources endorse and permit sexual relations with prepubescent girls and boys as lies motivated by irrational hate are required to answer for their conscious and willing gatekeeping on this issue. I suspect there will however be no *mea culpa* declarations. If this publication gains traction and the facts herein become more widely known, and these same individuals are not willing to humiliate themselves and accept the facts as self-evident, I suspect the presentism defence will be employed. The problem for Dr. Michael Brown et. al. are statements such as:

...within the Talmud itself, many issues are not settled, meaning that just because something is stated in the Talmud doesn't mean Judaism holds to that position. Instead, it is the later Law Codes (including the Mishneh Torah and Shulcan Aruch) [...] that give definitive rulings, and traditional Jews feel beholden to follow these later rulings.

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud. P. 68

I reaffirm with the following quotes, that the method employed in this publication, of sustaining the accurate meaning of Talmud quotes by appealing to the authority of Rabbi Maimonides and Rabbi Karo, as authoritatively guided by Rabbi Adin Steinsaltz, overcomes the sophistry and deliberate double standards employed that says normative Jewish laws are either difficult to identify in the Talmud, or that the Talmud itself is only a repository of case law or academic debate. Rabbi Adin Steinsaltz provides insight which I suggest is helpful for those outside, looking in:

IF THE BIBLE is the cornerstone of Judaism, then the Talmud is the central pillar, soaring up from the foundations and supporting the entire spiritual and intellectual edifice. In many ways the Talmud is the most important book in Jewish culture, the backbone of creativity and of national life. No other work has had a comparable influence on the theory and practice of Jewish life, shaping spiritual content and serving as a guide to conduct. [...]

And although the Talmud is, to this day, the primary source of Jewish law, it cannot be cited as an authority for purposes of ruling.

The Essential Talmud by Rabbi Adin Steinsaltz, Chapter 1: What is the Talmud?

As can be read above, the Talmud is the central and incomparable "guide to conduct". It is also the prime source for Jewish Law, though peculiarly it cannot be quoted as the authority for a legal judgement. One might understand therefore the casuistry employed by apologists for the Talmud in their frequent contention the Talmud is not actually the standard authority for Jewish law. Except it is a "comprehensive body of legal work" which sustains halakhic deductions:

In general, study and analysis of the Talmud and the view that it constitutes a comprehensive body of legal work from which deductions may be drawn are still the basic means of halakhic study. Through perusal of a certain halakhah and all attempts to solve problems that are not explicitly discussed in the law, compilations direct the scholar back to the source—the Talmud itself. Furthermore, conclusions may be drawn by employing the above-cited rules, comparing various sources, and continuing various ancient debates. For all these reasons, the Talmud—without itself being a book of halakhah—has served as the primary source.

The Essential Talmud by Rabbi Adin Steinsaltz, Chapter 33: The Talmud and the Halakhah.

Halakhic literature is, of course, based entirely on the Talmud, but most original Jewish philosophy has also drawn inspiration from it in one way or another.

The Essential Talmud by Rabbi Adin Steinsaltz, Chapter 36: The Talmud's Importance for the People.

As Dr. Michael Brown would ask: "Is your head spinning now?" It is necessary therefore, as it was in this publication, to play by the rules of the game, and establish how does one know which of the statements, conclusions and quoted sentences from the "body of legal work" in the Talmud are in fact halakhah? Which authoritative sources can be cited as unequivocal statements of traditional, and present day orthodox Jews, as being normative and accepted halakha? Professor Joel L. Kramer states what many Jewish internet websites will echo if one wishes to confirm (Emphasis mine):

The Mishneh Torah established Maimonides' reputation worldwide and for all time as the authority par excellence on Jewish law, the backbone of Judaism. Whereas at the end of the Commentary on the Mishnah Maimonides appeared as diffident and apprehensive of criticism, he was now confident, knowing that this **great work on jurisprudence** was unprecedented in intention and scope. The Mishneh Torah was also unsurpassed and transformed the whole realm of rabbinic literature.

This great composition became the benchmark for all subsequent writing on Jewish jurisprudence. No serious work on the subject could be written without reference to the Mishneh Torah. **His authority was so great that even Joseph Caro (1488–1575), author of the Shulhan 'arukh (The Set Table)—a code of law that is authoritative for Orthodox Jews—took the Mishneh Torah as a foundation for formulations and normative decisions.**

Maimonides: the life and world of one of civilization's greatest minds by Joel L. Kramer, Chapter 18: Mishneh Torah, 2008

I suggest the "rules of the game" must be played as required, so when Dr. Michael Brown writes the following type of apologetic, and despite the Talmud explicitly saying 3 year old girls are of marriageable age, he is following the "rules of the game" and not pursuing transparency (Emphasis mine):

Here is the way some of the most commonly cited texts on anti-Jewish websites are interpreted.

[...]

- A Jew may marry a three year old girl (specifically, three years 'and a day' old) (Sanhedrin 55b)

This, [having quoted Kiddushin 41a] in fact, is the official Talmudic ruling: A man may not betroth his minor daughter to be married. She must be old enough to give her consent. **The passage in Sanhedrin [55b] must be understood in this light and would therefore be addressing a different issue.**

...within the Talmud itself, many issues are not settled, meaning that just because something is stated in the Talmud doesn't mean Judaism holds to that position. **Instead, it is the later Law Codes (including the Mishneh Torah and Shulchan Aruch) [...] that give definitive rulings, and traditional Jews feel beholden to follow these later rulings.**

Brown, M. L. (2019) *Christian Antisemitism - Confronting The Lies In Today's Church*, Chapter 6: The Truth About the Talmud. Pp. 66-68, 70

It is immediately obvious in the above process that while dismissing a critical quote of the Talmud as not necessarily being illustrative of normative Judaism, Dr. Brown ironically insists his claim for the official ruling of Judaism (Kiddushin 41a) is proved by a single quote from the Talmud, without support from any later Law Codes. This is in contrast to my following the objections of the Talmud apologists where I not only provide wider Talmudic context but support that context from the authoritative Jewish law codes.

I do see therefore and accept the absurdity of arguing that Sanhedrin 55b "cannot be cited as an authority for purposes of ruling", even though the acceptable and citable authority of the Mishneh Torah and Shulchan Aruch which state the very same halakha that "A Jew may marry a three year old girl.", and establish that very law based on Sanhedrin 55b (among many others). The rules are not designed or employed to be fair. The unescapable reality is of course, that if a critic of the Talmud quotes the one shocking and wicked sentence of Sanhedrin 55b, regardless of not providing context, the fact is that within traditional orthodox, it is Jewish law. It is the "definitive" halakhah these particular "Jews feel beholden to follow" TODAY!

My overriding point here is that Talmud apologists, and Jewish individuals or groups who abide today by the authority of the Talmud, Mishneh Torah and Shulchan Aruch CAN be legitimately challenged on any halakhah stated therein, and asked to justify it, categorically disavow it, and/or demonstrate from an equally authoritative source whether, as in the subject of this publication, the marriage of prepubescent minor girls and boys (at least), has since been wholly and permanently abrogated, revoked, rescinded.

It must be said in anticipation of an answer is that the rabbis throughout history have been a pragmatic bunch. Jewish laws are interpreted to meet new issues arising due to modernity, such as, is flipping an electric light switch on the Sabbath prohibited? Additionally, Rabbis have the authority to recommend or guide on whether

certain practices are advantageous or disadvantageous depending on various circumstances. For example, such as when Jews are living side by side with a culture that may find certain behaviour or practices as unacceptable. With respect to the marriage of minors, and sexual relations with minors, I am certain there would be objections suggesting that was then and Jews don't practice it anymore. It is possible quotes from rabbis could be provided, as seen above in earlier chapters, who opposed the marriage of minors. The question then arises, why do they, or did they, oppose it? Is it because child marriage is morally abhorrent, or is it because those rabbis simply want to avoid subsequent use of mi'un or refusal by minor girls? Do those rabbis utter opposition because they live within a culture that abhors child marriage?

Accepting the reality that laws within the accepted rabbinical authoritative sources endorse sexual relations with minors, I suggest there is only one categorical statement by those who adhere to these sources today, that counter can this reality. It needs to be stated by persons with recognised authority that all the Judaic laws governing and allowing for the marriage of minors have now been formally and universally abrogated in perpetuity.

A "never again" declaration if you will.

I finish with a reminder of comments about the one Talmud quote (which is not to be cited as definitive halakha remember) apologists willingly provide verbatim, and that is Kiddushin 41a. An analogy, and I accept the potential problem with analogies, might be laws related to the consumption of alcohol. In the United Kingdom for example, it can be categorically stated that consuming alcoholic beverages is legal. It is allowed. It is permitted. There are however legal restrictions related to alcohol. It is forbidden by law to sell alcohol to anyone younger than 18, and logically it forbidden by law for anyone under 18 to buy alcohol. It is against the law for an adult to buy alcohol for anyone under 18. It is also against the law for anyone under 18 to drink alcohol in licensed premises such as a pub or restaurant. With these facts in isolation, one could conclude it is illegal for anyone under 18 to therefore drink alcohol. There are however exceptions!

A person aged 16 or 17, if they are accompanied by an adult (18 or over) to a licensed premises, can drink beer or wine, with a meal. The 16 or 17 year old is not allowed to buy the alcohol themselves of course, though an adult must necessarily buy it for them. It is possible, if conditions are met by the licensed premises, for anyone 16 or younger to enter a pub for example, again with the provision of being accompanied by an adult. It is illegal to give alcohol to children under the age of 5. The law allows giving a child alcohol when they are 5 years or older at home or other private premises.

As Dr. Michael Brown would ask: "Is your head spinning now?"

Additionally, it is an offence to be drunk (and/or disorderly) in public and this includes such as being drunk while boarding an aircraft, or being on board an aircraft. It is an offence to be drunk while in charge of a child under 7 years of age. Of course, there are restrictions on the amount of alcohol in the blood while driving a vehicle.

Then there are advisory situations where an individual may be told to limit or stop the consumption of alcohol for health reasons. And then there are situations related to social etiquette or acceptable alcohol drink levels, such as it being frowned upon to have "one to many" at a funeral or wedding. I lead here to what "is proper" or expected behaviour in a culture despite what is permitted by law.

Despite the overwhelming evidence (number of laws and detail) from the Talmud, Mishneh Torah and Shulchan legally permitting the marriage of minors and indeed sex with minors outside normative marriage, I suspect the "go to" miniscule example of Kiddushin 41a will be raised repeatedly. Therefore I recall what has been said from the chapters above about this putative "prohibition".

"It is prohibited for a person to betroth his daughter to a man when she is a minor, until such time that she grows up and says: I want to marry so-and-so. If a father betroths his daughter when she is a minor and incapable of forming an opinion of the husband, she may later find herself married to someone she does not like." (Kiddushin 41a:8)

Recall Rabbi Adin Steinsaltz in his commentary on Kiddushin 41a:8 diluted the word "prohibited" to "not proper": "Although it is permitted for a man to betroth his daughter to whomever he chooses when she is a minor or a young woman, it is not proper to do so when the girl is a minor." Rabbi Maimonides and Rabbi Karo echo the "not proper" sentiment.

Israel Lebediger considered Kiddushin 41a:8 a "moral interdiction", while reminding his readers that Maimonides determined "mental ripeness begins at the age of six".

Leo Landman in his review of Maimonides' Mishneh Torah clearly states there was no intention to nullify child marriage and that such as Kiddushin 41a:8 were merely "moral strictures".

Aharon Gaimani says there were some rabbinic scholars who "did not look favourably" upon child marriage.

Final Word

The *raison d'etre* of *King David the Paedophile* was to determine "who is lying about the Talmud and the Rabbinic approval of prepubescent sexual intercourse?"

The evidence is overwhelming that those who quote the Talmud, albeit not with the available context which supports the quote, to claim that the Talmud permits sexual intercourse with girls as young as 3 and boys as young as 9, and any related accusations, are absolutely not the ones disseminating lies!

Appendix 1: A Tale of two Pre-pubescents

The following extract from Niddah 45a is a tale of two minor girls, one called Yustina (Justina) a Gentile and another unnamed girl who may or may not be Jewish, though the language suggests she is. Bear in mind the Rabbis' obsessional need to calculate the age of Bathsheba when she gave birth and all the evidence surrounding the arbitrary threshold age of 3 for minor girls and marriage. Rabbi Steinsaltz comments about the identity of Yustina suggesting a supposed historicity for the discussion, or at least wishes to imagine it could have some basis in reality:

Background by Rabbi Adin Steinsaltz Re: Niddah 45a:9

Asveirus son of Antoninus:

Some claim that this Antoninus is Marcus Aurelius Antoninus, the emperor nicknamed Caracalla, who ruled from 211 to 217 CE. He was known for his close relations with the Jews, with stories of such an affinity dating back to his childhood. Others assert that the reference here is to a different emperor: the Emperor Septimius Severus, Caracalla's father, who ruled from 193 to 211 CE. He, too, maintained friendly relations with the Jews. Yet others contend that this is Marcus Aurelius Antoninus, who ruled from 161 to 180 CE.

Koren Talmud Bavli – Nidda · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Nidda perek V 45a page 308] (PDF version)

THE WILLIAM DAVIDSON/KOREN BAVLI TALMUD – NIDDAH 45a:9-18

Justina

9. The Sages taught in a baraita: There was an incident involving a gentile woman called Yusteni, the daughter of Asveirus, son of Antoninus, a Roman emperor, who came before Rabbi Yehuda HaNasi. She said to him: My teacher, at what age is a woman fit to marry, i.e., at what age is it appropriate for a woman to engage in intercourse, which would therefore be the appropriate time to marry? **Rabbi Yehuda HaNasi said to her: She must be at least three years and one day old.**

10. Yusteni further inquired: And at what age is she fit to become pregnant? Rabbi Yehuda HaNasi said to her: When she is at least twelve years and one day old. She said to him: I married when I was six, and gave birth a year later, when I was seven. Woe for those three years, between the age of three, when I was fit for intercourse, and the age of six, when I married, as I wasted those years in my father's house by not engaging in intercourse.

11. **The Gemara asks: And can a minor of that age become pregnant?** But didn't Rav Beivai teach a baraita before Rav Nahman: three women may engage in intercourse while using a contraceptive absorbent cloth, a soft fabric placed at the entrance to the womb to prevent conception, despite the fact that this practice generally is prohibited. **They are a minor; a pregnant woman; and a nursing woman.**

12. The baraita specifies the reason for allowing these women to use contraceptive absorbent cloths: **A minor, lest she become pregnant and perhaps die from this pregnancy;** a pregnant woman, lest she be impregnated a second time and her older fetus become deformed into the shape of a sandal fish, by being squashed by the pressure of the second fetus; and a nursing woman, lest she become pregnant and her milk dry up, in which case she weans her son too early, thereby endangering him, and he dies.

13. The baraita continues: And who is considered a minor? It is a girl from the age of eleven years and one day until the age of twelve years and one day. If she was younger than that or older than that, she may go ahead and engage in intercourse in her usual manner, i.e., without contraception. This is the statement of Rabbi Meir. Since it is assumed that a minor who is less than eleven years old cannot become pregnant, she is considered to be in no danger.

14. And the Rabbis say: **Both in this case of a minor girl who can become pregnant and in that case of a minor girl who cannot become pregnant, she may go ahead and engage in intercourse in her usual manner**, and Heaven will have mercy upon her and prevent any mishap, as it is stated: "The Lord preserves the simple" (Psalms 116:6). **In light of the statement of Rabbi Meir, how could Yusteni have become pregnant at age seven?**

15. The Gemara answers: **If you wish, say that Yusteni was able to become pregnant at such a young age because she was a gentile**, and the verse states **with regard to gentiles: "Their flesh is the flesh of donkeys"** (Ezekiel 23:20). And if you wish, **say instead that Yusteni was lying** when she said she became pregnant at age seven, as it is stated **with**

regard to gentiles: "Whose mouth speaks falsehood, and their right hand is a right hand of lying" (Psalms 144:8).

Jewish Woman?

16. The Sages taught in a baraita: There was an incident involving a certain woman who came before Rabbi Akiva and said to him: **My teacher, I engaged in intercourse within three years of my birth; what is my status with regard to marrying into the priesthood? Rabbi Akiva said to her: You are fit to marry into the priesthood.**

17. She said to him: My teacher, I will tell you a parable; to what is this matter comparable? It is comparable to a baby whose finger one forcibly dipped in honey. On the first time and the second time, he moans at his mother for doing so, but on the third occasion, once he is used to the taste of honey, he willingly sucks the finger dipped in honey. **She was insinuating to Rabbi Akiva that she engaged in intercourse several times, and although the first couple of times were against her will, the third incident was with her consent. Rabbi Akiva said to her: If so, you are disqualified from marrying into the priesthood.**

18. **Rabbi Akiva saw his students looking at each other, puzzling over this ruling. He said to them: Why is this matter difficult in your eyes? They said to him: Just as the entire Torah is a halakha transmitted to Moses from Sinai, so too this halakha of a girl who engaged in intercourse when she was less than three years old, i.e., that she is fit to marry into the priesthood, is a halakha transmitted to Moses from Sinai, and it applies whether she engaged intercourse against her will or with her consent. The Gemara notes: And even Rabbi Akiva did not say to the woman that she was unfit to marry into the priesthood because that is the halakha; rather, he did so only to sharpen the minds of his students with his statement, to see how they would respond.**

[Sefaria.org - Niddah 45a:9-18](https://www.sefaria.org/Niddah_45a:9-18)

Appendix 2: Sanhedrin 69a & 69b

There is a continuation in Sanhedrin 69a:1 from the preceding folios about issues related to converts. It is relevant to begin in 69a:1 as it leads to the torturous reasonings for the age of when certain Bible figures became fathers, and of course the bizarre young age when Bathsheba became a mother. I interject with comments and provide headings to ease progression.

Sanhedrin 69a

A minor boy cannot father a child. Or can he?

The continuation here is about finding the heir (child) of a deceased convert in order to return recovered stolen property taken from said convert to the rightful owner, the heir. Therefore, should it be assumed if the convert in this instance was a minor, that he therefore could not have fathered an heir. The typical age thresholds guide the following discussions:

1. And the Merciful One states: "But if the man has no relative," teaching that it is only in the case of a convert who is a man that you must go around seeking whether or not he has relatives, i.e., children who were born to him after his conversion. But in the case of a convert who is a minor, you do not have to go around searching for relatives; it is known that he has no relative, since a minor cannot father a child.

2. Abaye raised an objection to Rabba from a baraita discussing a designated maidservant, about whom the verse states: "And if a man lies carnally with a woman who is a maidservant designated to a man, and not fully redeemed, nor freedom given her, inquiry shall be made; they shall not be put to death, because she was not free" (Leviticus 19:20). From the word "man," I have derived only that this halakha applies to an adult man. But as for a minor aged nine years and one day, who is fit for engaging in intercourse, from where is it derived that he too is subject to this halakha? The verse states: "And if a man." **The extraneous letter vav, meaning "and," serves to include a minor who is nine years old, as already at that age he can perform complete intercourse.**

Rabbi Adin Steinsaltz comments that the above woman is qualified as a "half-maidservant" who is "half-emancipated" and has the status of one "betrothed" to a Hebrew slave. For this reason it is not "normal" adultery if another man has sex with her. The woman is liable to lashes and the man must suffer the grave penalty of bringing a guilt-offering, regardless of whether the man knew she was betrothed or not.

Koren Talmud Bavli – Sanhedrin Part II · Commentary by Rabbi Adin Even-Israel Steinsaltz, [Sanhedrin perek VIII 69a page 129] (PDF version)

3. Rabba said to Abaye: There is no proof from here, as even though a nine-year-old boy has sperm, he cannot father a child. His sperm is like the seed of grain that was cut even though it had not yet reached one-third of its growth. Such seed, even if planted, will not grow.

4. A Sage of the school of Hizkiyya taught: The verse states: "But if a man comes intentionally [yazid] against his neighbor, to slay him with guile, you shall take him from My altar, that he may die" (Exodus 21:14). The use of the term yazid in this context and its juxtaposition to the word "man" teaches that a man can heat [mezid] himself up and produce viable sperm, but a minor cannot heat himself up and produce viable sperm. Therefore, even though a minor can engage in full intercourse with a woman, he cannot father a child. Rav Mordekhai said to Rav Ashi: From where may it be inferred that this word mezid is a term meaning heating up? As it is written in a different verse: "And Jacob cooked [vayyazed] pottage" (Genesis 25:29).

5. The Gemara asks: But didn't the school of Rabbi Yishmael teach the following baraita concerning a stubborn and rebellious son: The verse that states: "If a man has a stubborn and rebellious son," teaches that a son can become a stubborn and rebellious son, but not a father, so that one who has a child cannot be sentenced as a stubborn and rebellious son.

6. The Gemara asks: What are the circumstances? If we say that his wife conceived after he grew two pubic hairs and the baby was born before he grew a beard around his genitals, is there such a long interval between these two times to allow for carrying the child to term? But doesn't Rabbi Kruspedai say: The entire time during which it is possible to judge and sentence a stubborn and rebellious son is only three months, the time between the

appearance of two pubic hairs and the growth of a beard around the genitals? Consequently, it is impossible for a child to be born to the stubborn and rebellious son during this period. Rather, is it not that his wife conceived before he grew two pubic hairs, and the baby was born before he grew a beard around his genitals? **And you can learn from it that a minor can, in fact, father a child.**

7. The Gemara rejects this reasoning: No, actually, you can explain that his wife conceived only after he grew two pubic hairs, and the baby was born after he grew a beard around his genitals. And as for that which is difficult for you based on the statement of Rabbi Kruspedai that the halakha governing a stubborn and rebellious son applies for only three months, it can be explained as follows: When Rav Dimi came from Eretz Yisrael to Babylonia, he said that they say in the West, Eretz Yisrael, that the term "son" teaches that only a son can become a stubborn and rebellious son, but not one who is fit to be called a father. That is to say, the verse does not exclude someone whose child was born during this period, but rather one whose wife conceived during this time, so that he is fit to be called a father.

8. Returning to the matter itself: Rabbi Kruspedai says that Rabbi Shabbtai says: The entire time during which it is possible to judge and sentence a stubborn and rebellious son is only three months. The Gemara asks: But didn't we learn in the mishna that a boy can be judged as a stubborn and rebellious son from when he grows two pubic hairs until he grows a beard around his genitals? This seems to indicate that his liability depends on his physical maturity, and not on any specific time period. The Gemara answers: If he grew a beard around his genitals, then even if three months have not passed, he can no longer become liable as a stubborn and rebellious son. And if three months passed, then even if he has not grown a beard around his genitals, he is similarly exempt.

9. Rabbi Ya'akov from Nehar Pekod sat before Ravina and sat and said in the name of Rav Huna, son of Rav Yehoshua: Learn from the statement that Rabbi Kruspedai says that Rabbi Shabbtai says that when a woman gives birth at seven months, her fetus cannot yet be discerned after one-third of her days of pregnancy. In a nine-month pregnancy, the fetus can be discerned after three months, which is one-third of the pregnancy. In the case of a pregnancy that lasts seven months, the fetus cannot be discerned at the end of one-third of the pregnancy, i.e., after two and one-third months, but after three months, as in a standard nine-month pregnancy.

10. Rabbi Ya'akov explains the inference: As if it enters your mind that when a woman gives birth at seven months, her fetus can already be discerned after one-third of her days of pregnancy, i.e., after two and one-third months, why do I need three months from the time the boy reaches adulthood until the end of the time that he can become liable as a stubborn and rebellious son? A period of two and one-third months should suffice. If he engaged in intercourse with a woman immediately upon reaching adulthood and the intercourse resulted in a seven-month pregnancy, the fetus would be able to be discerned after two and one-third months, and he would be fit to be called a father already from then. From the statement of Rabbi Kruspedai, citing Rabbi Shabbtai, it is clear that the earliest time the fetus can be discerned is after three months of the pregnancy have passed.

11. Ravina said to Rabbi Ya'akov: Actually, I could say to you that even when a woman gives birth at seven months, her fetus can already be discerned after one-third of her days of

pregnancy. But the halakha with regard to a stubborn and rebellious son was not adjusted accordingly because of the principle that one follows the majority. Most women give birth at nine months, and their fetuses are discernible only after three months. Therefore, the fact that one would be fit to be called a father in the case of a seven-month pregnancy is disregarded.

12. The Sages stated this answer before Rav Huna, son of Rav Yehoshua, whereupon he said to them: But do we blindly follow the majority in cases of capital law and not judge each case on its own merits? Doesn't the Torah state: "And the congregation shall judge ... and the congregation shall deliver" (Numbers 35:24,25), from which it is derived that the court must make every effort to find exculpatory arguments in support of the accused; and yet you say that one follows the majority? If it is possible that already after two and one-third months the stubborn and rebellious son will be fit to be called a father, from that time on he should be exempt from punishment.

13. The Sages then brought Rav Huna's analysis back to Ravina and presented it before him. Ravina said to them: And do we not follow the majority in cases of capital law? But didn't we learn in the mishna (Sanhedrin 40a): If one witness says that the event occurred on the second of the month, and one witness says that the event occurred on the third of the month, this is not regarded as a contradiction and their testimony stands, since it is possible to say that this witness knows of the addition of a day to the previous month, and according to his tally the event occurred on the second of the month, and that witness does not know of the addition of a day to the previous month, and according to his tally the event occurred on the third of the month.

14. And if it enters your mind that we do not say that one follows the majority in cases of capital law, let us then say that these witnesses are testifying with precision, and that they contradict each other, and therefore the accused should be acquitted. Rather, is it not because we say that one follows the majority, and the majority of people are apt to err with regard to the addition of an extra day to the month?

15. Rabbi Yirmeya of Difti says: We learn in another mishna (Nidda 44b) as well that one follows the majority even in cases of capital law: **A girl who is three years and one day old whose father arranged her betrothal can be betrothed with intercourse, as, despite her age, the legal status of intercourse with her is that of full-fledged intercourse. And in a case where the childless husband of a girl three years and one day old dies, if his brother, the yavam, engages in intercourse with her, he acquires her as his wife. And if a girl of that age is married, a man other than her husband is liable for engaging in intercourse with her due to violation of the prohibition against adultery, as despite her age she is legally considered to be a married woman.**

16. The mishna continues: And if she is impure due to menstruation, she transmits impurity to one who engages in intercourse with her, who then renders all the items designated for lying beneath him impure like the items designated for lying above him. **If she marries a priest**, she may partake of teruma like any other wife of a priest. If she is unmarried and one of the men who is unfit for the priesthood, e.g., a mamzer or halal, engaged in intercourse with her, he has disqualified her from marrying into the priesthood, and if she is the daughter of a priest, she is disqualified from partaking of teruma. And if one of any of those with whom relations are forbidden, which are enumerated in the Torah, engaged

in intercourse with her, e.g., her father or father-in-law, the man is executed by the court for engaging in intercourse with her, and she is exempt because she is a minor.

Sefaria.org - Sanhedrin 69a

Sanhedrin 69b

1. Rabbi Yirmeya of Difti explains how this mishna demonstrates that one follows the majority even in cases of capital law: Why is a man who engaged in intercourse with a three-year-old girl who was married to another man liable to receive the death penalty? Say that perhaps it will turn out that she is a sexually underdeveloped woman [ailonit] who is incapable of bearing children, and her husband did not betroth her with this understanding; and consequently the marriage is null, as it was entered into in error. Therefore, a man who engaged in intercourse with her should not be liable to receive the death penalty for adultery. Rather, is it not that we say that one follows the majority, and the majority of women are not sexually underdeveloped women, and therefore the assumption is that the betrothal was valid? This is proof that even in cases of capital law one follows the majority.

2. The Gemara refutes this claim: No; rather, what is the meaning of that which is taught in the mishna: And if she is married, a man other than her husband is liable for engaging in intercourse with her due to violation of the prohibition against intercourse with a married woman? This means that if a man **unwittingly engaged in intercourse with a three-year-old girl** who was married to another man, he is liable to bring a sin-offering, but there is no liability to receive the death penalty based on a majority.

3. The Gemara asks: But wasn't it taught in the mishna: And if one of any of those with whom relations are forbidden, which are enumerated in the Torah, engaged in intercourse with her, the man is executed by the court for engaging in intercourse with her? The Gemara answers: This is referring to a case where her father or some other close relative engaged in intercourse with her, so that the prohibition is incest, rather than adultery.

4. The Gemara asks: But wasn't it taught: If one of any of those with whom relations are forbidden engaged in intercourse with her, the man is executed by the court for engaging in intercourse with her? This seems to indicate that the death penalty is imposed for all types of forbidden intercourse with a three-year-old girl, even if the intercourse is forbidden as a result of her being married. The Gemara refutes this claim: Rather, what are we dealing with here? With a case where the husband explicitly accepted her upon himself as his wife even if she turns out to be a sexually undeveloped woman. Therefore, another man who engages in intercourse with her is liable to receive the death penalty even if he is not one of her close relatives.

Sigmund Schlomo Freud maybe had the following paragraph in mind when he conjured up the putative "Oedipus Complex":

5. The Sages taught in a baraita: **If a woman was acting lewdly with her minor son and he performed the initial stage of intercourse with her**, Beit Shammai say that he has thereby disqualified her from marrying into the priesthood. And Beit Hillel deem her fit to marry into the priesthood, because **they maintain that the intercourse of a minor is not regarded as intercourse**.

Learning Lessons from the Past

6. Rabbi Hiyya, son of Rabba bar Nahmani, says that Rav Hisda says, and some say that Rav Hisda says that Ze'eiri says: All, i.e., **both Beit Shammai and Beit Hillel, concede with regard to a boy nine years and one day old that his intercourse is regarded as intercourse and disqualifies a woman from marrying into the priesthood** as well as results in her liability to receive the death penalty, even though he himself is not liable to receive it. **And they also all concede concerning a boy less than eight years old that his intercourse is not regarded as intercourse vis-À-vis these halakhot. They disagree only about a boy who is eight years old**, as Beit Shammai maintain **that we learn from earlier generations, when people were able to father children at that age**, and we apply that reality to the present; and Beit Hillel maintain that we do not learn from earlier generations.

Now the Rabbis Begin Flicking the Abacus to Calculate When Bathsheba Became a Mother

7. The Gemara asks: **And from where do we derive that in earlier generations men fathered children at this age?** If we say that we know this from the **following calculation**: It is written: "Is this not Bathsheba, daughter of Eliam, wife of Uriah the Hittite?" (II Samuel 11:3). And it is also written: "And Eliam, son of Ahithophel the Gilonite" (II Samuel 23:34), which teaches that Bathsheba was the granddaughter of Ahithophel. And it is written with reference to the birth of Solomon: "And he sent by the hand of Nathan the prophet, and he called his name Jedidiah, for the Lord's sake" (II Samuel 12:25).

8. And later it is written: "And it came to pass after two years, that Absalom had sheepshearers" (II Samuel 13:23), and at that time Amnon was killed (see II Samuel 13:23-29), this being at least two years after Solomon was born. And afterward it is written: "So Absalom fled, and went to Geshur, and was there three years" (II Samuel 13:38), so that this was five years after Solomon was born.

9. And it is written: "So Absalom dwelt two years in Jerusalem, and did not see the king's face" (II Samuel 14:28), bringing the tally to seven years after Solomon was born. And it is written: "And it came to pass after forty years, that Absalom said to the king, I pray you, let me go and pay my vow, which I have vowed to the Lord, in Hebron" (II Samuel 15:7). This was the beginning of Absalom's rebellion against David. Accordingly, at that time Solomon was at least seven years old. And at some point during the rebellion it is written: "And when Ahithophel saw that his counsel was not followed, he saddled his donkey, and arose, and went to his house, to his city, and put his household in order, and strangled himself and died" (II Samuel 17:23).

10. And it is written: "Bloody and deceitful men shall not live out half their days" (Psalms 55:24). And in keeping with this verse, it is taught in a baraita: All of Doeg's years were only thirty-four and Ahithophel's were only thirty-three. Neither reached the age of thirty-five,

half of the normal life span of seventy years. Based on this, one can calculate: How many years did Ahithophel live? Thirty-three. Subtract seven years, Solomon's age at the time of Ahithophel's death, which leaves Ahithophel twenty-six years old at the time of Solomon's birth. Subtract two more years for three pregnancies, one preceding the birth of Eliam the son of Ahithophel, one preceding the birth of Bathsheba, daughter of Eliam, and one preceding the birth of Solomon, son of Bathsheba. **It turns out that three generations were born in twenty-four years, and that each and every parent begot a child at the age of eight.**

The Young Motherhood of Bathsheba is Not Proof for Young Fatherhood

11. The Gemara refutes this proof: From where do you prove this? Perhaps both Ahithophel and his son Eliam fathered children when they were each nine years old, and **Bathsheba gave birth to Solomon when she was six, because a woman is stronger and can conceive at an earlier age. Know that this is true that women conceive at an earlier age, as Bathsheba had already given birth to a child from David before giving birth to Solomon (see II Samuel 11:27).** Therefore, no proof can be derived from here.

12. **Rather, it is from here that one can deduce that in earlier generations men fathered children at the age of eight**, as it is written: "And these are the generations of Terah; Terah begot Abram, Nahor, and Haran" (Genesis 11:27). And Abraham was at least one year older than Nahor, and Nahor was one year older than Haran, so it turns out that Abraham was two years older than Haran. And it is written: "And Abram and Nahor took wives for themselves; the name of Abram's wife was Sarai and the name of Nahor's wife was Milka, daughter of Haran, father of Milka and father of Iscah" (Genesis 11:29).

13. And Rabbi Yitzhak says: Iscah is in fact Sarah. And why was she called Iscah? Because she envisioned [shesokha] hidden matters by means of divine inspiration. And this explains what is written: "In all that Sarah has said to you, hearken to her voice" (Genesis 21:12). Alternatively, Sarah was also called Iscah, because all gazed [sokhim] upon her beauty. And it is written: "And Abraham fell upon his face, and laughed, and said in his heart: Shall a child be born to him that is a hundred years old? And shall Sarah, who is ninety years old, give birth?" (Genesis 17:17). How much older was Abraham than Sarah? He was ten years older than her and, as stated above, he was two years older than her father, Haran. It turns out then that when Haran begot Sarah, he begot her at the age of eight.

14. The Gemara refutes this proof: From where do you prove this? Perhaps Abraham was the youngest of the brothers, and not the oldest among them. The fact that Abraham is listed first is no proof that he was the oldest, as perhaps the verse listed them in the order of their wisdom and therefore Abraham, being the wisest, was mentioned first.

15. Know that it is true that the verse sometimes lists brothers not according to their birth order, but in the order of their degrees of wisdom, as it is written: "And Noah was five hundred years old; and Noah begot Shem, Ham, and Japheth" (Genesis 5:32). According to this, Shem was at least one year older than Ham, and Ham one year older than Japheth, so it turns out that Shem was two years older than Japheth. And it is written: "And Noah was six hundred years old when the flood of waters was upon the earth" (Genesis 7:6). And it is written: "These are the descendants of Shem; Shem was one hundred years old, and begot Arpachshad two years after the flood" (Genesis 11:10). If Shem was the oldest

brother, how could he be only 100 years old? He must have been at least 102 years old, as Noah was 500 years old when his third son was born, and he was 600 years old at the time of the flood.

16. Rather, the verse listed them in the order of their degrees of wisdom, Shem being the wisest. With regard to his age, Shem was the youngest of the brothers, having been born when Noah was 502 years old. Shem begot his son 100 years later, which was two years after the flood. Here too, then, with regard to the sons of Terah, it can be argued that the verse lists them in the order of their degrees of wisdom.

17. Rav Kahana says: I stated this discussion before Rav Zevid of Neharde'a. When he heard it, he said to me: You learn that Shem was not Noah's oldest son from there, and we learn it from here: "And to Shem, the father of all the children of Eber, the brother of Japheth the elder, to him also were children born" (Genesis 10:21). This verse indicates that Japheth, rather than Shem, was the oldest of the brothers.

How Do The Rabbis Know Boys Aged 8 Became Fathers?

18. The Gemara asks: Rather, from where do we derive that in earlier generations men fathered children at the age of eight? From here, as it is written: "And Bezalel, son of Uri, son of Hur, of the tribe of Judah, made all that the Lord commanded Moses" (Exodus 38:22). And it is written: "And Azubah died, and Caleb took for himself Ephrat, who bore him Hur. And Hur begot Uri, and Uri begot Bezalel" (I Chronicles 2:19,20). And when Bezalel made the Tabernacle how old was he? He must have been at least thirteen years old, as it is written: "And all the wise men that carried out all the work of the sanctuary, came every man from his work that they did" (Exodus 36:4), and one who is less than thirteen is not called a man. And it is taught in a baraita: In the first year following the exodus from Egypt Moses made the Tabernacle; in the second year he erected the Tabernacle and sent out the spies.

19. And it is written that Caleb, Bezalel's great-grandfather, said to Joshua: "I was forty years old when Moses the servant of the Lord sent me from Kadesh Barnea to spy out the land" (Joshua 14:7). And he added: "And now, behold, I am this day eighty-five years old" (Joshua 14:10). How many years old was Caleb when he was sent off with the spies? He was forty. Subtract fourteen years, as Bezalel was at least fourteen years old when Caleb was sent to spy out the land. This is known because that mission took place a year after the Tabernacle was erected. This leaves twenty-six years. Subtract two more years for three pregnancies, one preceding the birth of Hur, son of Caleb, one preceding the birth of Uri, son of Hur, and one preceding the birth of Bezalel, son of Uri. **It turns out that three generations were born in twenty-four years, and that each and every parent begot a child at the age of eight.**

Sefaria.org - Sanhedrin 69b

Appendix 3: Talmud Quotes

The following Talmud quotes are a comprehensive representation of the rabbis discussing the numerous laws and reasons governing the institution of child marriage and sexual intercourse with prepubescent children. For balance I have included the few contrary opinions expressed. Links are provided for further study and validation.

Avodah Zarah

Avodah Zarah 15b:7

Abaye raised an objection to Rabba's opinion from a *baraita*: In a place where the people were accustomed to sell small livestock to Samaritans, one may sell the animals to them; in a place where the people were not accustomed to sell them one may not sell the animals to them. What is the reason that the sale of small livestock to Samaritans is prohibited? If we say that it is because Samaritans are suspected of engaging in bestiality, are they suspected of this practice? But isn't it taught in a *baraita*: **One may not keep an animal in the inns of gentiles.** Male animals may not be placed with men, as they are suspected of engaging in bestiality, and female animals may not be left with women, despite the fact that there is no concern that they may engage in bestiality. And needless to say, it is prohibited to leave female animals with men, and male animals with women.

https://www.sefaria.org/Avodah_Zarah.15b

Avodah Zarah 22a:11

MISHNA: One may not keep an animal in the inns [befundekaot] of gentiles because they are suspected of bestiality. Since even gentiles are prohibited from engaging in bestiality, a Jew who places his animal there is guilty of violating the prohibition: "You shall not put a stumbling block before the blind" (Leviticus 19:14). **And a woman may not seclude herself with gentiles because they are suspected of engaging in forbidden sexual relations. And any person may not seclude himself with gentiles because they are suspected of bloodshed.**

https://www.sefaria.org/Avodah_Zarah.22a.11

Avodah Zarah 22b:10

The Gemara asks: With regard to female animals with females, what is the reason that we do not permit them to be secluded with each other? Mar Ukva bar Hama says: It is because gentiles frequent the wives of others, and on occasion the gentile does not find her, and he finds the animal and engages in bestiality with it instead.

Avodah Zarah 22b:11

And if you wish, say instead: Even when he finds the wife, he also engages in bestiality with the animal, as the Master said: **The animal of a Jew is more appealing to gentiles than their own wives,** as Rabbi Yoḥanan says: **At the time when the snake came upon Eve,** at the time of the sin of her eating from the Tree of Knowledge, **it infected her with moral contamination,** and this contamination lingers in all human beings. The Gemara asks: **If that is so, a Jew should also be suspected of engaging in bestiality.** The Gemara answers: **With regard to the Jewish people, who stood at Mount Sinai and received the Torah, their contamination ended,**

whereas in the case of **gentiles, who did not stand at Mount Sinai** and receive the Torah, **their contamination has not ended.**

Avodah Zarah 22b:12

The Gemara inquires with regard to the *halakha* in the case of a bird. **A dilemma was raised before** the Sages: With regard to **birds, what** is the *halakha*? Are gentiles suspected of engaging in bestiality with birds? The Gemara suggests: **Come and hear** a proof that they are suspected of doing so, **as Rav Yehuda says that Shmuel says in the name of Rabbi Hanina: I once saw a gentile who bought a goose in the market, engaged in bestiality with it, strangled it, roasted it, and then ate it. And** similarly, **Rabbi Yirmeya of Difti says: I saw a certain Arab who bought a thigh of meat from the market and carved a space in it that was the size necessary to allow for penetration. Subsequently, he penetrated it, roasted it, and ate it.** These incidents demonstrate that gentiles are suspected of immoral conduct with fowl.

https://www.sefaria.org/Avodah_Zarah.22b

Bava Batra

Bava Batra 156a:4

The Gemara asks: **But once I examined** the boy **for the purpose of betrothal, why do I** need to examine him again **for the purpose of divorce?** The Gemara answers: **This is necessary only with regard to the levirate marriage of a minor, as we learned in a mishna (Nidda 45a): A boy who is nine years and one day old who engaged in intercourse with his yevama, i.e., his brother's widow, acquired her as his wife by means of engaging in the act of intercourse.** Although a minor cannot betroth a woman under ordinary circumstances, in the case of levirate marriage the act of intercourse of a nine-year-old with his *yevama* effects acquisition. **But he cannot give her a bill of divorce until he reaches his majority.** It is therefore necessary to examine him at the time of the divorce.

[...]

Bava Batra 156a:6

The Gemara explains why it is necessary to mention examining a person **for the purpose of stating her refusal.** This is mentioned **to the exclusion of that which Rabbi Yehuda says, as Rabbi Yehuda says that a girl whose mother or brother married her off while she was a minor can nullify her marriage by refusing to remain married, and she can state this refusal until she reaches complete maturity, i.e., when the area covered by black pubic hairs is greater than the skin of the genital area.** Rav Nahman therefore **teaches us that** the *halakha* is **not in accordance with** the opinion of **Rabbi Yehuda,** and **once a girl has developed two pubic hairs she cannot state her refusal.**

https://www.sefaria.org/Bava_Batra.156a

Berakhot

Berakhot 27a:6

Rabbi Yehuda ben Bava testified about five matters of halakha: When an orphan girl, who was married off by her mother or brother before reaching the age of majority, reaches the age of majority, she may refuse to continue living with her husband and thereby retroactively annul their marriage. Normally, marriage refusals

are discouraged. However, in specific instances where it is clear that if the marriage were to remain in effect it would engender problems related to levirate marriage and *ḥalitza*, Rabbi Yehuda ben Bava testified that **one may persuade the minor girl to refuse** to continue living with her husband, thereby resolving the complications involved in this case.

<https://www.sefaria.org/Berakhot.27a>

Chullin

Chullin 26b:8

MISHNA: Any situation where there is the right of refusal for a minor girl married by her mother or brothers, enabling her to opt out of the marriage, **there is no ḥalitza**, as a minor girl whose husband died without children cannot perform *ḥalitza*. **And any situation where there is ḥalitza**, once she has reached majority, **there is no right of refusal**.

Chullin 26b:9

GEMARA: Rav Yehuda says that Rav says: This is the statement of Rabbi Meir, but the Rabbis say: There is the right of refusal in a situation where there is *ḥalitza*, as it is taught in a *baraita*: **Until when may a girl refuse?** She may do so as long as she is a minor, **until she grows two pubic hairs**, which are signs of puberty rendering her a young woman; this is **the statement of Rabbi Meir. Rabbi Yehuda says:** She may refuse **until the black hairs** in the pubic area appear to cover an area **greater than the white** skin of the area uncovered by hair. At that stage, she is already eligible to perform the rite of *ḥalitza*. That is the opinion of the Rabbis.

<https://www.sefaria.org/Chullin.26b.1-19>

Gittin

Gittin 21a:13

And if you wish, say a different answer: **We also have found that agency for receipt can be effective against her will.** How so? **As the halakha is that a father can receive a bill of divorce for his minor daughter against her will.** The *halakhot* of agency are therefore consistent with the *halakhot* with regard to her hand, and Abaye's objection stands.

<https://www.sefaria.org/Gittin.21a>

Gittin 55a:3

And similarly, he testified about the case of the minor daughter of a non-priest who was orphaned from her father and then married off to a priest by her mother or brother, so that her marriage took effect by rabbinic law. He said **that nevertheless she may partake of teruma**, although by Torah law it is prohibited for one who is not in a priestly household to partake of *teruma*. **And furthermore if this girl dies**, then **her husband inherits her estate**. It is not said that because the validity of the marriage is by rabbinic law and not Torah law he is not entitled to inherit from her.

<https://www.sefaria.org/Gittin.55a>

Gittin 64b:6

The mishna teaches: **And any woman who is unable to safeguard her bill of divorce is unable to be divorced. The Sages taught: A minor girl who knows how to safeguard her bill of divorce can be divorced, and one who does not know how to safeguard her bill of divorce cannot be divorced. And which is the minor girl who knows how to safeguard her bill of divorce? It is any minor girl who safeguards her bill of divorce and something else.**

<https://www.sefaria.org/Gittin.64b>

Gittin 65a:6

Apropos the capacity of minors to acquire property, **Rava says that there are three stages in the development of a minor:** With regard to a minor who is given a pebble and he throws it away but when given a nut he takes it, he acquires property for himself but does not acquire property on behalf of others. **And with regard to a minor girl with the corresponding stage of intellectual development, after the death of her father she can be betrothed by her mother and her brother by rabbinic law, and can opt out of that betrothal through refusal.**

Gittin 65a:7

At the next stage of development are young children aged approximately six through eight, whose purchase is a purchase and whose sale is a sale, with regard to movable property. **And with regard to a minor girl with the corresponding stage of development, she is divorced by receipt of her bill of divorce, even if it is from betrothal by her father, which is by Torah law.**

[...]

Gittin 65a:10

And if her father said to the agent: Go out and receive my daughter's bill of divorce on her behalf, then if the husband seeks to retract his decision, he cannot retract it. As a father can receive the bill of divorce on behalf of his minor daughter, he can designate an agent for receipt, and the divorce takes effect when the husband hands the document to the agent.

<https://www.sefaria.org/Gittin.65a>

Keritot

Keritot 11a:16

MISHNA: This mishna cites an additional difference between the status of an espoused maidservant and the status of forbidden relatives. **In all cases of intercourse with those with whom relations are forbidden, if one is an adult and one is a minor, the minor is exempt;** if one is awake and one is sleeping, the sleeping one is exempt; if one commits the act unwittingly and one does so intentionally, the one who did so unwittingly is liable to bring a sin offering and the one who did so intentionally is liable to be punished with *karet*. By contrast, in a case of intercourse with an espoused maidservant, the man is liable to bring a guilt offering only if the woman is flogged, and that is the case only if she was an adult, awake, and committed the sin intentionally.

Keritot 11a:17

GEMARA: The mishna teaches that in all instances of intercourse with those with whom relations are forbidden, a minor is exempt. The Gemara asks: **And** is that to say that **here**, in the case of an espoused maidservant, **a minor is liable?** But a minor is exempt from all liabilities in the Torah. **Rav Yehuda said: This** is what the mishna **is teaching:** In **all** cases of intercourse with **those with whom relations are forbidden**, if **one is an adult and one is a minor, the minor is exempt and the adult is liable. But here, in the case of an espoused maidservant, the adult is also exempt. What is the reason?** Their punishments are linked, **as they are juxtaposed to each other** in the verse: “There shall be an inspection...and he shall bring his guilt offering unto the Lord” (Leviticus 19:20–21).

<https://www.sefaria.org/Keritot.11a>

Ketubot

Ketubot 6a:7

Rav Hisda raised an objection from a mishna (*Nidda* 64b). With regard to a young girl whose time to see the flow of menstrual blood has not arrived, as she has not yet reached puberty, **and she married, Beit Shammai say: One gives her four nights** during which she may engage in intercourse, as any blood is attributed to the ruptured hymen. **Beit Hillel say:** There is no limit. Rather, any blood she sees is attributed to the ruptured hymen **until the wound heals.**

Ketubot 6a:8

If, however, **her time to see the flow of menstrual blood has arrived**, as she has reached the age of puberty, even if she has not yet menstruated, **and she married, Beit Shammai say: One gives her the first night**, during which the blood is attributed to the wound. Thereafter, the blood is presumed to be menstrual blood, and she is forbidden to her husband. **Beit Hillel say: One gives her** from Wednesday, the day designated for marriage of a virgin, **until the conclusion of Shabbat, four nights.** During that period, any blood is attributed to the wound, and she is permitted to her husband.

<https://www.sefaria.org/Ketubot.6a>

Ketubot 9a:2

The Gemara asks: **But why** is she forbidden to him? It is a case of **compound uncertainty.** It is **uncertain** whether she engaged in intercourse while **under his** jurisdiction, after betrothal, in which case she would be forbidden to him, and it is **uncertain** whether she engaged in intercourse while **not under his** jurisdiction, in which case she would not be forbidden to him. **And if you say** that she engaged in intercourse while **under his** jurisdiction, it is **uncertain** whether she engaged in intercourse **by coercion**, in which case she would not be forbidden to him, and it is **uncertain** whether she engaged in intercourse **willingly**, in which case she would be forbidden to him. In cases of compound uncertainty, the ruling is lenient. Why, then, is his claim deemed credible?

Ketubot 9a:3

No, it is necessary to teach this ruling only in the case of **the wife of a priest**, who is rendered forbidden to her husband even if she engaged in intercourse by coercion. In that case, there is a single uncertainty. **And if you wish, say** instead that this ruling is relevant **even to the wife of an Israelite**, and it is in a case **where her father accepted her betrothal** when she was **less than three years and one day old.** Intercourse with a girl less

than three years old does not permanently rupture the hymen, and therefore there is no uncertainty whether she engaged in intercourse before or after betrothal. Clearly, it took place after betrothal, and there is only one uncertainty: Did she engage in intercourse by coercion or willingly?

<https://www.sefaria.org/Ketubot.9a>

Ketubot 10b:8

MISHNA: With regard to a **virgin**, her marriage contract is **two hundred dinars**, and with regard to a **widow**, her marriage contract is **one hundred dinars**. With regard to a **virgin** who is a **widow**, a **divorcée**, or a *ḥalutza* who achieved that status **from** a state of **betrothal**, before marriage and before consummation of the marriage, for all of these **their marriage contract is two hundred dinars**, and they are subject to a claim concerning their **virginity**, as their presumptive status of virginity is intact.

<https://www.sefaria.org/Ketubot.10b>

Ketubot 11a:2

MISHNA: With regard to a **female convert**, or a **captive woman**, or a **maidservant**, who were ransomed with regard to the captive, or **who converted** with regard to the convert, or **who was freed** with regard to the maidservant, **when she was less than three years and one day old**, for all of these, **their marriage contract is two hundred dinars**, as their presumptive status is that of a virgin. Even if they were subject to intercourse when they were younger than that age, the hymen remains restored. And they are subject to a claim concerning their virginity.

[...]

Ketubot 11a:15

MISHNA: With regard to **an adult man who engaged in intercourse with a minor girl** less than three years old; **or a minor boy** less than nine years old **who engaged in intercourse with an adult woman**; or a woman who had her hymen **ruptured by wood** or any other foreign object, **for all these women their marriage contract is two hundred dinars**, as their legal status is that of a virgin. This is **the statement of Rabbi Meir**. **And the Rabbis say: The marriage contract** of a woman whose hymen was **ruptured by wood** is **one hundred dinars**, as physically, since her hymen is not intact, she is no longer a virgin.

<https://www.sefaria.org/Ketubot.11a>

Ketubot 11b:2

And similarly, with regard to a **female convert**, or a **captive woman**, or a **maidservant**, who were ransomed with regard to the captive, or **who converted** with regard to the convert, or **who were freed** with regard to the maidservant, **when she was more than three years and one day old**, for all of these, **their marriage contract is one hundred dinars** and they are not subject to a claim concerning their **virginity**. **When they married, their presumptive status was that of a non-virgin.**

Ketubot 11b:3

GEMARA: Rav Yehuda said that Rav said: **A minor boy who engaged in intercourse with an adult woman renders her** as one whose hymen was **ruptured by wood**, as **the act is not considered full-fledged intercourse.**

Rav Yehuda continues: **When I said** this statement **before Shmuel**, he **said** to me: A woman does **not** achieve the status of one whose hymen was **ruptured by wood** by means of **flesh**, i.e., intercourse.

[...]

Ketubot 11b:5

Rav Oshaya raised an **objection** to the opinion of Rav from the mishna: **With regard to an adult man who engaged in intercourse with a minor girl less than three years old, or a minor boy less than nine years old who engaged in intercourse with an adult woman, or a woman who had her hymen ruptured by wood** or any other foreign object, **the marriage contract** for each of these women is **two hundred** dinars. This is **the statement of Rabbi Meir. And the Rabbis say: The marriage contract** of a woman whose hymen was **ruptured by wood is one hundred** dinars. **Contrary to Rav's opinion, the Rabbis distinguish between the halakha in the case of the intercourse of a minor boy and the halakha in the case of a woman whose hymen was ruptured by wood.**

Ketubot 11b:6

Rava said that **this is what the mishna is saying: An adult man who engaged in intercourse with a minor girl less than three years old has done nothing, as intercourse with a girl less than three years old is tantamount to poking a finger into the eye.** In the case of an eye, after a tear falls from it another tear forms to replace it. **Similarly, the ruptured hymen of the girl younger than three is restored. And a young boy who engaged in intercourse with an adult woman renders her as one whose hymen was ruptured by wood. And with regard to the case of a woman whose hymen was ruptured by wood itself, there is a dispute between Rabbi Meir and the Rabbis.** Rabbi Meir maintains that her marriage contract is two hundred dinars, and the Rabbis maintain that it is one hundred dinars.

<https://www.sefaria.org/Ketubot.11b>

Ketubot 29a:1

MISHNA: These are the cases of **young women for whom there is a fine paid to their fathers** by one who rapes them: **One who engages in intercourse with a mamzeret, or with a Gibeonite woman [netina], who are given [netunim] to the service of the people and the altar (see Joshua 9:27), or with a Samaritan woman [kutit].** In addition, the same applies to **one who engages in intercourse with a female convert, or with a captive woman, or with a maidservant, provided that the captives were ransomed, or that the converts converted, or that the maidservants were liberated when they were less than three years and one day old,** as only in that case do they maintain the presumptive status of a virgin.

[...]

Ketubot 29a:6

And the Rabbis say: With regard to a minor from the age of three years and one day old until she matures into a grown woman, there is a fine for her. The Gemara asks: Is that to say that a **fine, yes, there is, but a sale, no, there is not?** Do the Rabbis maintain that the father has no right to sell his minor daughter? The Gemara emends the text: **Say:**

<https://www.sefaria.org/Ketubot.29a.1-6>

Ketubot 29b:4

The Gemara asks: **And Rav Pappa, what is the reason that he did not cite** the source as **Reish Lakish** did? The Gemara answers: **That derivation from the three instances of the term young woman is required by him to teach in accordance with that which Abaye said, as Abaye said: If one engaged in forced intercourse with a young woman and she died before he stood trial, he is exempt from paying the fine, as it is stated: “And he shall give to the father of the young woman” (Deuteronomy 22:29).** From the fact that the verse does not simply say: To her father, it is inferred: **To the father of the young woman and not to the father of a dead woman. He is liable only if the young woman is still alive.**

<https://www.sefaria.org/Ketubot.29b>

Ketubot 36a:4

And if you say that the entire baraita is in accordance with the opinion of Rabbi Meir, and with regard to a girl who refuses to remain married Rabbi Meir holds in accordance with the opinion of Rabbi Yehuda, that not only a minor girl but a young woman may also end her marriage through refusal, and the baraita is referring to a young woman and not to a minor; but does he maintain that opinion? But isn't it taught in a baraita that he disagrees with Rabbi Yehuda in this matter? It was taught: Until when can a girl refuse to remain married? Until she develops two pubic hairs, signs of puberty rendering her a young woman; this is the statement of Rabbi Meir. Rabbi Yehuda says: She can refuse until the area covered by the black pubic hairs is greater than the white skin of the genital area. That occurs approximately six months later, at which point she becomes a grown woman.

<https://www.sefaria.org/Ketubot.36a>

Ketubot 36b:6

MISHNA: And these are the cases of young women who do not have a fine paid to their fathers when they are raped or seduced: One who has intercourse with a convert or with a captive woman or with a gentile maidservant, who were redeemed, converted, or emancipated when they were more than three years and one day old, as presumably they are no longer virgins. Rabbi Yehuda says: A captive woman who was redeemed remains in her state of sanctity even though she is an adult, as it cannot be stated that she certainly engaged in intercourse.

<https://www.sefaria.org/Ketubot.36b>

Ketubot 38b:9

Abaye said: If one had intercourse with a young woman, and she died before he was sentenced, he is exempt from paying the fine, as it is stated: “And the man who lay with her shall give to the father of the young woman” (Deuteronomy 22:29), from which it is inferred, and not to the father of a dead girl. The Gemara comments: This matter that was obvious to Abaye was raised as a dilemma to Rava.

<https://www.sefaria.org/Ketubot.38b>

Ketubot 40b:7

The mishna continues: **How is her degradation assessed? One considers her as though she were a maidservant sold in the marketplace, and assesses how much she would have been worth beforehand and**

how much she would be worth currently. The Gemara asks: **How do we assess her value? Shmuel's father said: One estimates the difference between how much a person is willing to give to purchase a virgin maidservant and how much he is willing to give to purchase a non-virgin maidservant to serve him.**

Ketubot 40b:8

The Gemara asks: With regard to **a non-virgin maidservant to serve him**; if he purchases her for service, **what difference is there to him** whether or not she is a virgin? **Rather, the difference between a maidservant who engaged in intercourse and a maidservant who did not engage in intercourse is with regard to how much one is willing to marry her to his slave.** The Gemara further asks: **And with regard to marrying her to his slave, what difference is there to him** whether or not she is a virgin? The Gemara answers: It is **with regard to a slave from whom his master has a sense of satisfaction**, and he seeks a virgin for the slave in order to reciprocate. **The difference between the price that the master is willing to pay for each of the maidservants is the degradation that the offender pays the victim.**

<https://www.sefaria.org/Ketubot.40b>

Ketubot 43b:3

MISHNA: One who betroths his minor daughter to a man, and the man subsequently divorces her, and her father then betroths her to another, and she is widowed, the payment specified in her marriage contract, even from her second husband, is his, i.e., it belongs to the father. However, if her father married her off and her husband divorced her, and her father then married her to another man and she was widowed, even the payment specified in her marriage contract from her first marriage is hers. Rabbi Yehuda says that the payment specified in the first marriage contract belongs to the father. They said to him: If it was after he married her off, even the first time, her father no longer has authority over her.

<https://www.sefaria.org/Ketubot.43b>

Ketubot 46b:2

MISHNA: A father has authority over his daughter with regard to her betrothal through money, through a marriage document, or through intercourse. Likewise, a father is entitled to items she has found, and to her earnings, and to effect the nullification of her vows, i.e., a father may nullify his daughter's vows. **And he accepts her bill of divorce** on her behalf if she is divorced from betrothal before she becomes a grown woman. **And although he inherits her property when she dies, e.g., property she inherited from her mother's family, he does not consume the produce of her property during her lifetime.**

<https://www.sefaria.org/Ketubot.46b>

Ketubot 53b:4

The Gemara observes: The dispute between Rav and Levi is like a dispute between *tanna'im*. As we have learned: **Until when is a daughter sustained from her father's property? Until she is betrothed. In the name of Rabbi Elazar they said: Until she becomes a grown woman. Rav Yosef taught the version: Until they become married.** The meaning of the expression: Until they become married, is unclear, and therefore a dilemma was raised before the scholars: **Does this refer to becoming betrothed or to becoming married? No answer was found, and the Gemara states that the dilemma shall stand unresolved.**

<https://www.sefaria.org/Ketubot.53b>

Ketubot 57b:5

Rabbi Zeira said: It was taught in the *Tosefta* (Ketubot 5:1) with regard to a minor girl: **Either she or her father may delay the wedding until she has reached majority.** The Gemara asks: **Granted, she,** the girl herself, **may delay** the wedding if she feels she is not ready, as she is the one who will be directly affected, **but** why should **her father** be allowed to delay her wedding? **If it is suitable for her** to get married, **what difference does it make to her father?** The Gemara answers: **He thinks:** Perhaps she agrees to get married **now** because **she does not** fully know what she is doing. But **tomorrow, she will** realize the marriage was a mistake, **rebel, and leave** her husband, **and** then **she will come back and become** a burden to me. Therefore, her father prefers that she wait until she has reached majority and marry when she is completely aware of what is involved.

Ketubot 57b:6

Rabbi Abba bar Levi said: **One may not finalize** an agreement to marry a minor girl in order to marry her while she is still a minor, **but one may finalize** an agreement to marry a minor girl in order to marry her when she becomes an adult woman. With regard to the latter *halakha*, the Gemara asks: **Isn't that obvious?** If he will marry her when she becomes an adult woman, there is nothing unusual about this case. The Gemara answers: **Lest you say** that one **should be concerned** that **she might become afraid** of marriage **from** making plans **now, and** this **will** cause her resolve to **weaken**, and then even when she becomes an adult she will maintain reservations about the matter, Rabbi Abba bar Levi therefore **teaches us** that one need not be concerned about this. **One may finalize an agreement to marry her as an adult even when she is a minor girl.**

<https://www.sefaria.org/Ketubot.57b>

Ketubot 68a:7

MISHNA: With regard to a minor orphan girl whose mother or brothers married her off, even with her **consent** to a small dowry, she retains her rights to a proper dowry. **And** thus, if they **wrote for her** a dowry of **one hundred or of fifty dinars, she may, upon reaching majority, exact from** her mother, or brothers, or their respective estates the sum of money **that is fit to be given to her** as a dowry, which is one-tenth of the family's estate. Even if she agreed to forgo part of this sum as a minor, she may collect it as an adult.

<https://www.sefaria.org/Ketubot.68a>

Ketubot 69b:9

Rather, the latter clause is the opinion of **Rabbi Meir.** **And** the mishna is **incomplete and this** is what it is teaching: **The third party should execute** the agency that was entrusted in his power. **In what case is this statement said? From the betrothal.** **However, from the marriage she has the authority** to dictate terms. **In what case is this statement said? For an adult woman.** **However, for a minor girl, any action of a minor girl is nothing.** **Rabbi Meir agrees that a minor does not have the authority to transfer the money to her husband.** What, then, is the practical difference between them? **Rather, the practical difference between them is** with regard to **an adult woman from** the time of **betrothal** until the marriage. Rabbi Meir holds that before marriage, she does not have the authority, and Rabbi Yosei holds that she does.

<https://www.sefaria.org/Ketubot.69b>

Ketubot 73a:2

The Gemara asks: **But they already disagree about this** fundamental issue of whether it may be assumed that a person does not intentionally engage in licentious sexual intercourse **one other time**. **As it is stated:** **With regard to a minor girl whose mother or brother married her off, and who did not refuse her husband, despite having the right to do so, and when she became an adult she arose and married someone else, Rav said: She does not require a bill of divorce from the second one.** Since she did not refuse the first husband while still a minor, and presumably he later engaged in sexual intercourse with her when she became an adult, and since the assumption is that he does not intentionally engage in licentious relations, **the first marriage is binding and the second is meaningless.**

<https://www.sefaria.org/Ketubot.73a>

Ketubot 73b:15

Abaye again **raised an objection to** Rabba's statement from a *baraita*: **The Rabbis concede to Rabbi Eliezer concerning a minor girl who was married off by her father and then divorced while she was still a minor, and is therefore treated by the halakha as an orphan in the lifetime of the father,** since the *halakha* is that the father is no longer able to marry her off to someone else, **and while she was still a minor, her former husband remarried her,** and he then died without children, **that she performs *halitza* and may not instead enter into levirate marriage.**

[...]

Ketubot 73b:17

The *baraita* continues: **In what case is this statement said? When he divorced her while she was still a minor girl and then remarried her while she was still a minor girl. But if he divorced her while she was still a minor girl, and then remarried her when she was an adult woman, or if he remarried her while she was still a minor girl and she became an adult woman while married to him, the second marriage is binding, and she has the status of a full-fledged married woman. And therefore, if he died, either she performs *halitza* or she enters into levirate marriage like any other widow.**

<https://www.sefaria.org/Ketubot.73b>

Ketubot 80a:4

Rav Yaakov said that Rav H̄isda said: **With regard to one who outlays expenditures for the property of his wife who is a minor girl and was married off by her mother or brothers, he is considered like one who outlays expenditures for the property of someone else.** Therefore, if she performed refusal upon reaching maturity, **thereby annulling the marriage,** he takes the value of the improvement. **What is the reason for this? The Sages enacted this ordinance in order that he should not let her property depreciate.** If he is not guaranteed reimbursement for his expenses if she refuses him as her husband, he will not attend to the upkeep of her property, causing its value to decline.

<https://www.sefaria.org/Ketubot.80a>

Ketubot 90a:2

MISHNA: **In the case of a minor who was married off by his father, the wife's marriage contract that the minor wrote is valid even after the husband comes of age.** He cannot excuse himself by saying that it was drafted

when he was a minor, as it is **on this condition**, the terms of this marriage contract, that **he maintained her** as his wife upon his maturity. Similarly, in the case of **a convert whose wife converted with him**, the **marriage contract** that she had as a gentile is **valid, for on this condition he maintained her** as his wife.

Ketubot 90a:3

GEMARA: Rav Huna said: They taught that the wife of a minor or convert receives payment **only** with regard to the main sum of **one hundred dinars** or **two hundred dinars**. **However, she does not have** the right to receive the **additional** sum that he wrote in her marriage contract, because this document is not legally binding, as it was written by a minor. She receives the main sum only as a result of an ordinance instituted by the Sages. **And Rav Yehuda said: She has even the additional** sum.

<https://www.sefaria.org/Ketubot.90a.1-7>

Ketubot 101a:5

Rabbi Yehoshua says: The act of marriage by a minor girl is something, i.e., has legal impact, **and her husband is entitled to any lost article that she finds and to her earnings; and he is able to annul her vows; and he inherits from her; and he becomes impure for her**, even if he is a priest. **The principle is that her legal status is that of his wife in every sense, except for the fact that she leaves this union through refusal** and does not need a bill of divorce.

<https://www.sefaria.org/Ketubot.100a>

Kiddushin

Kiddushin 2a:1

MISHNA: A woman is acquired by, i.e., becomes betrothed to, a man to be his wife **in three ways, and she acquires herself**, i.e., she terminates her marriage, **in two ways**. The mishna elaborates: **She is acquired through money, through a document, and through sexual intercourse**. With regard to a betrothal **through money**, there is a dispute between *tanna'im*: **Beit Shammai say** that she can be acquired **with one dinar or with anything that is worth one dinar**. **And Beit Hillel say:** She can be acquired **with one peruta**, a small copper coin, **or with anything that is worth one peruta**. The mishna further clarifies: **And how much is the value of one peruta**, by the fixed value of silver? The mishna explains that it is **one-eighth of the Italian issar**, which is a small silver coin.

Kiddushin 2a:2

And a woman acquires herself through a bill of divorce or through the death of the husband. A woman whose husband, who had a brother, died childless [yevama], can be acquired by the deceased husband's brother, the *yavam*, **only through intercourse. And she acquires herself**, i.e., she is released from her levirate bond, **through halitza or through the death of the yavam**.

<https://www.sefaria.org/Kiddushin.2a.1-5>

Kiddushin 3b:4

The mishna teaches that a woman can be acquired **with money**. The Gemara asks: **From where do we derive that a woman can be acquired through money? And furthermore**, with regard to **that which we learned** in a

mishna (*Ketubot* 46b): **A father has authority over his daughter with regard to her betrothal, whether it is through money, through a document, or through sexual intercourse, from where do we derive that she is acquired by her husband with money, and that this money is her father's?**

<https://www.sefaria.org/Kiddushin.3b>

Kiddushin 10a:5

Alternatively, there is a difference with regard to **a High Priest who acquires a virgin through sexual intercourse**. If only the end of intercourse effects acquisition, she is no longer a virgin at the time of the betrothal, which would mean that a High Priest cannot acquire a woman through intercourse, as it is prohibited for him to marry a non-virgin (*Leviticus* 21:14). **What, then, is the *halakha*? Ameimar said in the name of Rava: Anyone who engages in sexual intercourse has the completion of the act of intercourse in mind, not the beginning. Therefore, the acquisition is complete only when the act has been completed.**

[...]

Kiddushin 10a:8

Abaye said: Come and hear a resolution from the following mishna (*Ketubot* 46b): A father has authority over his daughter with regard to her betrothal, whether it is through money, through a document, or through sexual intercourse. Likewise, a father **has a right to items she has found, and to her earnings, and to effect the nullification of her vows**, i.e., a father may nullify his daughter's vows. **And he accepts her bill of divorce on her behalf if she is divorced from betrothal before she becomes a grown woman.** And although he inherits her property when she dies, e.g., property she inherited from her mother's family, **he does not enjoy the profits of her property during her lifetime.** If the daughter **married, the husband has more rights and obligations than her father had before the marriage, as he enjoys the profits of her property during her lifetime.**

[...]

Kiddushin 10a:10

Rava said: Come and hear a resolution from a *baraita*: A girl who is three years and one day old can be betrothed through intercourse, and if her *yavam* engaged in intercourse with her, he has acquired her. And if she is married, one is liable if he engages in intercourse with her, due to her status as a married woman. And if she is impure as a menstruating woman, **she renders one who engages in intercourse with her ritually impure for seven days.**

<https://www.sefaria.org/Kiddushin.10a>

Kiddushin 18a:15

The Gemara asks: **Here too**, in the case of a Hebrew maidservant, the father **might go back and sell her** as a maidservant again and receive money for her a second time. The Gemara answers that it **is taught: A maidservant is not sold a second time. And whose opinion is this? It is that of Rabbi Shimon, as it is taught in a *baraita*: One can sell, i.e., transfer, his young daughter in marriage and go back and betroth her again if she was divorced or widowed. Likewise, he can sell her into slavery and transfer her again, this time for marriage, after he sold her into slavery. But one cannot sell his daughter into slavery after marriage. Rabbi Shimon says: Just as a person cannot sell his daughter into slavery after marriage, so too, a person cannot sell his daughter into slavery after slavery.**

<https://www.sefaria.org/Kiddushin.18a>

Kiddushin 18b:4

The Gemara suggests: **Come and hear** a solution to this dilemma. *“Bevigdo vah”* means: **Once** her master **has spread his garment over her**, the father **may no longer sell her**. The Gemara analyzes this statement: **This indicates that her father cannot sell her afterward, but he can designate her for another man if the master dies or divorces her. And if you say that designation effects marriage, once she is married her father no longer has authority over her. Rather, is it not correct to learn from this that designation effects only betrothal?**

<https://www.sefaria.org/Kiddushin.18b>

Kiddushin 19a:4

Rabbi Zeira said: Come and hear a solution to this dilemma from the verse: “And the man who commits adultery with the wife of another man, even he that commits adultery with his neighbor’s wife, both the adulterer and the adulteress shall surely be put to death” (Leviticus 20:10). **The Sages expounded that the term “man” serves to exclude a minor who commits adultery. The phrase “who commits adultery with the wife of another man” serves to exclude the wife of a minor, as the marriage of a minor is invalid. And if you say that a father can designate a wife for his minor son, and designation effects betrothal or marriage, we find that there is marriage for a minor.**

Kiddushin 19a:5

The Gemara challenges this proof: **But rather, what** will you say, that a master **cannot designate** a maidservant for his son who is a minor? If so, **why does the verse exclude him?** If the marriage of a minor is never valid, why is it necessary for the verse to exclude him? On the contrary, **resolve from here that one can designate** for his minor son. **Rav Ashi said: One could say that here, when this verse excludes the wife of a minor, we are dealing with a yavam who is nine years and one day old who engaged in sexual intercourse with his yevama, and his intercourse is considered valid.**

[...]

Kiddushin 19a:13

Rava says that Rav Nahman says: A person may say to his minor daughter: Go out and accept your betrothal, and when she accepts the betrothal it is as though she were appointed the father’s agent for her betrothal, despite the fact she is not halakhically competent. From where is this derived? It is derived **from that** which **Rabbi Yosei, son of Rabbi Yehuda** said.

<https://www.sefaria.org/Kiddushin.19a>

Kiddushin 41a:8

The mishna teaches: **A man can betroth his daughter to a man when she is a young woman.** The Gemara infers: **When she is a young woman, yes,** he can betroth her; **when she is a minor, no,** he cannot betroth her. This statement **supports** the opinion of **Rav, as Rav Yehuda says that Rav says, and some say** it was said by **Rabbi Elazar: It is prohibited for a person to betroth his daughter to a man when she is a minor, until such time that she grows up and says: I want to marry so-and-so.** If a father betroths his daughter when she is a minor and incapable of forming an opinion of the husband, she may later find herself married to someone she does not like.

<https://www.sefaria.org/Kiddushin.41a.3-12>

Kiddushin 44b:10

The Gemara quotes another opinion. **Ulla said: If a minor accepted betrothal without her father's consent, her betrothal does not take effect, and she does not even require refusal.** The Gemara asks: Does Ulla's statement apply **even though they arranged** the match? The Gemara answers: **He who teaches this does not teach that.** The one who cited Ulla's statement does not hold that Shmuel's ruling applies only in the case of an arranged match, rather it applies in all cases. According to this opinion, Ulla stated his *halakha* only in a case where the match was not arranged. **There are those who say that Ulla says: If a minor became betrothed without her father's consent, she does not even require refusal,** including a case where the match was arranged.

<https://www.sefaria.org/Kiddushin.44b>

Kiddushin 45b:8

Rav Shmuel bar Rav Yitzhak says: **And Rav concedes that if the minor girl dies, the husband does not inherit from her,** because of the principle: **Establish money in the possession of its owner.** Since the validity of her marriage is a matter of uncertainty, as the father might protest it, the money remains with her previous inheritors.

<https://www.sefaria.org/Kiddushin.45b>

Kiddushin 46a:2

It was stated that *amora'im* disputed the following issue: **In the case of a minor girl who became betrothed without her father's consent, Rav says: Either she or her father is able to prevent the betrothal from taking effect. And Rav Asi says: Her father can prevent it but not she,** since she initially agreed. **Rav Huna raised an objection to Rav Asi, and some say it was Hiyya bar Rav who raised an objection to Rav Asi:** The *baraita* states in the case of a seduced woman: **"If her father refuses to give her to him, he shall pay money according to the dowry of virgins"** (Exodus 22:16). The Sages expounded: **I have derived only the halakha that her father can refuse to give her to the seducer in marriage; from where do I derive that she herself can also refuse? The verse states: "If he refuses [ma'en yema'en]."** **The repetition of the verb indicates that the right of refusal exists in any case. Despite the fact that she was seduced, she can change her mind and say that she does not want to marry him.**

<https://www.sefaria.org/Kiddushin.46a>

Kiddushin 63b:4

MISHNA: With regard to a man who said: I betrothed my minor daughter to someone but I do not know to whom I betrothed her, and one man came forward and said: I betrothed her, his claim is **deemed credible.** If two men stepped forward and **this one said: I betrothed her, and that one said: I betrothed her,** they must **both give her a bill of divorce** to render it permitted for her to marry anyone else. **And if they so desire, one of them gives her a bill of divorce and the other one may marry her.**

<https://www.sefaria.org/Kiddushin.63b>

Kiddushin 64a:2

MISHNA: If a father says: **I betrothed my minor daughter** to someone, or: **I betrothed her** to someone **and accepted her divorce when she was a minor girl, and she is still a minor girl** at the time of this statement, he is **deemed credible** to render her forbidden to all other men as a married woman, or to a priest as a divorced woman. But if he says: **I betrothed her** to someone **and accepted her divorce when she was a minor, and she is an adult woman** at the time of his declaration, his statement is **not deemed credible**. Likewise, if he says: **She was taken captive and I redeemed her, he is not deemed credible** to disqualify her from marrying a priest **whether she was a minor girl or an adult woman**.

<https://www.sefaria.org/Kiddushin.64a>

Kiddushin 64b:8

The Gemara asks a different question: This *halakha* is **obvious**, as **what are grown women doing** in this context, i.e., how could it be suggested that a father could betroth to a man his daughter who is a grown woman? **His authority extends only to his minor daughters**. The Gemara answers: **Here we are dealing with** a case **where** the adult daughter **appointed** her father as her **agent** to accept her betrothal, and he proceeds to betroth one of his daughters without specifying which one. **Let you say** with regard to this situation that **when he accepts the betrothal he accepts it with his adult daughter in mind**, as he is her agent, the mishna **teaches us** that **a person does not put aside a matter from which he derives benefit**, i.e., the betrothal of his minor daughter, where he keeps the money, **and perform a matter from which he does not derive benefit**, i.e., the betrothal of his adult daughter, where she keeps the money.

<https://www.sefaria.org/Kiddushin.64b>

Kiddushin 74b:1

This is what the mishna is saying: **All those for whom it is prohibited to enter into the congregation of the priesthood**. Rav Yehuda adds parenthetically: And **who are they?** Even a female who became a **convert at less than three years and one day old, and this is not in accordance with** the opinion of **Rabbi Shimon ben Yoḥai**, who holds that such a girl is permitted to marry a priest. Rav Yehuda resumes his presentation of the statement of Rabbi Yehuda: They **are permitted to marry** into those families that are prohibited from entering into the congregation but are permitted to marry **one another**.

[...]

Kiddushin 74b:14

The Sages taught (*Tosefta*, *Yevamot* 8:1): **A boy nine years and one day old, whose sexual intercourse is considered an act of intercourse with regard to sexual transgressions**, who was an **Ammonite or Moabite convert**, or an **Egyptian or Edomite convert**, or a **Samaritan**, or a **Gibeonite**, a *ḥalal*, or a *mamzer*, and **who engaged in sexual intercourse with the daughter of a priest, or the daughter of a Levite, or an Israelite woman, has thereby disqualified her from the priesthood**. **Rabbi Yosei says:** **Anyone whose offspring is unfit to marry a priest disqualifies** a woman with whom he engages in intercourse from marrying a priest; **and anyone whose offspring is not unfit does not disqualify** her. **Rabban Shimon ben Gamliel says:**

<https://www.sefaria.org/Kiddushin.74b>

Kiddushin 78a:19

The mishna states that **Rabbi Eliezer ben Ya'akov** says that the daughter of a **convert** and a Jewish woman is fit to marry into the priesthood. It is taught in a *baraita*: **Rabbi Shimon ben Yoḥai** says: **A female who converts at less than three years and one day old is fit to marry into the priesthood**, as it is stated after the war with Midian: **“But all the female children who have not known a man by lying with him, keep alive for yourselves”** (Numbers 31:18), i.e., you may marry them. **But wasn't Pinehas** the priest **with them**, and yet the Torah permitted these women to all of them, which indicates that girls who are not of age when they convert are permitted even to priests. **And how do the Rabbis, who hold that even a girl who converts at less than three years and one day old is unfit to marry into the priesthood, interpret this verse? In their opinion, “keep alive for yourselves” means as slaves and as maidservants, but not for marriage.**

<https://www.sefaria.org/Kiddushin.78a>

Kiddushin 80b:4

MISHNA: A man may not be secluded with two women lest he sin with them, **but one woman may be secluded with two men.** **Rabbi Shimon** says: **Even one man may be secluded with two women when his wife is with him, and** in that situation he may even **sleep** in the same inn with two women, **because his wife guards him** from sinning with them. **They further said that a man may be secluded with his mother, and with his daughter, and sleep alongside them with bodily contact** without clothes, since there is no concern that they will engage in sexual intercourse. **And when they, the son or daughter, have grown up, this one sleeps in her garment and that one sleeps in his garment, but they may share a bed.**

<https://www.sefaria.org/Kiddushin.80b>

Kiddushin 81b:13

The mishna teaches that **when one's children have grown up, this one sleeps in his garment** and that one sleeps in her garment, but they may share a bed. The Gemara asks: **And how old must a child be to be considered grown up for the purposes of this halakha? Rav Adda bar Rav Azza** says that **Rav Asi** says: **A girl must reach the age of nine years and one day; a boy must reach the age of twelve years and one day. There are those who say: A girl must reach the age of twelve years and one day; a boy must reach the age of thirteen years and one day. And according to this and that, according to both opinions, the girl is considered a child until she has reached the stage of: “Your breasts were fashioned, and your hair was grown”** (Ezekiel 16:7), meaning the onset of puberty.

Kiddushin 81b:14

Rafram bar Pappa says that **Rav Hisda** says: **They taught** that a man may sleep in close proximity to his minor daughter **only if she is not ashamed to stand naked before him, but if she is ashamed to stand naked before him, it is prohibited** for him to sleep close to her, regardless of her age. **What is the reason? It is that the inclination has a hold upon her, as otherwise she would not be ashamed.**

<https://www.sefaria.org/Kiddushin.81b>

Kiddushin 82a:3

GEMARA: What is the reason that a bachelor may not teach children? **If we say** it is **due to the children themselves, that it is suspected** that he may engage in homosexual intercourse with them, **but isn't it taught**

in a *baraita* (*Tosefta* 5:10): **They said to Rabbi Yehuda: Jews are not suspected of engaging in homosexual intercourse nor of engaging in intercourse with an animal. Rather,** the reason is as follows: **A bachelor** may not be a teacher of children **due to the mothers of the children**, who come to the school from time to time, with whom he might sin. Similarly, **a woman** may not serve as a teacher to children **because** she may come to be secluded with **the fathers of the children**.

<https://www.sefaria.org/Kiddushin.82a>

Nedarim

Nedarim 20b:4

Rabbi Yoḥanan said: That is the statement of Yoḥanan ben Dehavai. However, the Rabbis said: The *halakha* is not in accordance with the opinion of Yoḥanan ben Dehavai. **Rather, whatever a man wishes to do with his wife he may do.** He may engage in sexual intercourse with her in any manner that he wishes, and need not concern himself with these restrictions. As an allegory, it is like meat that comes from the butcher. If he wants to eat it with salt, he may eat it that way. If he wants to eat it roasted, he may eat it roasted. If he wants to eat it cooked, he may eat it cooked. If he wants to eat it boiled, he may eat it boiled. And likewise with regard to fish that come from the fisherman.

<https://www.sefaria.org/Nedarim.20b.1-13>

Nidda

Niddah 8a:6

As it is taught in a *baraita*: **Rabbi Yehuda ben Bava testified about five matters of halakha:** Normally, marriage refusals of girls married off by their mother or brothers are discouraged. Yet, in specific instances where it is clear that if the marriage were to remain in effect it would engender problems related to levirate marriage and *ḥalitza*, **the court persuades minor girls to refuse to continue living with their husbands**, thereby resolving the complications involved in the case.

<https://www.sefaria.org/Niddah.8a>

Niddah 11b:4

The mishna teaches: **And** even a woman with a fixed menstrual cycle **engages in intercourse while using examination cloths** to ascertain whether her menstrual flow began, except for a woman after childbirth who is observing the period of the blood of purity, and a virgin whose blood is ritually pure for four days after engaging in intercourse for the first time. In this connection, the Gemara notes that **we learned** in a mishna **there** (64b): **With regard to a young girl whose time to see the flow of menstrual blood has not arrived, as she has not yet reached puberty, and she married, Beit Shammai say: The Sages give her four nights after intercourse during which the blood is attributed to her torn hymen and she is ritually pure.** Thereafter, any blood is menstrual blood and she is impure. **And Beit Hillel say:** The blood is attributed to the torn hymen **until the wound heals**.

Niddah 11b:5

With regard to Beit Hillel's statement, **Rav Giddel says that Shmuel says: They taught this only in a case where she does not stop seeing blood due to intercourse.** In other words, every time she engages in intercourse she experiences bleeding. In that case, even if **she saw blood not due to intercourse**, Beit Hillel still attribute the blood to the torn hymen. **But if she stops seeing blood due to intercourse, and then she subsequently saw blood on another occasion, that blood renders her impure.**

<https://www.sefaria.org/Niddah.11b>

Niddah 13b:7

Rather, the *baraita* means that they marry minor girls who are not yet capable of bearing children, consequently emitting semen for naught. As Rabbi Yosei said: The Messiah, son of David, will not come until all the souls of the body have been finished, i.e., until all souls that are destined to inhabit physical bodies do so. As it is stated: "For the spirit that enwraps itself is from Me, and the souls that I have made" (Isaiah 57:16). The verse is interpreted as follows: The spirit, i.e., the souls about which it has been decreed by Me that they are to be born, if they are not born, they enwrap the Messiah and prevent him from coming.

<https://www.sefaria.org/Niddah.13b>

Niddah 32b:2

The Gemara objects: **But what about that which is taught in a *baraita* with regard to a woman who experiences a discharge of uterine blood after her menstrual period [*zava*]:** The verse states: "And if a woman has an issue of her blood many days" (Leviticus 15:25). From the word "**woman**" I have derived **only** that *ziva* applies to an adult **woman**. From **where** do I derive **that a ten-day-old girl is included in the *halakhot* of *ziva*?** **The verse states: "And if a woman."** **Why do I need the verse? Let one derive that a ten-day-old girl is included in the *halakhot* of *ziva* from the fact that a one-day-old girl is included in the *halakhot* of a menstruating woman,** as a woman may become a *zava* only after seven days of menstruation and three subsequent days of experiencing uterine discharge.

<https://www.sefaria.org/Niddah.32b>

Niddah 43b:27

MISHNA: A baby girl, even one who is one day old, who experiences an emission of blood, becomes impure with the impurity of a menstruating woman. A baby girl who is **ten days old** who experiences an emission of blood for three consecutive days after the conclusion of the seven days fit for menstruation **becomes impure with the impurity of *ziva*,** and is therefore obligated to observe seven clean days before immersion.

<https://www.sefaria.org/Niddah.43b>

Niddah 44b:9

MISHNA: A girl who is three years and one day old, whose father arranged her betrothal, is betrothed through intercourse, as the halakhic status of intercourse with her is that of intercourse in all halakhic senses. And in a case where the childless husband of a girl three years and one day old dies, if his brother the *yavam* engages in intercourse with her, he acquires her as his wife; and if she is married, a man other than her husband is liable for engaging in intercourse with her due to violation of the prohibition against intercourse with a married woman.

[...]

Niddah 44b:11

If **she marries a priest, she may partake of *teruma***, like any other wife of a priest; if she is unmarried and **one of the men who are unfit** for the priesthood, e.g., a *mamzer* or *ḥalal*, **engaged in intercourse with her, he disqualifies her from marrying into the priesthood**, and if she is the daughter of a priest, she is disqualified from partaking of *teruma*. **Finally, if one of all those with whom relations are forbidden, as stated in the Torah**, e.g., her father or her husband's father, **engaged in intercourse with her, they are executed by the court for engaging in intercourse with her, and she is exempt**, because she is a minor.

Nidda 44b:12

If the girl is **less than that age**, younger than three years and one day, the status of intercourse with her is **not that of intercourse in all halakhic senses**; rather, it is **like placing a finger into the eye**. Just as in that case, the eye constricts, sheds tears, and then returns to its original state, **so too, in a girl younger than three years and one day old, the hymen returns to its original state**.

Nidda 44b:13

GEMARA: The Sages taught in a *baraita*: A girl who is three years old is betrothed through intercourse; this is the statement of Rabbi Meir. And the Rabbis say: She must be three years and one day old. The Gemara asks: **What is the difference between their opinions**, as both agree that she cannot be betrothed before the age of three? The Sages **of the school of Rabbi Yannai said: There is a difference between their opinions in the case of a girl on the eve of the first day of the fourth year of her life.** According to Rabbi Meir, she can be betrothed through intercourse, as on this day three years are complete, whereas the Rabbis maintain that she cannot be betrothed in this manner, as she has not yet entered the first day of her fourth year.

<https://www.sefaria.org/Niddah.44b>

Niddah 45a:3

The last clause of the mishna teaches that if the girl is **less than that age**, i.e., younger than three years and one day, the status of intercourse with her is **like placing a finger into the eye**. **A dilemma was raised before the Sages: What happens to this hymen**, i.e., to the hymen of a girl under three with whom a man engaged in intercourse? **Does it disappear and come back again later, or perhaps it is not removed at all until after she reaches the age of three?**

Niddah 45a:4

The Gemara asks: **What difference is there in *halakha* between these two suggestions?** The Gemara answers that there is a **practical ramification in a case where a priest engaged in intercourse with a girl to whom he is married within her first three years, and found blood on her due to that intercourse, and again engaged in intercourse with her many times, including after she turned three, but on that occasion he did not find blood.** **If you say that after engaging in intercourse when the girl is younger than three, the hymen disappears and comes back again**, here one can maintain that it disappeared due to the first time they engaged in intercourse and did not grow back because **there was not enough time without intercourse for it to grow back**.

Niddah 45a:5

But if you say that the hymen is not removed at all until after she reaches the age of three, the fact that **this girl did not emit blood after three years must be because another man engaged in intercourse with her after**

she turned three, in which case she is classified as a *zona*, a woman who has engaged in sexual intercourse with a man forbidden to her by the Torah, and is forbidden to her husband the priest. The Gemara reiterates: **What**, then, is the resolution of the dilemma?

Niddah 45a:6

Rav Hiyya, son of Rav Ika, objects to this explanation of the practical ramifications of the dilemma: **But** even if one maintains that the hymen of a girl younger than three disappears and grows back, **one can still contend that this girl engaged in intercourse with another man, as who will say to us that a wound that was inflicted within three years of a girl's birth is not restored** and healed **immediately? Perhaps it is restored immediately, and this** girl did not emit blood because **another** man **engaged in intercourse with her** previously, and she is therefore a *zona* who is forbidden to a priest.

Niddah 45a:7

Rather, the practical **difference** between the two suggestions relates to a case **where** the husband **engaged in intercourse** with this girl **within** her first **three** years, **and found blood, and engaged in intercourse with her again after she turned three, and again found blood**. **If you say** that the hymen **disappears and comes** back again, **this** blood emitted when **she is less than three years old is blood** from the tearing of **the hymen**, which does not render her impure. **But if you say** that the hymen **is not removed** at all **until after** she reaches the age of **three**, then **this** blood she emitted when she was younger than three **is menstrual blood**, which renders her impure. **What**, then, is the resolution of the dilemma?

Niddah 45a:8

Rav Hisda said: Come and hear the mishna: If the girl is **less than that** age of three years and one day, **intercourse with her is like placing a finger into the eye**. **Why do I** need the mishna **to teach: Like placing a finger into the eye?** Let it **teach** simply: If she is **less than that** age, intercourse with her is **nothing**. **What, is it not** correct that **this** is what the mishna **teaches us**, by its comparison to an eye: **Just as** placing a finger in **an eye** causes it to **tear and tear again**, when another finger is placed in it, **so too after the intercourse of a girl under three the hymen disappears and comes** back again?

[...]

Niddah 45a:19

MISHNA: In the case of a boy, **nine years and one day old**, whose brother had died childless, **who engaged in intercourse with his yevama**, his brother's widow, the status of the intercourse is that of halakhic intercourse and **he acquires her** as his wife; **but he cannot give** her a **bill of divorce**, if he chooses to end the marriage, until he reaches majority.

[...]

Niddah 45a:22

GEMARA: The mishna teaches that a boy aged nine years and one day cannot give his *yevama* a bill of divorce until he reaches majority. The Gemara asks: **And even when he reaches majority, is a bill of divorce enough to enable her** to marry any man? **But isn't it taught** in a *baraita* that the Sages rendered the halakhic status of the act of **intercourse of** a boy **nine** years and one day **old like** that of **levirate betrothal** by means of money or a document performed **by an adult man**, which is an acquisition by rabbinic law? **Accordingly, she is not his full-fledged wife**.

<https://www.sefaria.org/Niddah.45a>

Niddah 46a:12

In summary of the rulings cited above, **Rava said: The *halakha*** is that the development of two hairs **during the time** is considered **as before the time**, and it does not render one an adult. **Rav Shmuel bar Zutra teaches this *halakha* of Rava in this formulation: Rava says: With regard to a minor girl whose father has passed away and whose mother or brothers accepted betrothal on her behalf, a form of betrothal instituted by the Sages, throughout her entire twelfth year she has the continuous right to perform refusal with regard to this marriage and thereby annul it. From that point forward, when she is already an adult, she may no longer perform refusal, and she may not perform *ḥalitza* with the brother of her husband, if he died without children.**

[...]

Niddah 46a:14

And if you would say that Rava is uncertain whether a twelve-year-old girl is presumed to have developed two hairs and is therefore an adult, or whether it is presumed that **she has not yet grown two hairs and remains a minor**, and consequently he is stringent on both counts, **that she may not perform refusal, like an adult, but she may also not perform *ḥalitza*, like a minor**, this suggestion is problematic, as is Rava actually **uncertain** in this regard? **But doesn't Rava say: A minor girl who reached her full age of maturity, i.e., twelve years and one day, does not require examination** to determine whether she has grown two hairs, as there is a **presumption that she has developed signs** indicating puberty.

[...]

Niddah 46a:20

With regard to the issue of whether there is concern that hairs might have fallen out, **Rav Dimi of Neharde'a said: The *halakha*** is that if a girl reached the age of twelve and she was examined and the signs of puberty were not found, **we are concerned that perhaps the pubic hairs fell out. Consequently, if her mother or brothers had accepted betrothal for her when she was a minor, she cannot perform refusal at that stage.**

<https://www.sefaria.org/Niddah.46a>

Niddah 47a:10

With regard to the periods both **during this stage, minority, and during that stage, young womanhood**, the Sages **said that her father is entitled to any lost object that she finds that cannot be returned to its owner, and to her earnings, and to nullification of her vows. A ripe fig represents the stage of grown womanhood: Once she has reached her majority, her father no longer has authority over her.** He can no longer nullify her vows, and he does not have a claim to lost objects found by her and her earnings belong to her.

<https://www.sefaria.org/Niddah.47a>

Niddah 47b:18

And furthermore, it is taught in a *baraita* that Rabbi Yosei ben Keifar says in the name of Rabbi Eliezer with regard to the *halakhot* of a sexually underdeveloped man and a sexually underdeveloped woman: The twentieth year, of which thirty days have passed, i.e., from the age of nineteen and thirty days, is considered like the twentieth year in all regards; and Rabbi Yehuda HaNasi similarly issued a practical ruling of *halakha* in the city of Lod, that the eighteenth year of which thirty days have passed is considered like the eighteenth year in all regards.

<https://www.sefaria.org/Niddah.47b>

Niddah 52a:2

MISHNA: A young girl who reached the age of puberty and grew two pubic hairs is an adult. If her childless husband dies, she either performs *halitza* and is thereby permitted to marry anyone, or enters into levirate marriage with her husband's brother. And furthermore, such a girl is obligated to fulfill all the mitzvot stated in the Torah in which women are obligated.

[...]

Niddah 52a:5

A young girl who reached the age of puberty and grew two pubic hairs can no longer perform refusal to end a marriage with a husband to whom she was married as a minor by her mother and brothers after her father's death. Rabbi Yehuda says: She retains the right to perform refusal until the pubic hair will grow to the extent that the black hair will be preponderant in the pubic area.

[...]

Niddah 52a:12

And Rabbi Yehuda concedes to the Rabbis that if she engaged in intercourse with her husband after she grew two pubic hairs, she can no longer perform refusal. This is because the act of intercourse renders her betrothed to him by Torah law, and refusal is a rabbinic enactment that is effective only with regard to a betrothal that applies by rabbinic law.

[...]

Niddah 52a:17

And the Gemara relates that as a result of the event involving Rabbi Yishmael's daughter, the Sages assembled, counted the votes, and concluded: **Until when may a young girl perform refusal? Until she grows two pubic hairs.** Once Rav Kahana's colleagues heard this, they retracted and did not perform an action in accordance with the opinion of Rabbi Yehuda in the mishna, to permit the girl to perform refusal as they had originally planned.

<https://www.sefaria.org/Niddah.52a>

Niddah 64b:5

MISHNA: In the case of a young girl whose time to see a menstrual flow, i.e., the age of puberty, has not yet arrived, and she married and engaged in intercourse and her hymen was torn, Beit Shammai say: The Sages give her four nights after intercourse during which the blood is attributed to the torn hymen and she remains ritually pure. Thereafter, any blood is assumed to be menstrual blood and renders her impure. And Beit Hillel say: The blood is attributed to the torn hymen until the wound heals.

Niddah 64b:6

In the case of a young woman whose time to see a menstrual flow has arrived but she has not yet begun to menstruate, and she married and engaged in intercourse and her hymen was torn, Beit Shammai say: The Sages give her the first night during which the blood is attributed to the torn hymen. Thereafter, any blood is assumed to be menstrual blood. And Beit Hillel say: The blood is attributed to the torn hymen until the

conclusion of Shabbat, and she may engage in intercourse with her husband for **four nights**, as it was customary for a virgin to marry on Wednesday.

[...]

Niddah 64b:9

This explanation of Rav Nahman bar Yitzhak is also taught in a *baraita*: **Beit Hillel say: With regard to a young girl who has not yet reached puberty, the blood she emits is attributed to the torn hymen until the wound heals**, regardless of **whether she has seen** menstrual blood beforehand or **whether she has not yet seen** menstrual blood.

Niddah 64b:10

The mishna teaches that Beit Hillel say: The blood is attributed to the torn hymen **until the wound heals**. The Gemara clarifies: **Until when** can the blood be attributed to the torn hymen? **Rav Yehuda says that Rav says: All the time that she is *noheret***. Rav Yehuda continues: **When** I subsequently **said this *halakha* before Shmuel, he said to me: This *noheret*, I do not know what it is**, nor do I know what Rav means by it. **Rather, all the time that the saliva is in her mouth due to sexual intercourse**, she may attribute the blood to the torn hymen. Shmuel is using a euphemism, i.e., as long as there is blood in her vagina resulting from sexual intercourse.

[...]

Niddah 64b:19

The Gemara **raises an objection** to Rav's statement from a *baraita*: **There was an incident involving a virgin who married, and Rabbi Yehuda HaNasi gave her four nights** in which to engage in intercourse **within twelve months** of her wedding when the blood is considered to be like blood resulting from the torn hymen. The Gemara asks: **What are the circumstances** of this case? **If we say that Rabbi Yehuda HaNasi gave her all of those nights of purity in her days as a minor**,

<https://www.sefaria.org/Niddah.64b.5-19>

Niddah 65a:4

And Rav **said to him: All the acts of intercourse that you engage in** while she is still too young **are considered as only one act of intercourse, and the remainder**, i.e., three more acts of intercourse, **complete** the total number of **four nights**. If so, Rabbi Yehuda HaNasi could not have given her two nights as a minor, since at most those acts of intercourse count as one.

<https://www.sefaria.org/Niddah.65a>

Sanhedrin

Sanhedrin 52b:22

GEMARA: The Sages taught: The verse states: "And a man who commits adultery with another man's wife, even he who commits adultery with his neighbor's wife, both the adulterer and the adulteress shall be put to death" (Leviticus 20:10). **The term: "A man," is interpreted as excluding a minor boy who committed adultery before he came of age.** The phrase: **"Who commits adultery with another man's wife," is interpreted as excluding the wife of a minor boy;** marriage to a minor is not considered halakhic marriage. **"His neighbor's wife" excludes the wife of another, i.e., a gentile, who is not referred to as "his neighbor."**

<https://www.sefaria.org/Sanhedrin.52b>

Sanhedrin 54a:29

GEMARA: From where do we derive the prohibition and punishment for homosexual intercourse with a male?

It is **as the Sages taught** in a *baraita* with regard to the verse: “And if a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death, their blood shall be upon them” (Leviticus 20:13): **The word “man” excludes a minor boy.** The phrase “**lies with a male**” is referring to any male, **whether** he is an **adult man** or **whether** he is a **minor boy**. The phrase “**as with a woman [mishkevei isha],**” referring to lying with a woman, appears in the plural. **The verse teaches you that** there are **two** manners of **lying with a woman** for which one who engages in intercourse with a woman forbidden to him is punished, vaginal and anal intercourse.

<https://www.sefaria.org/Sanhedrin.54a>

Sanhedrin 54b:18

But with regard to **one who unwittingly engages in intercourse with a male, and then unwittingly causes a male to engage in intercourse with him,** and **who unwittingly engages in intercourse with an animal, and then unwittingly causes an animal to engage in intercourse with him,** performing all of these actions in one lapse of awareness, in this case, **both according to Rabbi Abbahu and according to Abaye,** the *halakha* according to the opinion of **Rabbi Yishmael** is that he is **liable** for transgressing **three** prohibitions; the ones mentioned above and the prohibition of: “There shall not be a sodomite,” whereas **according to** the opinion of **Rabbi Akiva** he is **liable** for transgressing only **two** prohibitions.

Sanhedrin 54b:19

The Sages taught: With regard to intercourse with a **male,** the Torah **does not deem a younger boy to be like an older boy;** but with regard to intercourse with an **animal,** the Torah **does deem a young animal to be like an old animal.**

Sanhedrin 54b:20

The Gemara asks: **What** does it mean that the Torah **does not deem a younger boy to be like an older boy?** **Rav says:** It means that the Torah **does not deem the intercourse of one who is less than nine years old to be like** the intercourse of **one who is** at least **nine years old,** as for a male’s act of intercourse to have the legal status of full-fledged intercourse the minimum age is nine years. **And Shmuel says:** The Torah **does not deem the intercourse of a child who is less than three years old to be like** that of **one who is three years old.**

<https://www.sefaria.org/Sanhedrin.54b>

Sanhedrin 55a:11

Rav Ashi said: What is your dilemma? With regard to doing so **with an erect penis,** **you cannot find** such a case. **You can find it only when** one **performs** this **act of intercourse** with a **flaccid penis.** And the *halakha* is subject to a dispute: **According to the one who says** that a **man who engages in intercourse with a flaccid penis, with one of those with whom relations are forbidden, is exempt,** as that is not considered intercourse, **here too,** when one does so to himself, he is **exempt.** **And according to the one who says** that he is **liable,** he is **rendered liable here** for transgressing **two** prohibitions according to Rabbi Yishmael; he is **rendered liable**

for engaging in homosexual intercourse actively, and he is rendered liable for engaging in homosexual intercourse passively.

<https://www.sefaria.org/Sanhedrin.55a>

Sanhedrin 55b:4

Rav Yosef says: Come and hear a resolution from a mishna (*Nidda 44b*): A girl who is **three years and one day old** whose father arranged her betrothal is **betrothed with intercourse**, as the legal status of intercourse with her is that of full-fledged intercourse. **And** in a case where the childless husband of a girl who is three years and one day old dies, **if his brother, the *yavam*, engages in intercourse with her, he acquires her** as his wife; **and** if she is married, a man other than her husband is **liable for engaging in intercourse with her due to the prohibition of intercourse with a married woman**.

<https://www.sefaria.org/Sanhedrin.55b>

Sanhedrin 69b:5

The Sages taught in a *baraita*: If a woman **was acting lewdly with her minor son and he performed the initial stage of intercourse with her**, Beit Shammai say that **he has** thereby **disqualified her from** marrying into the priesthood. **And Beit Hillel deem her fit** to marry into the priesthood, **because they maintain that the intercourse of a minor is not regarded as intercourse**.

Sanhedrin 69b:6

Rabbi Hiyya, son of Rabba bar Nahmani, says that Rav H̄isda says, and some say that Rav H̄isda says that Ze'eiri says: All, i.e., both Beit Shammai and Beit Hillel, **concede with regard to a boy nine years and one day old that his intercourse is regarded as intercourse** and disqualifies a woman from marrying into the priesthood as well as results in her liability to receive the death penalty, even though he himself is not liable to receive it. And they also all concede concerning a boy **less than eight years old that his intercourse is not regarded as intercourse** vis-à-vis these *halakhot*. **They disagree only about a boy who is eight years old, as Beit Shammai maintain that we learn from earlier generations**, when people were able to father children at that age, and we apply that reality to the present; **and Beit Hillel maintain that we do not learn from earlier generations**.

[...]

Sanhedrin 69b:11

The Gemara refutes this proof: **From where** do you prove this? **Perhaps both** Ahithophel and his son Eliam **fathered children when** they were each **nine years old, and Bathsheba gave birth to Solomon when she was six, because a woman is stronger** and can conceive at an earlier age. **Know** that this is true that women conceive at an earlier age, **as Bathsheba had already given birth to a child from David before giving birth to Solomon** (see II Samuel 11:27). Therefore, no proof can be derived from here.

<https://www.sefaria.org/Sanhedrin.69b>

Sanhedrin 73b:11

The *baraita* taught that the word “**sin**” is referring to women who are forbidden to a man by a prohibition the violation of which renders him **liable to receive *karet***. From here it is derived that a man who attempts to rape a woman who is forbidden to him under penalty of *karet* may be killed. The Gemara **raises a contradiction**

between this and what is taught in a mishna (*Ketubot* 29a): **These are the cases of young women for whom there is a fine paid to their fathers by one who rapes them, and the list includes: One who engages in intercourse with his sister.** One who engages in intercourse with his sister is punished with *karet*, and accordingly, a woman being raped by her brother may be saved even at the cost of her brother's life. Whenever one is liable to be killed at the hands of people, even if the transgressor is not killed, the transgressor is exempt from paying any fine or payment. Therefore, since one attempting to rape his sister may be killed, he should be exempt from the fine ordinarily imposed upon a rapist.

<https://www.sefaria.org/Sanhedrin.73b>

Sanhedrin 76a:23

Rabbi Ya'akov, brother of Rav Aha bar Ya'akov, objects to this: Does this verse: **"Do not profane your daughter by causing her to act licentiously,"** come to teach that *halakha*? This verse is necessary to derive that which is taught in a *baraita*: With regard to the verse: **"Do not profane your daughter by causing her to act licentiously,"** one might have thought that it is with regard to a priest who marries his daughter to a Levite or Israelite that the verse is speaking, since marrying an Israelite disqualifies her from partaking of *teruma*. To counter this, the verse states **"by causing her to act licentiously,"** indicating that it is with regard to profaning that involves licentiousness that the verse is speaking. The reference is to one who gives his daughter to a man for the purpose of intercourse that is not for the sake of marriage.

[...]

Sanhedrin 76a:25

This derivation is as it is taught in a *baraita*: **"Do not profane your daughter by causing her to act licentiously."** Rabbi Eliezer says: **This is referring to one who marries his daughter to an old man.** Rabbi Akiva says: **This is referring to one who delays the marriage of his daughter who is a grown woman. Since she finds no permissible outlet for her sexual desire, she is apt to engage in licentiousness.**

<https://www.sefaria.org/Sanhedrin.76a>

Sanhedrin 76b:2

Rav Yehuda says that Rav says: **One who marries his daughter to an old man, and one who takes a wife for his minor son, and one who returns a lost item to a gentile** are all individuals who are the cause of sin. Marriage to an old man or a minor leaves the woman unsatisfied and is apt to lead to licentiousness. One who returns lost property to gentiles adds to the property that they stole from Jews. **With regard to each of them the verse states:** "Lest there should be among you a man or a woman...whose heart turns away this day from the Lord...saying: I will have peace, even though I walk in the stubbornness of my heart, **that the quenched shall be added to the thirsty. The Lord will not be willing to pardon him"** (Deuteronomy 29:17-19).

Sanhedrin 76b:3

The Gemara raises an objection to one element of the ruling of Rav from a *baraita*: One who loves his wife as he loves himself, and who esteems her by giving her clothing and jewelry more than he esteems himself, and one who instructs his sons and daughters to follow an upright path, and who marries them to appropriate spouses adjacent to their reaching puberty, ensures that his home will be devoid of quarrel and sin. Concerning him the verse states: **"And you shall know that your tent is in peace; and you shall visit your habitation and shall miss nothing"** (Job 5:24). The *baraita* indicates that it is a mitzva to marry one's children to appropriate spouses while they are young, contrary to the statement of Rav that one who takes a wife for

his minor son causes sin. The Gemara replies: **Adjacent to their reaching puberty is different** from marrying her to a minor, as there is no concern that his daughter will sin during the brief period until her husband reaches puberty.

<https://www.sefaria.org/Sanhedrin.76b>

Sanhedrin 78a:11

And Rava says: **One who sodomizes a male who is a tereifa is liable to be executed for committing an act of sodomy.** And as for a **tereifa who sodomizes** a male, if he does so **before** the judges in **court**, he is **liable** to be executed. If the act of sodomy was **not before a court**, he is **exempt**. The Gemara explains: If he committed an act of sodomy **before the court**, he is **liable**, as it is written: **“And you shall eradicate the evil from your midst.”** If the act of sodomy was **not before a court**, he is **exempt**, as any testimony against a **tereifa is testimony that you cannot render conspiratory** testimony.

<https://www.sefaria.org/Sanhedrin.78a>

Shevuot

Shevuot 18a:11

Rava said: **That is to say, one who engages in intercourse, with a flaccid penis, with those with whom relations are forbidden is exempt.** As if it enters your mind to say that he is **liable, here**, in the mishna, **what is the reason** that he is **exempt** if he waits and withdraws only later, after he has lost his erection? You might say that **it is because he is a victim of circumstances beyond his control** in that the woman experienced menstrual bleeding while he was in the middle of the act of intercourse, and not because he withdrew with a flaccid penis, as one who engages in intercourse with a flaccid penis is liable. **But if he is exempt from liability because he is a victim of circumstances beyond his control, then even if he withdraws immediately, before losing his erection, he should also be exempt, for the same reason, that he is a victim of circumstances beyond his control.**

<https://www.sefaria.org/Shevuot.18a>

Soferim

Soferim 21:9

When Rebekah left her father’s house she was three years old, because it is customary among kings, when a daughter is born to them, to hear of it after three days; but as her father did not hear [of her birth] he did not defile her up to that time; and now a miracle happened to her in that her father died so that he should not defile her, as it is written, Neither had any man known her, and by man only her father could be meant, for such was the practice of the Arameans to lie with their virgin daughters after they were three years of age, and then to give them away in marriage.

Dinah was six years old when she bore Asenath from [her association with] Shechem, corresponding to the six years which Jacob served Laban in payment for the flock, thus completing the twenty years of his service. [The Archangel] Michael then descended and took her away to the house of Potiphar.

From here onward let the man of understanding increase knowledge.

https://www.sefaria.org/Tractate_Soferim.21

Sotah

Sotah 23a:6

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

<https://www.sefaria.org/Sotah.23a>

Yevamot

Yevamot 12a:11

The Gemara explains that Shmuel's reasoning is **due to** the statement **that Rami bar Yehezkel taught** in a *baraita* as **Rami bar Yehezkel taught: If a minor refused her husband, she is permitted in marriage even to his father**, as refusal completely nullifies the marriage, and it is as though there had never been any earlier **marriage with the son**. However, if she refused **the yavam**, not her husband, **she is forbidden to his father**.

<https://www.sefaria.org/Yevamot.12a>

Yevamot 12b:3

Incidental to the case of refusal, the Gemara cites a related *halakha*. **Rav Beivai taught** a *baraita* **before Rav Nahman: Three women may engage in relations with a contraceptive resorbent**, a soft fabric placed at the entrance to their wombs to prevent conception, despite the fact that this practice is generally prohibited. They are as follows: **A minor**, a woman who is already **pregnant, and a nursing woman**. The *baraita* specifies the reason for each exception: **A minor may do so lest she become pregnant and perhaps die; a pregnant woman, lest she be impregnated a second time and her previous fetus becomes deformed into the shape of a sandal fish by being squashed by the pressure of the second fetus. As for a nursing woman, she does so lest she become pregnant and her milk dry up, in which case she will wean her son too early, thereby endangering him, and he will die.**

[...]

Yevamot 12b:9

Rav Safra said: Children are equivalent to signs of puberty. In other words, a girl who gives birth does not retain the legal status of a minor, as the very fact that she bore children is equivalent to a physical sign of maturity, usually in the form of pubic hairs. **And some say: Children are preferable to signs** of puberty. The Gemara asks: **What is the practical difference** that arises from the question of whether bearing children is equivalent or preferable to signs of maturity? The Gemara answers: The difference is **that even according to the opinion of Rabbi Yehuda, who said** that a minor may perform refusal even after she develops two pubic

hairs, **until the black** hairs of her genitals **are more plentiful** than the hairless skin, **in the case of children he concedes** that she is considered mature and may not perform refusal.

<https://www.sefaria.org/Yevamot.12b>

Yevamot 34b:2

The Gemara **raises an objection** from a *baraita*: After a woman gives birth, her husband **penetrates inside and spills** his semen **outside for the entire twenty-four months** during which the baby is breastfeeding, so that his wife not become pregnant, as that would terminate her milk production and the child might die. This is **the statement of Rabbi Eliezer. They said to him: These acts are nothing other** than acts **similar to those of Er and Onan**, which are prohibited. Regardless, it can be deduced from here that Er and Onan engaged in normative sexual intercourse with Tamar, only they did not fully complete the sexual act.

[...]

Yevamot 34b:10

The Gemara asks: **And with regard to what** situation is this statement referring? **If it is referring to a minor who was released from her marriage by refusal**, as a minor girl who was married to a man by her mother or brothers may refuse to remain married to her husband until reaching majority, **but didn't Shmuel say that she is not required** to wait three months? **And if** it is referring to a woman who received a **bill of divorce** as a minor, **didn't Shmuel already state** this *halakha* **one time**? Why would he repeat this ruling, **as Shmuel said: A female minor who refused her husband need not wait three months before her second marriage**, but if **he gave her a bill of divorce, she must wait three months**, so as not to make a distinction between an adult divorcée and a minor divorcée. **Rather, it must be that this is referring to a female minor who was involved in licentious sexual intercourse.**

<https://www.sefaria.org/Yevamot.34b>

Yevamot 35a:2

The Gemara asks: **And do we issue a decree** with regard to a **female minor due to** the ruling for a **female adult? But didn't we learn** in the mishna: **If they were female minors who could not bear children, we return them immediately to their husbands?** This indicates that there is no concern for pregnancy, and the Sages **did not issue a decree in this case. Rav Giddel said that Rav said: This was a provisional edict** issued in exigent circumstances, and therefore one cannot extrapolate from the case in the mishna to other situations. The Gemara wonders: Can one assume **by inference that there was** such an occurrence? It would seem from the mishna that this was merely a possibility and not an actual occurrence, for if it actually happened it would have been appropriate for the mishna to relate the actual case. **Rather, the ruling in the mishna is like a provisional edict in that switching** of wives, such as described in the mishna, **is uncommon**, and in cases that are not common, the Sages do not issue a decree. **Therefore, in the case of the mishna, the female minors were not required to wait.**

[...]

Yevamot 35a:4

The Gemara suggests: **Let the Sages issue a decree** requiring a **female convert and a released maidservant** to wait three months, **as** at the time that one was a gentile and the other a maidservant, **promiscuous sexual intercourse was common for them.** The Gemara responds: Shmuel **stated** his *halakhic* ruling **in accordance**

with the opinion of **Rabbi Yosei, as it is taught** in a *baraita*: In the case of **the female convert; and the captured woman, who is suspected of having been raped during her imprisonment; and the maidservant, who were redeemed or who were converted or who were released, must wait three months** prior to marriage. This is the statement of **Rabbi Yehuda**. **Rabbi Yosei allows them to be betrothed and married immediately**. **Rabba said: What is the reasoning of Rabbi Yosei? He holds that a woman who engages in promiscuous sexual intercourse uses a contraceptive resorbent that she places at the opening of her womb so as not to become impregnated.** Therefore, there is no concern that she might be pregnant.

<https://www.sefaria.org/Yevamot.35a.1-11>

Yevamot 38a:11

If the *yavam* consummated the levirate marriage with her, then her legal status is **that of his wife in every sense**, and therefore the *yavam* has the same rights to her property as in a regular marriage. **And the only exception to this is that her marriage contract will still be payable from the property of her first husband and not from the property of the yavam.**

<https://www.sefaria.org/Yevamot.38a>

Yevamot 39b:8

We learned in a mishna there (*Bekhorot* 13a): **The mitzva of consummating the levirate marriage takes precedence over the mitzva of performing *halitza*; this applied initially, when yevamin would have intent for the sake of fulfilling the mitzva. Now, that they do not have intent for the sake of fulfilling the mitzva, the Sages say: The mitzva of performing *halitza* takes precedence over the mitzva of consummating the levirate marriage.**

<https://www.sefaria.org/Yevamot.39b>

Yevamot 53b:8

MISHNA: One who had intercourse with his yevama, whether unwittingly, i.e., he thought he was having intercourse with someone else, or intentionally, i.e., he knew she was his yevama and nevertheless had intercourse with her without intent to perform levirate marriage; whether due to coercion or willingly; even if he was unwitting and her participation was intentional, his participation was intentional and she was unwitting, he was coerced and she was not coerced, or she was coerced and he was not coerced; both one who merely engages in the initial stage of intercourse and one who completes the act of intercourse has thereby acquired his yevama. And similarly, the Torah did not distinguish between an act of intercourse in an atypical manner, i.e., anal intercourse, and intercourse in a typical manner.

<https://www.sefaria.org/Yevamot.53b.8-13>

Yevamot 54a:10

Rava said: If he intended to press his sexual organ into a wall, and he accidentally pressed it into his yevama, he has not acquired her, as he did not intend to engage in an act of sexual intercourse. However, if he intended to press his sexual organ into an animal, and he pressed it into his yevama, he has acquired her, as he at least intended to act for the purpose of sexual intercourse in general, i.e., for some form of sexual intercourse.

<https://www.sefaria.org/Yevamot.54a>

Yevamot 55b:7

The Gemara questions this resolution: **This works out well according to the one who said that one who has intercourse while his organ is dead with those with whom relations are forbidden, is exempt**, as this is not considered an act of intercourse. **However, according to the one who said that he is liable, what is there to say? Rather**, according to this opinion, the verse **excludes one who has intercourse with a dead woman. As it might enter your mind to say: Since after death she is also called her husband's kin, say that one who had intercourse with her should be liable to receive punishment for committing adultery with a married woman. It therefore teaches us that intercourse with a dead woman is not considered intercourse at all.**

<https://www.sefaria.org/Yevamot.55b>

Yevamot 57b:2

Shmuel said: **And Abba, i.e., Rav, whose first name was Abba, concedes to me, with regard to a girl less than three years and one day old**, that she is not disqualified by merely entering the wedding canopy. **Since there is no legal significance to an act of intercourse with her, there is no legal significance to entering the wedding canopy with her.**

Yevamot 57b:3

Rava said: **We, too, learn in the following baraita that there is no legal significance to an act of intercourse with a girl less than three years old: A girl three years and one day old can be betrothed via sexual intercourse; and if she was a yevama and her yavam had intercourse with her, he has acquired her; and a man who has intercourse with her while she is married to someone else is liable on her account because of the prohibition of intercourse with a married woman; and if she experiences a menstrual discharge she renders ritually impure a man who has intercourse with her, so that he renders impure the object upon which he lies like the upper one.**

<https://www.sefaria.org/Yevamot.57b>

Yevamot 61b:16

GEMARA: The Gemara infers from the mishna's wording that if **he already has children he may neglect the mitzva to be fruitful and multiply, but he may not neglect the mitzva to have a wife.** This supports what Rav Nahman said in the name of Shmuel, who said: **Even if a man has several children, it is prohibited to remain without a wife**, as it is stated: "It is not good that the man should be alone" (Genesis 2:18).

Yevamot 61b:17

And some say a different version of the inference from the mishna: If **he already has children, he may neglect the mitzva to be fruitful and multiply and he may also neglect the mitzva to have a wife. Shall we say this is a conclusive refutation of what Rav Nahman said that Shmuel said?** The Gemara responds: **No**, it means that **if he does not have children he must marry a woman capable of bearing children, whereas if he has children he may marry a woman who is not capable of bearing children. A practical difference** between a man who has children and one who does not is whether he is permitted **to sell a Torah scroll in order to marry a woman capable of having children.** This is permitted only for one who does not yet have children.

<https://www.sefaria.org/Yevamot.61b>

Yevamot 68a:4

Abaye said: **Here we are dealing with a nine-year-and-one-day-old yavam who already engaged in intercourse with his yevama, as she was thereby acquired by him by Torah law.** It might enter your mind to say that since by Torah law she was acquired by him, as the legal status of his act of intercourse is that of intercourse, perhaps he enables her to partake of *teruma*. The mishna therefore teaches us that the Sages rendered the legal status of the intercourse of a nine-year-and-one-day-old boy like that of levirate betrothal by means of money or a document performed by an adult man, which is not sufficient for her to partake of *teruma*. Since levirate betrothal is effective only by rabbinic law, the *yevama* is not considered the acquisition of his money by Torah law and may not partake of *teruma*.

[...]

Yevamot 68a:6

Rather, Rava said that the mishna is teaching this *halakha* with regard to a nine-year-and-one-day-old boy who is one of those unfit males listed in a *baraita*, who disqualify a woman from marrying a priest by their intercourse, as they are unfit to enter the assembly of Israel through marriage, as it is taught in a *baraita*: A nine-year-and-one-day-old boy who is an Ammonite or a Moabite convert; or who is an Egyptian or an Edomite convert; or who is either a Samaritan [*kuti*], a Gibeonite, a *halal*, or a *mamzer*, when he engaged in intercourse with a priestess, i.e., the daughter of a priest, a Levite, or an Israelite, he thereby disqualified her from marrying a priest, and, in the case of the daughter of a priest, from partaking of *teruma*.

<https://www.sefaria.org/Yevamot.68a>

Yevamot 96a:7

The mishna addresses a different issue: If a boy aged nine years and one day had relations with his *yevama* he thereby disqualifies his brothers from levirate marriage, despite the fact that as a minor he has not acquired the *yevama* through this act of intercourse, and the brothers likewise disqualify the woman from him if they have intercourse with the *yevama*. However, there is a difference between them, as he disqualifies them only if he engaged in relations with her first, and the brothers disqualify him whether they had relations first or last.

[...]

Yevamot 96a:11

They say in response: The intercourse of a nine-year-old disqualifies his brothers even if it happens last; however, in the case of a boy who merely performed levirate betrothal with her, if he did so first he disqualifies his brothers, whereas if he was last, he does not disqualify his brothers. The Gemara asks: And do the sexual relations of a nine-year-old disqualify his brothers even when performed last? But isn't it taught in the mishna: However, he disqualifies them only if was first, and the brothers disqualify him whether they were first or last. How so? A boy aged nine years and one day who had relations with his *yevama* has disqualified his brothers. The example the mishna uses for a boy who disqualifies his brothers first is an act of intercourse.

<https://www.sefaria.org/Yevamot.96a>

Yevamot 96b:5

MISHNA: If a boy aged nine years and one day had relations with his *yevama* and died, that *yevama* performs *ḥalitza* and may not enter into levirate marriage. If the minor married a woman in a regular manner and died, she is exempt from levirate marriage and *ḥalitza*, as by Torah law a minor cannot marry. If a boy aged nine years and one day had relations with his *yevama*, and after he matured he married a different woman and then died childless, if he did not carnally know the first woman after he matured, but only when he was a minor, the first one performs *ḥalitza* and may not enter into levirate marriage, as she is in essence a *yevama* who had relations with a minor, and the second woman either performs *ḥalitza* or enters into levirate marriage, as she is his full-fledged wife.

Yevamot 96b:6

Rabbi Shimon says: The brother consummates levirate marriage with whichever woman he chooses, and performs *ḥalitza* with the second one. The mishna comments: This is the *halakha* both for a boy who is nine years and one day old, and also for one who is twenty years old who has not developed two pubic hairs. He has the status of a nine-year-old boy in this regard, as his intercourse is not considered a proper act of intercourse.

<https://www.sefaria.org/Yevamot.96b>

Yevamot 105b:12

Rabbi Ami said: From the words of the great man, Rabbi Yosei, let us learn: A female minor performs *ḥalitza* even as a young child, at age six or seven. Rava said: She may not perform *ḥalitza* until she reaches the age of vows as an eleven-year-old, when she has enough intellectual capacity to understand the meaning of a vow. However, the Gemara concludes: And the *halakha* is: She may not perform *ḥalitza* until she has two pubic hairs.

<https://www.sefaria.org/Yevamot.105b>

Yevamot 107a:1

MISHNA: The Sages decreed that in the case of a minor girl whose father died, her mother or brothers may marry her off. However, such a marriage does not have the same legal status as the marriage of an adult. Therefore, if the minor regrets having married, she is allowed to make a declaration of refusal to her husband, thereby annulling the marital bond. The Sages disagreed with regard to the details of this *halakha*: **Beit Shammai say: Only betrothed girls may refuse.** A girl may refuse, upon reaching adulthood, to remain married to the man to whom her mother or brothers married her as a minor after the death of her father. **But Beit Hillel say that both betrothed and fully married girls may refuse.**

[...]

Yevamot 107a:4

Beit Hillel said to Beit Shammai: She may refuse as long as she is a minor, even four or five times if her relatives married her off again to another man after each refusal. Beit Shammai said to them: The daughters of Israel are not to be treated with disregard and should not be passed from one man to another. Rather, she refuses once. And then she must wait until she reaches majority, and refuse, and marry.

<https://www.sefaria.org/Yevamot.107a.1-13>

Yevamot 107b:15

MISHNA: Who is a minor girl who needs to perform refusal in order to annul her marriage? **Any** minor whose mother or brother married her off with her consent. **If they married her off without her consent, she need not refuse** her husband at all and may leave her husband without a declaration of refusal. **Rabbi Ḥanina ben Antigonus says: Any girl who** is so young that she **cannot keep her betrothal**, i.e., the money or document of betrothal, **safe does not need to refuse**, as the **Sages instituted marriage only for a girl old enough to understand what she is doing.**

<https://www.sefaria.org/Yevamot.107b>

Yevamot 108a:2

The Sages taught: **What constitutes a refusal? If she said: I do not want so-and-so as my husband, or: I do not want the betrothal in which my mother and brothers had me betrothed, that is a refusal.** **Rabbi Yehuda said more than that: Even if she is sitting in a bridal chair [*apiryon*] going from her father's house to her husband's house and said along the way: I do not want so-and-so as my husband, this constitutes a refusal.**

[...]

Yevamot 108a:9

Rabbi Yehuda HaNasi said: There is no greater refusal than this. What is the case? Is it not that they were already married? The Gemara rejects this: **No, they were merely betrothed**, but not married. This story cannot establish unequivocally what the *halakha* is in the case when the girl is married. The Gemara nevertheless concludes: **The halakha is in accordance with the opinion of Rabbi Yehuda ben Beteira in all of these matters, even with regard to her marriage to the first husband: Even if she had actually been married to the first man, the marriage is invalidated by her betrothal to another.**

[...]

Yevamot 108a:12

Rabbi Yehoshua says: In the case of a minor whose mother or brother married her off, her husband has rights to items she finds, and to her earnings; and he has the right to annul her vows; and he inherits her assets if she dies; and if she dies he must become ritually impure on her account even if he is a priest. The principle is: She is his wife in every sense, except that she can leave him by means of refusal and does not require a bill of divorce.

<https://www.sefaria.org/Yevamot.108a>

Yevamot 109a:1

but Rabbi Elazar prohibits this. Likewise, with regard to one who divorces an orphaned minor girl whose mother and brothers married her off and remarries her and subsequently dies, she is permitted to the yavam in levirate marriage, and Rabbi Elazar prohibits it. A minor girl whose father married her off, in which case the marriage is valid by Torah law, and who was subsequently divorced while she was still a minor is like an orphan during the lifetime of her father, as he no longer has the right to marry her off, and she cannot become fully married because she is a minor. And if the husband remarries her while she is still a minor and then dies childless, everyone agrees that she is forbidden to the yavam and may not enter into levirate marriage.

<https://www.sefaria.org/Yevamot.109a>

Yevamot 110a:1

What, is it not a case where he did not have intercourse with her after she reached majority? If so, Rav thinks that even when he did not have intercourse with her, her marriage is fully realized once she reaches majority. The Gemara rejects this: **No**, this is referring to a case **where he did have intercourse with her**. The Gemara asks: **If it is referring to a case where he had intercourse with her, what is Shmuel's reasoning?** If the first one engaged in intercourse with her after she reached majority, then the marriage was fully realized. Under such circumstances, the second betrothal would not take effect. **The Gemara answers: Shmuel holds that when anyone has sexual intercourse with a woman he married as a minor, his intention is that the intercourse is within the framework established by the initial betrothal and is not a new act of acquisition.**

[...]

Yevamot 110a:8

MISHNA: If a man was married to two orphaned minors and died, consummation of levirate marriage or ḥalitza with one of them exempts her rival wife from either levirate marriage or ḥalitza, rendering her free to remarry. Likewise, if two deaf-mutes were married to one man who died, consummation of levirate marriage or ḥalitza with one of them exempts her rival wife. In both of these cases, both women are married by rabbinic law and consequently become yevamot by rabbinic law. Since their statuses are equal, one can exempt the other. If one wife is a minor and the other is a deaf-mute, consummation of levirate marriage or ḥalitza with one of them does not exempt her rival wife. Although both women are married by rabbinic law, their statuses are not the same and one cannot exempt the other.

Yevamot 110a:9

If one of them **was halakhically competent and one was a deaf-mute, consummation of levirate marriage with the halakhically competent wife exempts the deaf-mute**, as the halakhically competent women's marriage and levirate marriage are by Torah law. **But consummation of levirate marriage with the deaf-mute does not exempt the halakhically competent wife.** Likewise, if one was **an adult woman and one a minor girl, consummation of levirate marriage with the adult exempts the minor but consummation of levirate marriage with the minor does not exempt the adult.**

<https://www.sefaria.org/Yevamot.110a>

Yevamot 111b:2

If one wife was **a minor and the other a deaf-mute, and the yavam engaged in intercourse with the minor and then engaged in intercourse with the deaf-mute, or if his brother engaged in intercourse with the deaf-mute**, then the *yavam* or his brother **disqualified the minor** from staying married due to the Sages' decree, lest it be confused with a situation where the intercourse with the deaf-mute was first.

[...]

Yevamot 111b:6

If the deceased brother had two wives, **an adult and a minor, and the yavam engaged in sexual intercourse with the adult, then engaged in intercourse with the minor, or if his brother engaged in intercourse with the minor**, the *yavam* or his brother **did not disqualify the adult** from staying married, as the consummation of

the levirate marriage with the adult completely dissolves the levirate bond. If **the yavam engaged in intercourse with the minor, and then engaged in intercourse with the adult, or if his brother engaged in intercourse with the adult**, the yavam or his brother **disqualified the minor** from staying married. **Rabbi Elazar says: The court instructs the minor to refuse him** thereby annulling her marriage retroactively, and then the minor is permitted to marry any man.

[...]

Yevamot 111b:10

MISHNA: If a minor yavam engaged in sexual intercourse with a minor yevama, they should grow up together, living as a married couple. He may not divorce her, as he is a minor. **If he engaged in sexual intercourse with an adult yevama, she should raise him**, i.e., they must stay married, as there is no way for him to divorce her until he reaches majority.

<https://www.sefaria.org/Yevamot.111b>

Yevamot 112b:21

The Gemara raises a difficulty: **But there is the case of a minor girl, who will reach the stage of eligibility for marriage** by Torah law someday, **and yet the Sages enacted marriage** for her, as her mother and brothers may **marry her off by rabbinic law**. The Gemara answers: **There** the Sages issued their decree for a different reason, so **that** people should **not treat her in the manner of ownerless** property. **If she marries, her husband will watch over her; if not, she might be treated disrespectfully.**

<https://www.sefaria.org/Yevamot.112b.5-22>

Yevamot 113a:6

The Gemara asks: **And a minor girl, from where do we derive that she has a marriage contract? As we learned** in a mishna (*Bava Metzia* 67a): With regard to a minor **who refuses** her husband and leaves him, **and** likewise a woman who is a **secondary** forbidden **relative** prohibited by rabbinic law, **and a sexually underdeveloped woman** who is incapable of bearing children, these women **have no marriage contract**. The Gemara infers: **However, any other woman who can be divorced by means of a bill of divorce, and this includes a minor girl, is entitled to a marriage contract.**

<https://www.sefaria.org/Yevamot.113a>

Appendix 4: Mishneh Torah Quotes

Rabbi Maimonides Mishneh Torah

The following Mishneh Torah quotes are a comprehensive representation of the law codes Rabbi Maimonides assembled governing the institution of child marriage and sexual intercourse with prepubescent children. For balance I have included the few contrary opinions expressed. Links are provided for further study and validation.

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 2

1. From the day of a girl's birth until she becomes twelve years old, she is called a k'tanah (minor) and/or a tinoket (baby). Even if several [pubic] hairs grow [on her body] during this time, they are [not significant according to Jewish law and are] considered to be merely hairs growing from a mole. If, however, two hairs grow in the pubic area after she becomes twelve years old [her status changes, and] she is considered a na'arah (maiden).

2. Growing two pubic hairs at this age is referred to as the lower sign [of physical maturity]. Once a girl manifests this sign [of physical maturity], she is referred to as a maiden for six months. From the last day of these six months and onward, she is referred to as a bogeret (mature woman). The difference between the stages of maidenhood and maturity is only six months.

3. From the time a girl reaches the age of twelve years and one day until the age of twenty, if she does not grow two pubic hairs, she is still considered to be a child, even if she manifests the physical signs of barrenness.

If [during this period], she grows two pubic hairs, even if [this occurs] in her twentieth year, she is considered to be a maiden for six months. Only afterwards is she considered to be a mature woman.

4. Should a woman be less than thirty days below the age of twenty, not have grown two pubic hairs, and have manifested [all] the physical signs of barrenness, she is deemed an ayonit (a barren woman).

If she does not manifest all the sign of barrenness, she is still considered to be a child until she grows two pubic hairs or until she reaches the age of 35 years and one day.

5. Should a woman reach this age without growing two pubic hairs, she is deemed barren even though she does not manifest physical signs of barrenness. A barren woman does not [go through the six-month] period of maidenhood. Instead, directly after having been considered a child, she is considered to be a mature woman.

[...]

9. When a woman gives birth after reaching the age of twelve years, she is deemed an adult, even though she did not manifest either upper or lower signs of maturity. [Giving birth to] children is a sign of maturity.

10. A male, from birth until the age of thirteen, is called a katan (minor) and/or a tinok (baby). Even if several [pubic] hairs grow [on his body] during this time, they are [not significant according to Jewish law] and are considered to be merely hairs growing from a mole. If, however, two hairs grow in the pubic area after he attains the age of thirteen years and one day, [his status changes, and] he is considered a gadol (adult male) and/or an ish (man).

11. Should a child reach this age without growing two pubic hairs, he is still considered a minor until he reaches the age of twenty years less thirty days, even though he manifests signs of impotency. Should he reach the age [of twenty years less thirty days] and not have grown either pubic hairs or hairs of the beard [the following rules apply]. If he manifests one of the physical signs of impotency, he is considered impotent (a saris), and he is considered to be an adult with regard to all matters.

If he does not manifest any of the signs of impotency, he is still considered to be a minor until he grows two pubic hairs or until he reaches the age of thirty five years and one day.

12. If he reaches this age, he is considered impotent, although he did not manifest any of the signs of impotency. If he reached the age of twenty years less thirty days without growing two pubic hairs, but did grow

two hairs on his beard, he is not considered to be impotent, even if he manifests one sign of impotency, until he either manifests all the signs of impotency or reaches the age of thirty five years and one day.

[...]

16. Whenever the term "two pubic hairs" is mentioned with regard to a male or a female, the intent is that the hairs are long enough to be bent in half, with their point touching their base. If they grow to the extent that they can be cut by scissors, but are not [long enough] that they can be bent in half with their point touching their base, [there is doubt regarding the decision], and the more stringent ruling is always followed.

Therefore, when a boy's or girl's pubic hairs have grown to the point that they can be cut by scissors, the individual is considered to be an adult with regard to those matters concerning which the ruling would be more stringent if he or she were so classified. And with regard to those matters concerning which the ruling would be more stringent if he [or she] were classified as a minor, the individual is so classified because the pubic hairs are not long enough to be bent in half with their point touching their base.

17. These two hairs must be located in the pubic area. The entire pubic area is appropriate for the signs to be located. There is no difference whether they are located in the upper area, the lower area or on the sexual organ itself.

The two hairs must be located in a single place, and there must be a follicle at their base. If both of them stem from the same follicle, it is acceptable. If two follicles are located next to each other without hairs growing from them, they are, nevertheless, considered a sign. We follow the presumption that a follicle will not exist without hair. [Surely,] there were hairs [that grew from the follicle], and they fell.

18. As we have explained, when a girl grows two pubic hairs before she is twelve, or a boy grows two pubic hairs before he is thirteen, they are considered to be merely hairs growing from a mole. Even if these hairs remain in their place after the boy reaches the age of thirteen, or the girl reaches the age of twelve, they are not considered signs of physical maturity.

[...]

23. **When a father says, "My son is nine years and one day old," or "My daughter is three years and one day old,"¹** his word is accepted with regard to the obligation of bringing a sacrifice [if sexual relations were carried out without knowledge of the sin involved], but not with regard to administering stripes [for rebellion] or other punishments.

If the father says, "My son is thirteen years and one day old," or "My daughter is twelve years and one day old," his word is accepted with regard to vows, endowment evaluations, property forsworn [and transferred to the priests], or the consecration of property, but not with regard to administering lashes or other punishments.

24. A person who possesses both a male sexual organ and a female sexual organ is called an androgynous. There is doubt whether such a person should be classified as a male or as a female; there is no physical sign that can ever enable such a distinction to be made.

25. A person who possesses neither a male sexual organ nor a female sexual organ, but instead, his genital area is a solid mass, is called a tumtum. There is also doubt with regard [to this person's status]. If an operation is carried out and a male [organ is revealed], he is definitely considered to be a male. If a female [organ is revealed], she is definitely considered to be a female.

When a tumtum or an androgynous reaches the age of twelve years and one day, they are assumed to be adults.⁹ Whenever these terms are mentioned, the intent is individuals of this age.

FOOTNOTES RENUMBERED

1. If a male is less than nine years old, or a female is less than three years old, they are not fit to engage in sexual relations. Even if they do, in fact, engage in relations, these are of no halachic significance. Hence, if a boy above the age of nine engages in sexual relations with a married woman, the woman is liable. Similarly, if a man engaged in relations with a three-year old girl who was married, the man is liable.

https://www.sefaria.org/Mishneh_Torah%2C_Marriage.2

https://www.chabad.org/library/article_cdo/aid/952875/jewish/Ishut-Chapter-Two.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 3

1. How is the bond of kiddushin established with a woman? If the man [desires to establish] the kiddushin by [the transfer of] money, [he must give] a p'rutah, either in coin or its worth.

[Before giving it], he tells her, "You are consecrated unto me...", "You are betrothed to me...", or "You become my wife through this." He must give her [the money or the item] in the presence of witnesses.

It is the man who makes the statement that implies that he acquires the woman as his wife, and it is he who gives her the money.

2. If she gave him [money] and told him: "Behold, I am consecrated to you," "Behold, I am betrothed to you," "I am your wife," or [she used] any other expression that implied acquisition, the marriage bond is not established. Similarly, if she gave [him money] and he made the statement, the marriage bond is not established. If he gave [her money] and she made the statement [the matter is unresolved,] and the status of the kiddushin is in doubt.

3. If the man establishes the marriage bond with [the transfer of] a legal document, [the following rules apply:] He should write on paper, on a shard, on a leaf or on any other article he desires: "You are consecrated unto me...", "You are betrothed to me...", or any similar expression. He must then give her the document in the presence of witnesses.

4. The document must be written for the sake of the woman who is being married, as must a bill of divorce, and it must be written with her consent. If it was not written for her sake, or if it was written for her sake, but was written without her consent, the marriage bond is not established. [This applies] even when he gives her [the document] with her consent in the presence of witnesses.

5. If the man consecrates through sexual relations, he should tell the woman, "You are consecrated unto me...", "You are betrothed to me...", or "You become my wife through these relations," or choose a similar statement. He must enter into privacy with her in the presence of witnesses and engage in relations.

When a person consecrates through sexual relations, one may assume that his intent is on the conclusion of the relations;¹ when the relations are concluded, the marriage bond is established. Regardless of whether the couple engage in vaginal or anal intercourse, the marriage bond is established.

[...]

11. A father may consecrate his daughter without her knowledge while she is a minor. Even when she is a na'arah,² he still possesses this right, as [implied by Deuteronomy 22:16]: "I gave my daughter to this man."

[The money received as] kiddushin belongs to her father. Similarly, he has the right to [any ownerless property] she finds, [the wages she receives for] her labor, and [the money she receives as stipulated in] her ketubah if she is divorced or widowed before the marriage bond is consummated. He is entitled to all these until she becomes a bogeret.

Therefore, a father is entitled to receive kiddushin on behalf of his daughter from the day she was born until she becomes a bogeret. Even if she is a deaf mute or intellectually incompetent, if her father consecrates her [to another man], she is his wife.

If a girl is older than three years and one day, she can be consecrated through sexual relations with her father's consent. Should she be below this age, if her father has her consecrated through sexual relations, the marriage bond is not established.³

12. After a daughter becomes a bogeret, her father has no rights over her; she is like all other women, and she can be consecrated only with her own consent.

Similarly, if her father had her married, the marriage bond was consummated [nisu'in],⁴ and then she was widowed or divorced, [even] in her father's lifetime, she is considered to be independent, despite the fact that she is still a minor. Once a woman enters nisu'in, her father no longer has any authority over her.

13. When a girl receives kiddushin without her father's knowledge before she reaches the age of majority, the marriage bond is not established.⁵ [This applies] even when the father consents subsequently.⁶ Moreover, if she is widowed or divorced after these kiddushin, she is not forbidden [to marry] a priest.⁷

Both she and her father can prevent [the marriage bonds from taking effect].⁸ Regardless of whether she was consecrated in the presence of her father or not, she is not consecrated.

14. [The following rules apply when] there is doubt whether or not the girl is a bogeret: Whether her father consecrated her without her consent, or she consecrated herself without her father's consent, the status of the kiddushin is in doubt. Therefore, [to marry another man,] she must receive a get given because of the doubt.

A man may appoint an agent to consecrate a wife for him. [This applies] if he specifies a particular woman or gives the agent the authority to consecrate any woman. Similarly, a woman past the age of majority⁹ may appoint an agent to receive kiddushin for her. [This applies] if she specifies [that they be given by] a particular man or gives the agent the authority to receive them from any man. Similarly, a father may appoint an agent to accept the kiddushin of his daughter as long as she is under his authority.

A man may tell his daughter who is below the age of majority, "Go out and receive your kiddushin."²²

[...]

18. An agent appointed by a man to consecrate a woman should tell her: "Behold, you are consecrated to so and so by virtue of this money" or "...by virtue of this legal document."

If an agent of the woman receives the kiddushin, the [man consecrating her] should tell [the agent]: "So and so who appointed you is consecrated to me," and the agent should reply, "I have consecrated her to you," "I have betrothed her to you," "I have given her to you as a wife," or the like.

Similarly, when a man consecrates a girl by [giving kiddushin to] her father, he should tell him, "Behold, your daughter so and so is consecrated to me," and the father should reply: "I have consecrated her to you." If the father or the agent says "yes," or even if he remains silent, it is sufficient. If they were discussing the matter, and the man gave the kiddushin to the father or to the agent without making any statement, it is sufficient, and the kiddushin are effective.

If the kiddushin are established by virtue of [the transfer of] a legal document, he must have the document written with the consent of the father or of the agent. In all matters pertaining to kiddushin, the same laws that apply to the man and the woman, apply when [the kiddushin are established by] the [man's] agent and [the woman's] agent or [her] father.

[...]

20. Kiddushin established by virtue of sexual relations are effective according to Scriptural law. Similarly, kiddushin established by virtue [of the transfer] of a legal document are effective according to Scriptural law. Just as [the transfer of a legal document] concludes a divorce, as [Deuteronomy 24:1] states: "And he shall write her a scroll of divorce," so too, [the transfer of a legal document] concludes [the establishment of the marriage bond].

[The effectiveness of the transfer of] money stems from Scriptural law,²⁸ but its interpretation is based on Rabbinic law. [Deuteronomy, *ibid.*,] states "When a man takes a wife," and our Sages²⁹ explained: This [process of] acquisition involves [the transfer of] money, as implied by [Genesis 23:13]: "I have given the money for the field; take it from me."

21. Although this is the essence of the principle, it has already become universal Jewish custom to consecrate [a marriage bond] through [the transfer of] money or objects that are worth money. If one desires to consecrate [a woman] by [giving her] a legal document, **one may, but at the outset one should not consecrate [a woman] through sexual relations.**

If a man consecrates [a woman] through sexual relations, he is given stripes for rebelliousness,³⁰ so that the Jewish people will not extend beyond the limits of modesty in this manner. Nevertheless, the kiddushin are binding.

FOOTNOTES RENUMBERED

1. The term "the conclusion of sexual relations" (g'mar bi'ah) in Hebrew is somewhat of a misnomer. It refers not to the man's withdrawal from the woman, nor to ejaculation, but to a far earlier stage: the insertion of the penis in its entirety into the vagina (Hilchot Issurei Bi'ah 1:10).
2. At which time, the girl has the right to accept kiddushin from a man herself.
3. **For until the age of three, the relations are not considered sexual in nature** (this by no means insinuates that they are insignificant or potentially harmful, only that they are not sexual).
4. This refers to the second stage of the marriage relationship, as explained in Chapter 11 onward.
5. This and the other laws in this halachah apply when a girl is either a k'tanah or a na'arah (has reached the age of twelve), but not a bogeret (twelve and a half).
6. Since the kiddushin were not effective at the time they were given, the father's subsequent consent is of no significance. This point is, however, disputed by some of the later authorities. (See Shulchan Aruch, Even HaEzer 37:11.)
7. No priest may marry a divorcee, nor may a High Priest marry a widow. Nevertheless, because these kiddushin are not effective, these prohibitions do not apply.
8. According to the Maharik (Responsum 30[32]), this applies when the kiddushin were given in her father's presence, but he remained silent. In both the Kessef Mishneh and the Shulchan Aruch (*ibid.*), Rav Yosef Karo

differs and explains that according to the Rambam, the father must consent at the time of (or before) the kiddushin. If he desires to prevent the kiddushin at that time, he may. If he consents, the girl getting married can still prevent the kiddushin from taking place. For since her father charged her with this matter, even if he consented to the match it is dependent on her. (See also Chapter 22, Halachah 5, and Hilchot Terumot 8:16.)

9. A woman below the age of majority does not have the authority to appoint an agent.

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https://www.chabad.org/library/article_cdo/aid/952876/jewish/Ishut-Chapter-Three.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 4

[...]

7. When a minor consecrates [a woman], his kiddushin are of no consequence. When, by contrast, a male past the age of majority consecrates a girl below the age of majority who is an orphan,¹ or who has left her father's authority,² [different rules apply]: **If she is below the age of six, even if she is one who shows deep understanding of secret matters,³ and can differentiate and discern, she is not married, and there is no need for mi'un.⁴**

If she is more than ten years old, even when she is very foolish, since she willingly accepted the kiddushin, she is consecrated [according to Rabbinic law] and [must perform] mi'un [should she desire to nullify the marriage]. If she is between the ages of six and ten, [the rabbis] must evaluate her ability to discern. If she is able to differentiate and discern with regard to matters of marriage and kiddushin, [the marriage is binding according to Rabbinic law] and mi'un is necessary. If she lacks [this degree of discernment], she is not consecrated [at all], and need not perform mi'un [to nullify the marriage].

8. What is meant by the statement that she is consecrated [according to Rabbinic law], and [must perform] mi'un [should she desire to nullify the marriage]? If she was consecrated but no longer desires to remain with her husband, she must perform mi'un in the presence of two witnesses. She should say: "I no longer desire him." Afterwards, she leaves [the relationship] without a divorce, as will be explained in Hilchot Gerushin.⁵

Why does she leave [the relationship] without a divorce? Because the consecration is not absolutely binding according to Scriptural law; it is merely a Rabbinic institution. [According to Scriptural law, the outcome] is tentative. If she continues living with her husband until she reaches the age of majority, the kiddushin are finalized, and she becomes a married woman in the complete sense of the term.⁶ **There is no need for [her husband] to consecrate her again after she attains majority. If she does not want [to continue] living with him, she must perform mi'un; she then leaves [the relationship] without a divorce.**

[...]

16. When a man consecrates a woman who is half a maidservant and half a free woman,⁷ she is not completely consecrated until she becomes [totally] free. Once she becomes free, the kiddushin are [automatically] completed, like the kiddushin of a minor who comes of age. There is no need for her to be consecrated again.

If another man consecrates such a woman after she was granted her freedom [before the person who consecrated her originally consummates their marriage], there is doubt regarding the matter,⁸ and the status of both their kiddushin is in doubt.

FOOTNOTES RENUMBERED

1. If she is not an orphan and has never been married, the right to consecrate her belongs to her father, not to her.

2. I.e., she was married, the marriage was consummated, and then she was either divorced or widowed. In this and the above instance, the girl does not have sufficient authority to create a marriage bond that is binding according to Scriptural law. Nevertheless, a bond that is binding according to Rabbinic law may be established, as the halachah continues to explain.

The Ramah (Even HaEzer 155:2) quotes opinions that maintain that the above applies only when the girl's marriage was arranged by her brother or her mother. If she arranged the marriage herself, it is not binding, even according to Rabbinic law. The Ra'avad mentions a third opinion, which states that for a girl between the ages of six and ten, the marriage must be arranged by her family to be binding. After the age of ten, it is binding even if she arranged it herself.

3. Our translation is based on the commentary of Metzudot on Isaiah 3:3.

4. The annulment of a marriage that a girl below the age of majority initiates, as explained in the following halachah.

When a girl is below the age of six, we assume that she does not have sufficient understanding of the nature of marriage to make a commitment that is binding in any way.

5. Chapter 11, Halachah 8.

6. As the Rambam states in Hilchot Gerushin 11:6, if the girl reaches majority before she states that she desires to nullify the marriage bond, Rabbinic law requires her to receive a get before she marries another person. If she continues living with her husband and they engage in sexual relations after she attains majority, the marriage bond is binding according to Scriptural law.

7. E.g., a Canaanite maidservant who was owned in partnership by two masters. One granted the woman her freedom, but the other did not.

8. Our translation follows the commentary of the Maggid Mishneh, who explains that there is a question whether or not the kiddushin of the first person are valid. Nevertheless, if the couple marry and consummate their relationship, this establishes their wedding bond.

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https://www.chabad.org/library/article_cdo/aid/952878/jewish/Ishut-Chapter-Four.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 9

[...]

7. [The following rules apply when] a person has five sons, they each appoint their father as an agent to consecrate a wife for them, and the father tells a colleague who has five daughters: "[Each] one of your daughters is consecrated to one of my sons." Should the father [of the girls] accept the kiddushin,¹ each of the girls must be divorced by each of the five brothers. For they all gave their father the prerogative of consecrating a wife for them [and he did not specify which woman would be the wife for which of his sons].

If one of [the sons] dies, each of the women must be divorced by the four [remaining brothers] and must perform the rite of chalitzah with one of them.²

8. [There is, by contrast, no doubt in the following situation:] A father had [two daughters]: one a minor or a *na'arah*³ whom he has the privilege [of consecrating], and one a *bogeret*.⁴ Even if the *bogeret* gives her father the privilege of consecrating her, when he consecrates one of his daughters without specifying which one, it is assumed that the *bogeret* is not the one intended unless he specifically states [that the *kiddushin* are for] "my older daughter, who is a *bogeret*, who appointed me as [her] agent."⁵ Therefore, [in such a situation,] the *bogeret* is not consecrated,⁶ and her sister is consecrated.

[..]

10. A father's word is accepted with regard to [the status of] his daughter below the age of *bagrut*. [If] he states that she has been consecrated, she is forbidden to marry at all.⁷

11. When a father says, "I consecrated my daughter, but I do not know to whom I consecrated her," she is forbidden [to marry] any man forever unless the father says, "I became aware of the fact that I consecrated her to so and so." He alone must divorce her [before she can marry another person]. [Her father's word is accepted with regard to the identity of the person who consecrated her] even if he becomes aware after she reaches the age of *bagrut*.⁸

12. If a father says, "I don't know to whom I consecrated [my daughter]," and a person comes and says, "I am the one who consecrated her," his word is accepted. [Moreover, he is granted the prerogative of] consummating the marriage.⁹ He need not consecrate her a second time.

13. [In the above situation,] if two people come and both claim that they were the ones who consecrated her, they are both required to divorce her. If they desire, one may divorce her, and one may consummate the marriage.¹⁰

[If the latter option was taken, and] one [consummated the marriage,¹¹ and afterwards a third person came and claimed that he was the one who had consecrated her [originally], his word is not accepted and he does not cause her to be forbidden to her husband.

[...]

FOOTNOTES RENUMBERED

1. If the girls are below the age of *bagrut*, their father has the privilege of consecrating them. If they are above the age of *bagrut*, it is possible that they appointed him as an agent to receive their *kiddushin*. Note, however, the following halachah.

2. For perhaps the brother who died was her betrothed.

3. A girl between the ages of twelve and twelve and a half, who has manifested signs of physical maturity.

4. A girl past the age of twelve and a half, who has manifested signs of physical maturity.

In the Rambam's Commentary on the Mishnah (*Kiddushin* 3:8), he states that if the man has several daughters below the age of *bagrut*, they all require a divorce, because of the doubt mentioned in the previous halachot, but the daughter above the age of *bagrut* does not require a divorce.

5. Kiddushin 51b explains the rationale for this ruling. A person will not abandon a mitzvah for which he is responsible (the consecration of his younger daughter) to fulfill a mitzvah for which he is not responsible (the consecration of his elder daughter).
6. The Shulchan Aruch (Even HaEzer 37:15) states that this law applies only when the daughter who is above bagrut does not specify the identity of a man she desires to marry. If, however, she makes such a specification, and the above situation occurs with regard to this individual, she also requires a divorce.
7. Kiddushin 64a derives this concept from Deuteronomy 22:16, "I gave my daughter to this man," the verse that teaches that the father has the prerogative of consecrating his daughter until she becomes a bogeret. From "I gave my daughter," we learn that because of her father's words, the woman is forbidden to marry anyone but her intended. From "this man," we learn that he can clarify the identity of the intended.
8. The rationale is that since the prohibition comes on the basis of her father's statements, the license to marry is also granted on that basis.
9. I.e., not only may he free the girl of the prohibition by divorcing her, he may consummate the marriage if he desires. We do not suspect that he is making this statement merely because he is attracted to the woman (Kiddushin 63b). The man is given this prerogative because we assume that he would not lie, lest the father protest and deny his claim.
10. He must, however, consecrate the woman again (Rashba, Ramah, Even HaEzer 37:22).
11. The Rashba states that this ruling applies even if the marriage was not yet consummated. As long as the license for the marriage was granted, the third person's claims do not cause it to be rescinded. The Shulchan Aruch (Even HaEzer 37:23) quotes both views, but appears to favor that of the Rambam.

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https://www.chabad.org/library/article_cdo/aid/952883/jewish/Ishut-Chapter-Nine.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 10

16. When a man consecrates his daughter while she is below the age of majority, both she and her father may object and delay the wedding until she comes of age and becomes a na'arah. If [the husband] desires to wed her, he may.¹ It is not proper, however, to do so.²

17. If a man consecrated [a girl], delayed several years, and seeks to wed her while she is a na'arah, the girl is given twelve months from the day he makes his request, to outfit herself³ and prepare what she needs for him. Only afterwards, must she wed.

If he makes his request after she becomes a bogeret, she is given twelve months from the day she becomes a bogeret. Similarly, if he consecrates her on the day on which she becomes a bogeret, she is given twelve months from the day of the kiddushin - i.e., the day on which she became a bogeret.

When he consecrates her after she has become a bogeret, if more than twelve months have passed from the time she became a bogeret until he consecrates her, she is given only 30 days from the day he requests to wed her [to prepare]. Similarly, when a man consecrates a non-virgin bride,⁴ she is given 30 days [to prepare] from the day he requests to wed her.

[...]

FOOTNOTES RENUMBERED

1. I.e., if the husband forces the bride to agree, the wedding is binding. The Drishah (Even HaEzer 56) interprets the Rambam's wording to mean that the father desires to have his daughter wed before she comes of age. Some maintain that there is a slight printing error in the standard text of the Mishneh Torah, and the proper version is "if they desire" - i.e., the bride and her father. (See Chelkat Mechokek 56:6.)
2. Instead, the father should wait until his daughter comes of age and willingly agrees to marry her spouse. (See Chapter 3, Halachah 19.)
3. I.e., to buy garments and jewelry (Ketubot 57b).
4. I.e., even if she is not yet a bogeret. The Maggid Mishneh and others explain that the Rambam is referring to a widow who is consecrated. (Therefore, she is given only 30 days, for she had already prepared herself for her first marriage.) He uses the term "non-virgin" to exclude a bride who had previously been widowed after consecration, but had never wed.

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https://www.chabad.org/library/article_cdo/aid/952884/jewish/Ishut-Chapter-Ten.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 11

1. [The following laws apply when a man] weds a virgin who was widowed or divorced or who underwent the rite of chalitzah.¹ If she was widowed or divorced or underwent the rite of chalitzah after erusin alone, the ketubah [to which she is entitled from her second husband] is 200 zuz. If, however, she had been wed, the ketubah [to which she is entitled from her second husband] is 100 zuz. Once she is wed, she is considered to be a non-virgin.²

Similar [rules apply when a man] weds a virgin [bride] who is [a Canaanite maidservant] who has been freed, who is a convert, or who was held captive [by gentiles and freed]. If the maidservant had been freed, the convert had converted, or the women held captive had been redeemed **before they reached the age of three years and one day,**³ they are entitled to a ketubah of 200 zuz. If [this took place after they reached that age, their ketubah is [only] 100 [zuz].

2. Why did our Sages ordain that these women receive a ketubah of [only] 100 [zuz] even though they are virgins? Because it is a presumption that can be accepted as fact that a woman who is wed will engage in marital relations, and similarly, that a maidservant, a gentile woman and a woman held captive by gentiles will have engaged in relations. Hence, they ordained that such women would be entitled to [only] 100 [zuz] whether they engaged in relations or not. **With regard to all matters, they are considered to be non-virgins.**

3. A mukat etz⁴ [is granted] a ketubah of 100 [zuz]. Even if [her husband] wed her under the presumption that she was a virgin and then he discovered that she was a mukat etz, she is entitled to a ketubah of 100 [zuz].⁵

When a girl of less than three years of age engages in sexual relations, even when her partner is an adult male, she [is entitled to] a ketubah of 200 [zuz]. Ultimately, she will heal and be a virgin like all others.

Similarly, when a boy below the age of nine engages in sexual relations with an adult woman, she [is entitled to] a ketubah of 200 [zuz], as if she had never engaged in relations.⁶ For it is only after a boy reaches the age

of nine years and one day that relations with him are of consequence. Before that age, they are of no consequence.

[...]

6. [The following rules apply when] a deaf mute or a mentally incompetent man married a woman who was mentally competent. Even if afterwards the deaf mute's disability disappears and the mentally incompetent person gains stability, they are under no obligation to their wives. If, however, [the men] desire to remain [married] to [the women] after their own wellbeing has been restored, [the wives] are entitled to a ketubah, and its value should be 100 zuz.

If the deaf mute's marriage was made by the court, and they write [his wife] a ketubah against his assets, she is entitled to everything that the court has prescribed for her. A court will not arrange a marriage for a mentally incompetent person at all. Since the sages' injunction will not be maintained in his instance,⁷ they did not ordain marriage for him at all.

Similarly, our Sages did not ordain marriage for a male below the age of majority; [the rationale is that] ultimately he will gain the potential to enter into a comprehensive marriage bond.

Why then did they ordain marriage for a girl below the age of majority⁸ although she too will ultimately gain the potential for a comprehensive marriage bond? So that she will not be treated in a wanton manner.⁹

A youth should not be [allowed to] marry until he has been examined, and it has been determined that he has manifested signs of physical maturity.

7. When a male below the age of majority marries a woman, she is not entitled to a ketubah, even if he is already nine years and one day old. If he attains majority and remains [married] to her, she is entitled to the fundamental requirement of the ketubah.¹⁰

Similarly, when a man converts together with his wife, she is entitled to a ketubah [of 100 zuz]. It was with this intent that he maintained their marriage.¹¹

[...]

FOOTNOTES RENUMBERED

1. I.e., the woman had been consecrated or wed, but before she and her husband engaged in marital relations, she was either widowed or divorced.

2. Even if there are witnesses to the fact that her husband died directly after they entered the chuppah (Ketubot 11a).

3. The rationale is that even if a woman engaged in sexual relations before the age of three, her hymen will grow back, as stated in Halachah 3, based on Ketubot 11b.

4. Literally, "one struck by a piece of wood," a woman who claims that she did not have hymenal bleeding at the time of her first sexual experience, because she had previously been "struck by a piece of wood" and caused to bleed at that time. As mentioned in Halachah 10, the term is used to refer to any woman who claims that her failure to have hymenal bleeding resulted from causes other than intercourse.

5. Although one might think that the marriage would be annulled, because the husband was operating under a misconception (מקח טעות), Ketubot 11b rules that this is not so. As long as she had not engaged in sexual relations previously, their marriage is binding.

6. The Shulchan Aruch (Even HaEzer 67:4) follows the ruling of Tosafot, Ketubot 11b, who explain that this law applies only when the woman's hymen remains intact despite these relations.

7. I.e., a marriage between a mentally incompetent man and an ordinary woman will constantly be pained by strife and will not last. In contrast, a deaf mute is more passive, and his household will not necessarily be characterized by friction (Yevamot 112b).

8. This refers to a girl who has been orphaned of her father, or who was divorced after being wed. The Torah - and not our Sages - gives a father the right to consecrate his daughter before she becomes a na'arah.

9. If the girl remains unmarried, the prohibitions against relations with her are not as severe, and the Sages feared that they would not be upheld. If she were allowed to marry, the prohibition against adultery would be respected, and she would be treated differently. Moreover, her husband will guard against her association with other men.

10. I.e., only the fundamental requirements of the ketubah, but not any additional amount that the youth added to the marriage contract, unless he renews that commitment after he reaches majority. Otherwise, that commitment - like any commitment made by a minor - is of no substance. Moreover, he is obligated for the fundamental requirement of the ketubah only when he engaged in marital relations with his wife after he attained majority. If not, the marriage - and thus the marriage contract - is of no consequence.

With regard to the fundamental requirements of the ketubah, the Rambam writes in his Commentary on the Mishnah (Ketubot 9:8) that she is entitled to either 200 or 100 zuz, depending on her status at the time of the wedding.

11. Rabbenu Asher differs and maintains that the laws applying to a convert are the same as those applying to a minor. Both opinions are alluded to by the Shulchan Aruch (Even HaEzer 67:11). (See the Beit Shmuel 67:12, which explains the Rambam's position: Even if a convert made a commitment of more than 100 zuz to his wife, any sum above 100 zuz is considered to be an addition to the ketubah and is therefore no longer binding when the convert accepts his new status as a Jew.)

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https://www.chabad.org/library/article_cdo/aid/952885/jewish/Ishut-Chapter-Eleven.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 12

1. When a man marries a woman, whether she is a virgin or a non-virgin, whether she is above the age of majority or a minor, and whether she was born Jewish, is a convert or a freed slave, he incurs ten responsibilities toward her and receives four privileges.¹

2. With regard to his ten responsibilities: three stem from the Torah. They include sha'arah, kesutah v'onatah.² Sha'arah means providing her with subsistence.³ Kesutah means supplying her with garments, and onatah refers to conjugal rights.

The seven responsibilities ordained by the Rabbis are all conditions [of the marriage contract] established by the court. The first is the fundamental requirement of the marriage contract. The others are referred to as t'na'ei ketubah, the conditions of the marriage contract. They are:

a) to provide medical treatment if she becomes sick;

- b) to redeem her if she is held captive;
- c) to bury her if she dies;
- d) to provide for her from his possessions;
- e) the right for her to continue living in his home after his death as long as she remains a widow;
- f) the right for her daughters to receive their subsistence from his estate after his death until they become consecrated;
- g) the right for her sons to inherit her ketubah in addition to their share in her husband's estate together with their brothers [borne by other wives, if she dies before her husband does].

3. The four privileges that the husband is granted are all Rabbinic in origin. They are:

- a) the right to the fruits of her labor;
- b) the right to any ownerless object she discovers;
- c) the right to benefit from the profits of her property during her lifetime;
- d) the right to inherit her [property] if she dies during his lifetime. His rights to her property supersede [the rights of] all others.⁴

[...]

6. If the husband made a stipulation that he would not be responsible for one of these obligations - or the wife made a stipulation that [her husband] would not be granted one of these privileges - [and the other party agreed,] the stipulation is binding,⁵ with the exception of three matters with regard to which it is impossible for a stipulation to be made. Indeed, if a stipulation is made with regard to these three matters, it is of no consequence. These [three] are: [the woman's] conjugal rights, the fundamental requirement of the marriage contract and [the husband's right] to inherit [his wife's property].

7. What is implied? If [the groom] made a stipulation with his bride that he is not obligated to give her conjugal rights, his stipulation is of no substance. For he has made a stipulation against what is written in the Torah, and the stipulation does not concern financial matters.⁶

[...]

FOOTNOTES RENUMBERED

1. These ten responsibilities and four privileges are all explained in detail in the chapters that follow, through Chapter 23.

2. These requirements are mentioned in Exodus 21:10. **The verse forbids a husband from denying his wife these rights.** Sefer HaMitzvot (Negative Commandment 262) and Sefer HaChinuch (Mitzvah 46) consider this to be one of the 613 mitzvot of the Torah.

3. Note the commentary of the Ramban on Exodus (loc. cit.), which interprets sha'arah and kesutah as also referring to conjugal rights and maintains that the obligation to provide a wife with her subsistence and with garments is Rabbinic. Most authorities, however, follow the Rambam's understanding.

4. The Ra'avad and others maintain that the husband's right to inherit his wife's property stems from the Torah itself. The matter is the subject of a difference of opinion between our Sages (Ketubot83b), and there is no

explicit resolution of the question in the Talmud. Rav Kapach maintains that the early manuscripts of the Rambam's Commentary on the Mishnah (Ketubot 9:1; Bava Batra 8:1) indicate that the Rambam himself originally subscribed to the view mentioned by the Ra'avad and changed his mind later in life. (See also Halachah 9.)

5. The principle upon which this statement is based is that any stipulation to which both parties agree that concerns monetary rights - even those that are granted to a person by the Torah - is binding (Kiddushin 19b). For a person has the option to waive his right to property or privileges that justly belong to him (Rashi, loc. cit.). Therefore, a woman may waive even the rights to her subsistence or clothing that the Torah itself grants her.

6. **Instead, the failure to provide a woman with conjugal rights is considered to cause her physical anguish** (Rashi, loc. cit.). Although the Mordechai maintains that conjugal rights can also be considered monetary matters, for it is possible to give a woman enough money that she would be willing to forego her rights, the Rambam's view is accepted by most authorities.

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https://www.chabad.org/library/article_cdo/aid/952886/jewish/Ishut-Chapter-Twelve.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 14

[...]

3. **A man [has the prerogative of] marrying several wives¹ - even 100**, whether at one time or one after the other. His wife may not object to this, provided he has the means to provide each [wife] with her subsistence, clothing and conjugal rights as befits her. He may not, however, compel his wives to live in the same courtyard. Instead, each one is entitled to her own household.²

4. What are [his obligations with regard to his wives'] conjugal rights? [They are determined according to] the number [of wives he has.]

What is implied? **If a worker has two wives**, he is obligated to fulfill his duties towards each one once a week. **If he has four wives**, he is obligated to fulfill his duties towards each one once every two weeks. Similarly, a seaman **who has four wives** is obligated to fulfill his duties towards each one once every two years.

Therefore, our Sages³ commanded that a person should not marry more than four wives, although he has ample financial resources, so that he will be able to fulfill his conjugal obligations towards each one once a month.⁴

[...]

7. **It is forbidden for a man to deprive his wife of her conjugal rights**. If he transgresses and deprives her of these rights in order to cause her distress, he violates one of the Torah's negative commandments, as [Exodus 21:10] states: "Do not deprive [her] of her sustenance, garments or conjugal rights."⁵

If he becomes sick or his virility is weakened, and he is unable to engage in sexual relations, he is given a period of six months⁶ - for [a woman is never required to wait] longer for her conjugal rights than this - in the hope that he recovers. Afterwards, the prerogative is hers [whether to remain married] or whether he must divorce her and pay her [the money due her by virtue of her] ketubah.

8. A woman who withholds marital intimacy from her husband is called a *moredet* ("a rebel"). She is asked why she has rebelled. If she answers: "Because I am repulsed by him and I cannot voluntarily engage in relations with him," her husband should be compelled to divorce her immediately. For she is not like a captive, [to be forced] to engage in relations with one she loathes.⁷

[In such an instance, as part of] the divorce [settlement], she does not receive any of the money promised her in her *ketubah*.⁸ She is entitled to whatever remains of the possessions she brought into the marriage arrangement, both those for which her husband assumed responsibility and those for which he did not assume responsibility - i.e., *nichsei m'log*.⁹

She is not entitled to anything that belongs to her husband. She should remove even the shoe on her foot and her head-covering that he gave her and return them to him. [Similarly,] she should return to him any presents that he gave her. For he did not give them to her with the intent that she take them and [leave his home].

[...]

FOOTNOTES RENUMBERED

1. *Yevamot 65a* states that if it is the local custom for a man to have only one wife, a man may not deviate from that custom. In the Ashkenazic community, as ordained by the ban of Rabbenu Gershom, it is forbidden for a man to marry more than one wife. (See *Shulchan Aruch (Even HaEzer 1:9-10)*.)
2. The commentaries draw support for this law from the Biblical narrative (Genesis 31:33), which mentions that Jacob had separate tents for Leah, Rachel, Bilhah and Zilpah. (See also Chapter 13, *Halachah 14*.)
3. *Yevamot 65a*.
4. From this, it appears that the custom of engaging in sexual relations once a week was not the practice of Torah scholars alone.
5. Rav Kapach notes that although this prohibition involves three rights, the Rambam mentions its violation only with regard to the denial of conjugal rights. He explains that with regard to her sustenance and garments, a woman can take legal recourse and sue for the money due. This, however, is not possible with regard to conjugal rights.
6. The later authorities (*Chelkat Mechokek 76:18*; *Beit Shmuel 76:17*) quote the opinion in the *Shiltei HaGiborim* that states that if a man is afflicted with an ailment that will heal, his wife is required to remain married to him, despite the fact that the treatment will last longer than six months.
7. The *Maggid Mishneh* and many other authorities differ with the Rambam on this point and maintain that a man should not be forced to divorce his wife even in such a situation. This view is followed by the *Shulchan Aruch (Even HaEzer 77:2)*. Even those opinions that favor the Rambam's ruling emphasize that the court should seek to clarify that the woman is not making her statements because she fell in love with another man and seeks to end her previous marriage because of him.
8. For, as implied by the Rambam's statements below, this money was promised to her only on the condition that she maintain the marriage relationship.
9. Those authorities who differ with the Rambam regarding whether the husband is compelled to divorce his wife also differ with regard to this point. They maintain that even with regard to the possessions for which her husband accepted responsibility, the woman is granted only what she takes possession of. (See *Maggid Mishneh*; *Ramah (Even HaEzer, loc. cit.)*.)

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https://www.chabad.org/library/article_cdo/aid/952888/jewish/Ishut-Chapter-Fourteen.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 18

[...]

15. [The following rules apply with regard to] a widow who has an obligation to marry a yavam.¹ During the first three months,² she derives her subsistence from her deceased husband's estate.³ If it can be determined that she is pregnant, or if it was known that she was pregnant when her husband died, she continues to derive her support [from his estate] until she gives birth. If she bears a viable child, she may continue to derive her subsistence throughout her widowhood as other women do.

If after three months have passed, it is [either] not evident that she is pregnant or she miscarries, she is not entitled to support from either her husband's estate or from her yavam. Instead, she must file a suit against her yavam either to marry her or [to free her of her obligation through] chalitzah.

16. If she filed a suit against her yavam either to marry her or [to free her of her obligation through] chalitzah, he appeared in court and then fled or became ill, or if the yavam lives overseas,⁴ the woman is entitled to derive her support from the property of the yavam without taking any oath at all.⁵

17. If the yavam she was obligated to marry is a minor,⁶ she is not entitled to receive her support from him until he comes of age and resembles other yevamim.⁷

[...]

FOOTNOTES RENUMBERED

1. I.e., her husband died childless, and he had a brother who is commanded to marry his widow.

2. This time period is granted in order to determine whether the woman was made pregnant by her husband before he died. If three months pass without pregnancy becoming noticeable, we can assume that a child was not conceived.

3. Until she gives birth or miscarries, she is not entitled to remarry, lest she become bound by the obligation of yibbum. Since it is because of her husband that she may not remarry, his estate is required to provide for her (Rashi, Yevamot 41b).

4. The Maggid Mishneh states that the latter two clauses - that the yavam became sick or that he lived overseas - apply also only if the yavam had previously appeared in court. If, however, he has never appeared in court, he is not under any obligation.

The Shulchan Aruch (Even HaEzer 160:1) follows the opinion of Rabbenu Asher, who states that the yavam is obligated to support her in the latter instances only when he consented to marry her. If he desired to perform chalitzah, he is under no obligation to her.

5. There is no need for her to take an oath that the yavam had not given her property. For since they have not established a relationship, such suspicions are unfounded (Ketubot 107b).

6. Who should not perform the mitzvah of yibbum until he attains majority.

7. Since he is forbidden to marry her, he is not required to support her. Nor is she entitled to support from her husband's estate. Yevamot 41b says that it is as if she is penalized from heaven.

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https://www.chabad.org/library/article_cdo/aid/952892/jewish/Ishut-Chapter-Eighteen.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 19

[...]

10. Among the provisions of the ketubah is that after the death of their father, [his wife's] daughters have the right to receive support for their sustenance from their father's estate¹ until they become consecrated² or until they reach the age of bagrut.³

If a daughter reaches the age of bagrut but has not been consecrated, or if she is consecrated before she reaches the age of bagrut,⁴ she is not entitled to receive her sustenance.

When a daughter receives her sustenance from her father's estate after his death, her earnings and the ownerless objects she discovers belong to her, not to her brothers.⁵

[...]

14. A daughter of a girl who nullifies her marriage through mi'un is considered like any other daughter, and she is entitled to support for her sustenance [after her father's death].⁶ Nevertheless, the daughter of a yevamah,⁷ the daughter of a sh'niyah,⁸ the daughter of one's arusah,⁹ and the daughter of a woman who has been raped¹⁰ are not entitled to support for their sustenance after their father's death by virtue of this provision. During their father's lifetime, however, he is obligated to support them like any of his other sons and daughters.

15. A man who consecrates a girl who is receiving her sustenance from her brothers is obligated to provide her with support from the time of consecration onward. [Although a husband is ordinarily required to support his wife only after nisu'in, an exception is made in this instance, because] the girl is not entitled to support from her brothers after she becomes consecrated. Nor is she past the age of majority, when she is capable of providing for her own sustenance, but rather she is a minor, or a na'arah.¹¹ [Hence, her husband is obligated to support her, because] a man would not desire that the woman he consecrated be put to shame [by having to] wander and beg [for her support].¹²

16. Should a daughter marry and then leave her husband through the rite of mi'un, or be divorced, or be widowed - even if she is obligated to marry a yavam - since she returns to her father's home and has not reached the age of bagrut, she is entitled to support from her father's estate until she reaches the age of bagrut or until she becomes consecrated.¹³

[...]

FOOTNOTES RENUMBERED

1. See Chapter 21, Halachah 18, which states that the daughters are granted this right even when their father divorced their mother before his death, and they took up residence with their mother.

2. Once the daughter is consecrated by a husband, her support is no longer the responsibility of her father's estate. (See also Halachah 15.)
3. During a man's lifetime, he is required only to provide his daughters with their sustenance until the age of six (Chapter 12, Halachah 14). After his death, however, they are entitled to support until the age of twelve and a half.
4. From the Rambam's wording, it would appear that he maintains that a girl forfeits her right to support if she becomes consecrated while she is a minor. This ruling is not universally accepted by the Rishonim. The Maggid Mishneh quotes Rabbenu Chananel and the Rashba as saying that she does not forfeit this right in such an instance. The Tur (Even HaEzer 112) mentions a third view: that if she consecrates herself, she forfeits her support, but if her brothers are involved in her consecration, she is still entitled to support. The Shulchan Aruch (Even HaEzer 112:3) quotes the Rambam's view, while the Ramah mentions the other opinions.
5. Although during his lifetime, her father is entitled to her earnings and the objects she discovers, this right is not given to his sons. The rationale is that the father would prefer for his daughter to receive her own earnings than to have them given to his sons.
6. This ruling has been contested by other authorities on several grounds. First, the Ra'avad challenges the Rambam, asking: how is it possible for a girl who nullifies her marriage through mi'un to have a child? **By definition, mi'un is possible when a girl is a k'tanah, a minor** (see Chapter 4, Halachah 7), **and while she is a minor it is impossible for her to conceive a child.** He explains that Ketubot 53b is speaking about a girl who leaves her husband through mi'un - she is entitled to return to her deceased father's home and receive support for her sustenance.
Second, the Maggid Mishneh accepts the fact that a girl can conceive a child while a minor, but asks: Since the mother nullifies the marriage through mi'un, it is as if her husband had never had any obligations to her at all. Her ketubah and all of its provisions are nullified entirely. Why then is his estate liable for the support of his daughter after his death? See the Beit Shmuel 112:11 for a possible explanation.
7. When a man dies childless, his brother (the yavam) inherits his entire estate, and that estate is responsible for the ketubah of the yevamah (the widow who is married by the yavam). If a yevamah bears a girl, the deceased brother's estate is not liable for the girl's support after her father's (the yavam's) death, for she is not the daughter of the deceased brother. Nor is the yavam's estate responsible for her support, for he never gave a ketubah to the yevamah.

Note, however, the Shulchan Aruch (Even HaEzer 112:5), which states that if the deceased brother did not leave an estate, the yavam must give the yevamah a ketubah from his own property. Hence, in this instance, his estate becomes liable for the support of his daughters.
8. Since the mother's marriage is forbidden, our Sages did not grant her a ketubah. Ketubot 54a questions whether they also did not grant her the rights stemming from the ketubah's provisions, including her daughter's right to support in this instance. Since the question is left unresolved, her daughter is not granted this privilege.
9. Who was born before the couple entered the phase of nisu'in (Shulchan Aruch, loc. cit.). Since the ketubah takes effect only after nisu'in, this daughter is not entitled to support.
10. The term anusah refers to a virgin who was raped. The rapist is required to marry her and is forbidden to divorce her (Deuteronomy 22:28). Since he is forbidden to divorce her, she is not granted a ketubah. Our Sages (ibid.) question whether or not she was not granted the provisions of a ketubah. This question is also left unresolved, and her daughter is not granted the privilege of deriving her livelihood from her father's estate.

Similarly, the daughter of a woman who was raped and never married by the rapist is not entitled to support from her father's estate.

11. The Beit Shmuel 112:6 interprets the Rambam's wording as implying that after the girl reaches the age of bagrut, she is required to support herself.

The Beit Shmuel also mentions that other Rishonim interpret Ketubot 53b, the source for this halachah, differently. According to their interpretation, the husband is not liable for the girl's support. If the husband desires, continues the Beit Shmuel, he may rely on this opinion.

12. It is as if he had made a commitment to support her when he consecrated her.

13. The Shulchan Aruch (Even HaEzer 112:4) cites the Rambam's view. The Ramah differs, however, citing the opinion of Rabbenu Asher, who maintains that from the time a girl becomes consecrated after her father's death, and onward, she is not entitled to support from his estate.

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SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 20

[...]

12. **When an orphan girl is married off by her brothers or her mother as a child with her consent**, and she is given 50 or 100 zuz as a dowry, she is entitled to collect the dowry that is due her - according to the estimation of her father's desires or one tenth of the landed property¹ [of his estate] - from them after she attains the age of majority.

[This applies] even if her brothers did not provide her with sustenance,² and even if she did not object at the time of the wedding. **For a minor is not capable of making an objection [in court].**³

[...]

14. [The following rules apply when a man] stated - whether while making an oral will before death or while healthy - that his daughter should be given a specific sum of money as a dowry, and that this sum should be used to purchase landed property, and [then] died [afterwards].

When the money is in the possession of a third party and the daughter states: "Give the money to my husband and let him do with it as he desires," [the third party should do as follows]. If [the daughter] has reached the age of majority and has married, she is granted this prerogative.⁴ If she is [past majority, but merely] consecrated, the third party should follow the instructions he was given.⁵ And if she is a minor, even if she is already married, her request is not heeded.⁶ Instead, the third party should carry out her father's instructions.⁷

FOOTNOTES RENUMBERED

1. The Maggid Mishneh cites this phrase as proof that the tenth of the estate set aside as a dowry is expropriated from landed property alone.

2. See the following halachah.

3. **And thus the fact that she did not object at the time of the marriage is not significant.** The Maggid Mishneh adds that even if the girl did not object immediately at the time she reached majority, she is entitled to object afterwards. This decision is quoted by the Ramah (Even HaEzer 113:7).
4. We assume that the father's intent was that the money should be entrusted to a third party only until after her marriage (Rashi, Ketubot 69b).
5. For it is a mitzvah to carry out the directives of a person who dies, even if he was healthy at the time he gave these directives (Hilchot Zechiyah UMatanah 4:5).
6. We assume that the father's intent was to safeguard his daughter and her husband against wasting the funds intended for them.
7. The Shulchan Aruch (Even HaEzer 54:1) quotes the Rambam's ruling. The Ramah refers to this ruling in Choshen HaMishpat 252:2, which states that this applies only if the funds were specifically entrusted to the third party for this purpose by the deceased at the time he made this statement. If they came into his possession afterwards, the concept that it is a mitzvah to carry out the directives of a person who dies does not apply.

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https://www.chabad.org/library/article_cdo/aid/952894/jewish/Ishut-Chapter-Twenty.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 21

[...]

10. **Whenever a woman refrains from performing any of the tasks that she is obligated to perform, she may be compelled to do so, even with a rod.**¹ When a husband complains that [his wife] does not perform [her required tasks], and [the wife] claims that she does, [the dispute should be clarified by having] a [neutral] woman dwell with them or [by asking] the neighbors.² The judges should clarify the matter in the best way they see fit.

FOOTNOTES RENUMBERED

1. Rav Kapach emphasizes that the Rambam's intent is not that the husband should beat his wife himself, but that he should bring her to the court, which should administer corporal punishment if they see fit.

The Ra'avad objects to this ruling, explaining that it is unheard of to compel a woman by corporal punishment. Instead, her support should be cut back until she accepts her household duties. The Rashba offers other options - to place her under a ban of ostracism or to sell her ketubah and use the proceeds to hire a maid.

When quoting this law, the Shulchan Aruch (Even HaEzer 80:15) mentions that the woman is compelled to perform her tasks, but omits reference to the means of compulsion employed. The Ramah quotes the opinion of the Rambam together with that of the Ra'avad and the Rashba, but appears to favor the latter views.

2. The woman is not required to support her claim with an oath, because a pattern of the husband's complaining and the woman's being compelled to take an oath would arise, and peace would not reign within the household (Chelkat Mechokek 80:28).

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SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 22

[...]

4. Although a man marries a woman with whom he is forbidden [to have relations], if she dies [during his lifetime], he inherits her estate when his consecration of her is binding.¹ Similarly, a man who marries a k'tanah [after her father's death]² inherits her estate if she dies in his lifetime, even though his consecration of her is not binding entirely.

When, by contrast, a mentally capable man marries a deaf mute, he is not entitled to inherit her estate when she dies.³ When, however, a deaf mute marries a mentally capable woman and dies, he should inherit her estate. For she is capable of understanding and married him voluntarily. [In doing so,] she gave him a right to her property.⁴

5. **When a k'tanah was consecrated with her father's consent, but married without his consent - whether in his presence or outside his presence - her father has a right to object**, as we have explained.⁵ [In such a situation,] if the girl dies, her husband should not inherit her estate, even if the father remains silent, unless he expressed his consent to her marriage.

[...]

FOOTNOTES RENUMBERED

1. See Chapter 1, Halachot 6 and 7; Chapter 4, Halachah 14.

2. Or after she becomes divorced or widowed in her father's lifetime (Chapter 4, Halachot 7 and 8).

3. The rationale is that she is not entitled to a ketubah (Chapter 11, Halachah 4). Moreover, since she is not responsible for her actions, she has no right to transfer her property.

4. Although the Ra'avad objects to this ruling, the Shulchan Aruch (Even HaEzer 90:3) quotes the Rambam's view.

5. Chapter 3, Halachah 13.

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https://www.chabad.org/library/article_cdo/aid/952896/jewish/Ishut-Chapter-Twenty-Two.htm

SEFER NASHIM (The Book of Women) ISHUT (Marriage) Chapter 23

[...]

10. When does the above apply? When a husband divorces his wife [under ordinary circumstances]. [Different rules apply regarding] a woman who rebels against her husband [and denies him intimacy].¹ Even if he derived

much benefit, the benefit that he derives should be evaluated and subtracted from the amount fit to be given him for the expenses he undertook.² After he takes an oath [affirming his claim], he is entitled to collect it. For he did not [incur these expenses on behalf of his wife] so that she would take them and leave him on her own accord.

Similarly, [different rules apply when] a man undertakes expenses [to develop] property belonging to his wife who is below the age of majority, and **she dissolves the marriage through the right of mi'un**.³ We evaluate the amount of benefit he received, the amount of his expenses, the extent of the property's increment - and then he is given the share usually allocated to a sharecropper.⁴ [This consideration is taken] because he had permission to work [his wife's property].⁵

[...]

16. When a man makes a financial commitment to his son-in-law and then moves to another country [without fulfilling his commitment], the woman has the prerogative of telling her [prospective] husband: "I did not make this commitment myself. What can I do? Either consummate the marriage without a dowry or divorce me."⁶

If, however, she made such a commitment herself, and she was not able to muster the funds, she must remain [in this intermediate state] until she accumulates the sum to which she committed herself or until she dies.

Why does she not release herself from her obligation by becoming a **moredet**⁷ against her husband? [Because there is a difference between these two instances.] With regard to a **moredet** who has [merely] been consecrated, the husband desires to consummate the marriage; it is she who does not desire. In this instance, by contrast, the husband does not want [to consummate his marriage with] her until she gives the dowry to which she committed herself. She, however, desires him, [as reflected by] her request: "Either consummate [the marriage] or divorce me."

When does the above apply? To a woman past majority. If, however, a woman makes a financial commitment while she is still a minor, we compel [her prospective husband] either to divorce her or to consummate the marriage without a dowry.

[...]

FOOTNOTES RENUMBERED

1. See Chapter 14, Halachah 8.

2. As reflected by the Rambam's Commentary on the Mishnah (Ketubot 8:6), this applies only when the increment to the property exceeds the expenses. If the expenses exceed the increment, all he receives is the increment. (See Beit Shmuel 88:18, who quotes other authorities who differ.)

3. See Chapter 4, Halachah 8.

4. If the husband were not given consideration for his expenses and the increment he brought to the woman's property, he would seek only his own benefit and would deplete the property's value by failing to fertilize it and constantly sowing crops. This is unlikely to happen if he is given a sharecropper's allocation. In such an instance, he is likely to say: "It is possible that the marriage will continue, and so it is to my benefit to maintain the field's value. Even if the marriage does not continue, I will be justly reimbursed for my work."

5. The Shulchan Aruch (Even HaEzer 88:10) explains that the option is the husband's. He may choose to receive a sharecropper's allocation, or he may desire to leave the property without making a reckoning, as is done in the case when his wife is past the age of majority.

6. I.e., the husband must take one of these two options. He cannot leave the woman consecrated (in which case she cannot marry someone else), but not married.

This ruling is quoted by the Shulchan Aruch (Even HaEzer 52:1). The Ramah states that if the woman has the financial means to meet the commitment, she must do so.

7. See Chapter 14, Halachot 8 and 12.

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SEFER NASHIM (The Book of Women) GERUSHIN (Divorce) Chapter 2

[...]

18. **When a man consecrates a minor via her father's agency and [seeks to] divorce her while she is a minor, her father should accept her get.**¹ When the get reaches her father's possession, she is divorced.

If [the husband seeks to] divorce [his arusah] when she is a na'arah,² the divorce is effective when the get reaches her possession or her father's possession. A na'arah who is consecrated may not appoint an agent to receive her get from her husband during her father's lifetime.³ A father, by contrast, may appoint an agent to receive a get for his daughter who has been consecrated, whether she is a minor or a na'arah.

19. **[The following rules apply when] a girl's father consecrates her⁴ when she is a minor and then [the father] dies. If [the girl] can differentiate between a get and another object,⁵ the divorce is effective after the get reaches her possession. If [she is] incapable [of making such a distinction], she cannot be divorced until she becomes capable of making such distinctions.⁶ If such a divorce is carried out, it is of no consequence.**

FOOTNOTES RENUMBERED

1. **Just as the Torah gives him authority to consecrate her, he is responsible for taking part in the divorce,** for Deuteronomy 24:2 establishes an association between the forging of the marriage bond and its dissolution (Ketubot 47a).

This applies, however, only before the marriage bond is consummated. **After nisu'in, the consummation of the marriage, the father no longer has any authority over his daughter even though she is below the age of majority.** (See Hilchot Ishut 3:12.)

We may conclude that, before nisu'in, the Rambam does not consider the girl as having the authority to receive her own get. This opinion is accepted by most authorities and is quoted by the Shulchan Aruch (Even HaEzer 141:4). The Shulchan Aruch, however, also mentions the opinion of Tosafot, who maintain that the girl possesses this authority.

2. I.e., a girl between the age of twelve and twelve and a half, who has manifested signs of physical maturity. She is already considered to be past majority with regard to certain dimensions of Torah law. Nevertheless, her father is still granted authority over her in certain contexts. (See Hilchot Ishut 2:1, 3:11.)

3. **A married girl below the age of majority, by contrast, may not appoint an agent to receive her get even if her father dies or her marriage has been consummated** (Shulchan Aruch, Even HaEzer 141:3.)

4. If the girl's father consecrates her, the kiddushin are effective according to Scriptural law, and a divorce is required. If, by contrast, the girl's father died, and her mother, her brother or she herself established a marriage bond, it is not binding according to Scriptural law and a get is not required. Instead, this marriage can be dissolved through the rite of mi'un, as described in Hilchot Ishut 4:7.

5. The Ramah (Even HaEzer 141:6) states that this refers to a girl of six or seven, depending on her intellectual capacities.

6. If, however, a minor's father is alive, he can accept a get on her behalf regardless of her age or degree of understanding. Rashi (Gittin 64b) differs and maintains that if she is unable to make distinctions, she cannot be divorced even via her father. Although the Shulchan Aruch (Even HaEzer 141:6) quotes both opinions, it appears to favor that of the Rambam.

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SEFER NASHIM (The Book of Women) GERUSHIN (Divorce) Chapter 11

1. One should not marry a girl below the age of majority.¹ When a man marries an orphan girl below the age of majority, and [before she attains majority] she [decides that] she does not desire [to remain married to] this husband, she rejects [the marriage] and departs; a get is not required, because a consecration effected by a minor does not establish a marriage bond in the full sense, as explained.² [The annulment of a marriage in this manner is referred to as mi'un.]

Similarly, when a girl below majority was married at her father's initiative,³ but was then widowed or divorced while still a minor, she is considered to be an orphan, although her father is alive.⁴ If she marries again while she is below the age of majority, she may annul her marriage through mi'un.

2. Although the marriage of a woman who is a deaf-mute is a Rabbinic institution like that of a minor, our Sages did not give her the right to annul it through mi'un, so that men would not refrain from marrying her.⁵

3. A minor can annul her marriage via mi'un whether she has been merely consecrated or [even if] the marriage has been consummated. [She can exercise this privilege] in her husband's presence, or outside his presence. Just as she can annul her marriage to her husband, she can annul her relationship to a yavam.⁶

Just as she can annul one marriage through mi'un, so too, she can annul a second marriage or a third marriage. Indeed, [she can exercise this privilege] any number of times.⁷

As long as she is a minor, she has the right to annul her marriage through mi'un. When a minor does not exercise the right of mi'un and becomes consecrated to another man despite the fact that she was married, [the consecration is binding]. Becoming consecrated is [obviously] a rejection [- and thus an annulment - of her previous marriage].

4. Until when may a girl annul her marriage through mi'un? Throughout the entire time she is a minor, until she becomes a na'arah,⁸ or until it is known that she becomes classified as an ayalonit.⁹

When does the above¹⁰ apply? When her husband did not engage in marital relations with her after she became twelve years and one day old. If, however, the couple engaged in relations after she reached this age, since these relations consecrate her according to Scriptural law, as explained,¹¹ she no longer has the right to annul her marriage through mi'un.

Similarly, [when the woman reaches this age, we assume that she has lost her right to annul her marriage through mi'un]. She need not be checked for signs of physical maturity, for it is assumed that she has manifested them.¹²

5. If she has undergone a physical inspection, and no signs of maturity were discovered, but she engaged in marital relations after the age when she could have manifested signs of maturity, we suspect that pubic hairs had grown and later fell off. Because of the doubt, the marriage must be dissolved with a get.

If a woman [who engaged in marital relations with her husband after reaching the age of twelve attempts to] annul her marriage through mi'un after undergoing a physical examination,¹³ and then is consecrated by another person, [her second husband also] must dissolve their relationship with a get, because of the doubt involved.¹⁴ If she married [the second husband], she must be divorced by both husbands and there is a doubt concerning the legitimacy of a child born to either of them [after her consecration to her second husband].¹⁵

6. **When a minor does not exercise her right to mi'un and attains majority, she no longer has this privilege.** [This applies] even when she did not engage in marital relations with her husband after reaching the age of twelve years and one day. Since she has attained majority, it is a Rabbinic decree that a divorce is required [if the marriage must be dissolved].

[The rationale for this ruling is as follows:] The couple did not engage in marital relations after she reached the age of na'arut, in which instance it would be necessary to suspect that she manifested signs of physical maturity, and accordingly, there would be a doubt whether or not a marriage bond had been established. Nor did they engage in relations after she attained majority, in which instance she would become a married woman in all regards. Accordingly, the only reason she requires a get is the fact of her marriage as a minor, which is a Rabbinic institution.

Based on the above, if another man consecrated her after she attained majority, [when she had not engaged in marital relations with her first husband from the age of twelve onward,] the second man's consecration is binding.¹⁶ As such, if her first husband divorces her, her second husband may consummate the marriage. If, however, her second husband divorces her, her first husband may not continue his marriage with her. [This is a decree, instituted] lest people say: "He remarried his divorcee after she was consecrated."¹⁷

If her second husband engaged in marital relations with her before her first husband divorced her, she must be divorced by both men. [This is a decree instituted] because [the situation] resembles an instance in which a woman heard that her husband died, she married, and then her first husband returned.¹⁸ [The laws governing the two situations are not entirely analogous. In this instance,] a child fathered by the second husband is not illegitimate.¹⁹ But if her first husband engages in relations with her before her second husband divorces her, any child born is illegitimate.²⁰

7. **In which instances must a minor perform the rite of mi'un [to nullify her marriage]? [Our Sages established the following guidelines.] If she was between six and ten [when she was consecrated], we investigate the extent of her sagacity.**

If she knows to guard [the money given to her to effect] the kiddushin, appreciates that it was given for that purpose and will guard it differently from the way in which she would guard a nut, a date or the like, she must perform the rite of mi'un [to nullify her marriage].

If she does not know to guard [the money given to her to effect] the kiddushin, she need not perform the rite of mi'un [to nullify her marriage]. Instead, she returns to her mother's home as if she had never been consecrated. If she is less than six, even if she knows [how to guard the money given her,] she need not perform the rite of mi'un. If she is more than ten, even if she is very inept, she must perform the rite of mi'un.²¹

Whenever a girl's brother, mother or relatives arranged for her marriage without telling her of the identity of the groom, she need not perform the rite of mi'un [to nullify her marriage].²²

8. What does the rite of mi'un entail? She tells two witnesses:²³ "I no longer desire my husband so and so," "I no longer desire to be consecrated [to the man] to whom my mother - or my brother - consecrated me," or the like.

[The above applies] even if the two individuals are guests dining in her husband's home and she is serving them. If she tells them, "I no longer desire my husband so and so," she has performed mi'un.

9. The two individuals in whose presence the minor performs the rite of mi'un should write the following for her: "On this and this day, _____ the daughter of _____ rejected her husband." They sign the document and give it to her. This is the essential portion of a deed of mi'un.

A deed of mi'un does not resemble a bill of divorce, in which the giving of the bill effects the divorce.²⁴ It need not be written with the proper intent, nor must it be transferred, nor do any of the laws required for a bill of divorce apply with regard to it. The wording used for a get is not used for it, lest it appear to be a get.²⁵ It is merely a legal record.

10. The two individuals before whom a girl makes a statement of mi'un must know the identity of the girl and her husband. Therefore, whoever sees [a girl] make a statement of mi'un [in the presence of two other people] and hears that statement, is entitled to write a legal record of this statement, even though he was not aware of [the girl's] identity beforehand.²⁶

It has become customary for the Jewish people to write a legal record of a statement of mi'un, employing the following text.

11. A legal record of a statement of mi'un:

On this day of the week, and on this day of the month, in this year according to the following reckoning,²⁷ so and so, the daughter of so and so (her father's name) issued a protest in our presence, saying: "My mother or my brother misled me and had me married - or consecrated - to so and so, the son of so and so (his father's name) while I was a minor. I am now making a statement in your presence that I do not desire him, nor can I live with him." We have had so and so undergo a physical examination,²⁸ and it has been established that she is still a minor. [Hence,] we have written and signed this [legal document] and have given it to her to serve as support and clear evidence.

So and so, the son of so and so (his father's name), a witness;

So and so, the son of so and so (his father's name), a witness.

[...]

16. **A girl who leaves her husband by virtue of the rite of mi'un is not considered to be divorced by him.**²⁹ The laws applying to her relations with her husband whom she rejected are the same as those applying to a man who has never consecrated her. She is permitted to marry his relatives. He is permitted to marry her relatives. Nor is she disqualified from marrying into the priesthood.

If she married another man and was divorced or widowed, or she nullified her relationship with him through mi'un, she is permitted to remarry him. Moreover, even if her first husband divorced her [while she was still a minor], remarried her, she then nullified their relationship via mi'un and married another man and was divorced by him, she may remarry her first husband.³⁰

[The rationale is that] whenever a girl leaves a marriage via the rite of mi'un, it is considered as if she had never been divorced via a get, and she may remarry her first husband. [This applies] even if she was once divorced [by this man] before mi'un.

When, by contrast, a man divorces his wife - who is a minor - with a get, she marries another man and then nullifies the marriage through mi'un, she may not remarry her first husband, because although her final marriage was terminated by mi'un, her marriage [to her first husband] was terminated by a divorce.³¹ Needless to say, this applies if the second husband divorced her or he died.

Similarly, she is forbidden to the father of her first husband, his son and his brothers, as are other divorced women. [This applies despite the fact that] she terminates her marriage to her second husband via mi'un.

17. When a girl nullifies her connection to a yavam through mi'un, she remains forbidden to his father, for she appears to be his daughter-in-law, since [that was her status] when his son died. She is, however, permitted to marry [her late husband's] other relatives.³² Thus, although she rejected a potential yavam with mi'un, she is permitted to marry his brother.

[...]

22. A girl who annuls her marriage through mi'un need not wait [before remarrying]; our Sages' decree applied only to a divorcee. Similarly, a woman who has promiscuous relations need not wait, for she guards herself against becoming pregnant. Similarly, a woman who was raped or seduced need not wait.

23. [The following rule applies when] a girl below the age of majority who is not fit to give birth was married under a mistaken conception, discovered that she is forbidden to remain married to her husband and was forced to separate by the court. She need not wait, for this is an unlikely occurrence, and our Sages did not apply their decrees to situations that are out of the ordinary.³³

[...]

FOOTNOTES RENUMBERED

1. I.e., even though a father has the right to consecrate his daughter before she reaches majority and arrange for her marriage, "it is not proper for him to act in this manner." Instead, our Sages enjoined that a person should not consecrate his daughter while she is a minor until she matures and says, "I would like [to marry] so and so" (Hilchot Ishut 3:19). Similarly, from the husband's point of view, he should not marry a girl until she is mature, lest she change her mind afterwards (Tosafot, Kiddushin 41a).

2. Our Sages ordained that an orphan girl below the age of majority could be married, so that someone would care for her and protect her. With regard to such a marriage, the Rambam writes in Hilchot Ishut 4:8: "The consecration is not absolutely binding according to Scriptural law; it is merely a Rabbinic institution. [According to Scriptural law, the outcome] is tentative. If she continues living with her husband until she reaches the age of majority, the kiddushin are finalized, and she becomes a married woman in the complete sense of the term. There is no need for [her husband] to consecrate her again after she attains majority. If she does not want [to continue] living with him, she must perform mi'un; she then leaves [the relationship] without a divorce."

3. In which instance, the marriage is binding according to Scriptural law and cannot be annulled through mi'un.

4. Once a girl is married, her father no longer has any authority over her, even though he is alive (Hilchot Ishut 3:12).

5. In the instance of a minor, her right to annul the marriage lasts only until she reaches majority. With regard to a deaf-mute, by contrast, there would be no limit to this privilege. This would be regarded unfavorably by a husband (Yevamot 113a).
6. I.e., if her husband dies without children and she does not desire to marry the yavam, she can dissolve the marriage by mi'un.
7. Although a girl has the right to marry and dissolve her marriage as often as she desires, our Rabbis did not approve of such conduct and counselled that the Jewish court should arrange a marriage of a minor only when it does not appear likely that she will seek to dissolve the marriage (Hagahot Maimoniot).
8. I.e., when she becomes twelve years old and manifests physical signs of maturity, as explained in Hilchot Ishut 2:3.
9. A woman who does not manifest any female physical characteristics. If she shows clear signs of such a condition, she is placed in this category at age 20. If she does not show such signs, but also does not manifest signs of female physical maturity, she is not placed into this category until age 35 (Ibid.:4).
10. That a girl can annul her marriage despite the fact that she has passed the age of twelve, when she has not manifested female physical characteristics.
11. Hilchot Ishut 1:2.
12. I.e., our ordinary assumption is that a woman has manifested signs of maturity. Therefore, if a woman wants to annul the marriage after she reaches the age of twelve, she must undergo a physical inspection to show that she has not manifested signs of physical maturity. If no signs are discovered, and she has not engaged in relations with her husband after reaching the age of twelve, she may exercise the right of mi'un.
13. In which no signs of physical maturity were discovered.
14. Since no signs of physical maturity were discovered, it is possible that the girl is still a minor and that the annulment of her first marriage - and thus her subsequent consecration - is acceptable. But it is also possible that, as mentioned in the previous halachah, pubic hairs grew and fell off, and that through engaging in marital relations she had been consecrated by her first husband. Because of the doubt involved, she must be divorced by both men.
15. Since it is possible that her first marriage is binding, the legitimacy of a child fathered by her second husband is in doubt. And conversely, since it is possible that the marriage to her second husband is binding, there are also doubts concerning the legitimacy of a child fathered afterwards by the first husband.
16. I.e., even if she had not yet been divorced by her first husband. Since the second man's consecration has the power of Scriptural law, it takes priority.
17. Which is forbidden, as stated in Halachah 12.
18. The resemblance is that the woman married a second husband before her marriage with the first was severed.
19. Because her marriage to her first husband is not binding according to Scriptural law.
20. For her second marriage is binding according to Scriptural law.
21. The Ramah (Even HaEzer 155:2) quotes opinions that maintain that the above applies only when the girl's marriage was arranged by her brother or her mother. If she arranged the marriage herself, it is not binding, even according to Rabbinic law. The Ra'avad mentions a third opinion, which states that for a girl between the

ages of six and ten, the marriage must be arranged by her family to be binding. After the age of ten, it is binding even if she arranged it herself.

22. Our translation is based on the Jerusalem Talmud (Yevamot 13:2), which explains that this refers to an instance in which a girl's family members prepared her for marriage without informing her who her groom would be.

23. Rabbenu Chanan'el and other authorities maintain that, a priori, three individuals should be present. Although the Shulchan Aruch (Even HaEzer 155:4) mentions this opinion, the Rambam's view appears to be favored.

24. I.e., a deed of mi'un is merely a legal record. The act of mi'un - i.e., the girl's statement that she no longer desires to live with her husband - is what nullifies their marriage. In contrast, it is the transfer of the get, the bill of divorce, that causes the divorce to take effect.

25. Yevamot 107b-108a relates that originally, the Sages would have a legal record of mi'un written using wording that somewhat resembled a bill of divorce. They saw, however, that this created the impression that the husband was forbidden to marry the girl's close relatives. Since this is not the case, as mentioned in Halachah 16, they altered the wording used for the legal record.

26. Our additions are made on the basis of the Shulchan Aruch (Even HaEzer 155:8). We assume that the other witnesses were aware of the law and would have objected to the girl's making such statements if they did not know her identity and that of her husband. (See a parallel in Hilchot Yibbum VaChalitzah 4:29. Note, however, the Beit Shmuel 155:11 who differs.)

27. I.e., from the creation or from the beginning of Alexander the Great's rule, as stated in Chapter 1, Halachah 27.

28. I.e., she was checked by women on whom the court can rely, as stated in Hilchot Ishut 2:20.

29. Divorce nullifies a marriage from the time of divorce onward. Mi'un, by contrast, voids the marriage entirely, causing it to be considered as if it had never taken place.

30. The mi'un that terminated the second marriage reveals that the first marriage was not binding according to Scriptural law, and that a get was not actually required. (See Rashi, Yevamot 108a.)

31. Yevamot 108b explains that she is not permitted to remarry her first husband because we are afraid that he will change his mind and influence her to nullify her marriage to her second husband via mi'un. We suspect that she will be able to be influenced by him, because she still is attracted to him - for it was he who divorced her, not she who nullified the marriage through mi'un. In the first instance, we do not harbor such suspicions, for it was she who rejected her first husband, nullifying the marriage through mi'un.

32. The Rashba and the Ramban differ, and maintain that the woman is forbidden to the other relatives of the deceased, with the exception of his brothers. The Shulchan Aruch (Even HaEzer 155:11) mentions both opinions, but favors that of the Rambam.

33. If, however, the woman was old enough to conceive a child while married to the man with whom relations are forbidden, she is required to wait. For it is necessary to discern if a child was conceived in the forbidden relationship or not.

https://www.sefaria.org/Mishneh_Torah%2C_Divorce.11

https://www.chabad.org/library/article_cdo/aid/957716/jewish/Gerushin-Chapter-Eleven.htm

SEFER NASHIM (The Book of Women) NAARAH BETULAH (Virgin Maiden) Chapter 1

Introduction to Hilchos Naarah Betulah

They include five mitzvot: three positive commandments and two negative commandments. They are:

- 1) That a seducer [of a virgin maiden] be fined;
- 2) That a man who rapes [a virgin maiden] should marry her;
- 3) That the rapist should not divorce the woman he marries;
- 4) That the wife of a man who issued a slanderous report about her should remain married to him forever;
- 5) That a man who issues a slanderous report about his wife should not divorce her.

These mitzvot are explained in the chapters that follow.

1. **When a man seduces a virgin,**¹ he is fined 50 sela'im of pure silver.² This is called a k'nas ("fine"). The same law applies if he rapes her.

Payment of this fine is one of the Torah's positive commandments,³ as [Deuteronomy 22:29] states: "The man who raped her must give the maiden's father 50 silver pieces."

2.

What is meant by a seducer, and what is meant by a rapist? **A seducer is one who enters into relations with a girl with her consent; a rapist is one who takes her by force.**

Whenever a man entered into relations with a woman in a field, we operate under the presumption that he raped her, and apply those laws⁴ unless witnesses testify that she entered into relations with him willingly.⁵ Whenever a man enters into relations with a woman in a city, we operate under the presumption that she consented, because she did not cry out, unless witnesses testify that she was raped - e.g., he pulled out a sword and told her, "If you cry out, I will kill you."

[...]

8. **Neither a rapist nor a seducer is liable to pay the fine unless he engages in relations in the ordinary fashion,**⁶ and the relations are observed by witnesses.⁷ A warning is not necessary.⁸

At what age is a girl fit to be paid a fine? From the age of three⁹ until she reaches the age of bagrut.¹⁰ If a man engages in relations with a girl less than three years old, the relations are not significant.¹¹ If he engages in relations with her after she reaches the age of bagrut, he is not fined. For [Deuteronomy 22:28] states: "A virgin maiden," thus excluding a girl who has reached maturity.

9. Whether or not [a girl's] father is alive, a fine must be paid.¹²

A fine need not be paid [because of relations] with the following women: a bogeret, a girl who has dissolved a marriage through mi'un,¹³ an aylonit,¹⁴ a mentally incompetent girl, a deaf mute,¹⁵ a girl who was reputed to have conducted herself immodestly while young, concerning whom two witnesses testify that she sought sexual relations with them,¹⁶ a girl who was married and divorced, but is still a virgin maiden.¹⁷

When, by contrast, [a girl] is divorced after merely being consecrated,¹⁸ a fine must be paid - and she is entitled to it¹⁹ - if she is raped. If she is seduced, she is not entitled to a fine.²⁰

10. [The following rules apply with regard to] a convert, a girl who was taken captive, and a [Canaanite] maidservant who was freed:²¹ If she was converted, redeemed or freed before she reached the age of three, she is entitled to a fine.²²

If she was three years old [or older] when she was converted, redeemed or freed, she is not entitled to a fine. Since relations that she engages in at this time are significant, she is placed into the category of non-virgins.

11. [The following rules apply when] the virgin [who was raped or seduced] was forbidden to the rapist or the seducer. If the prohibition was punishable by karet - e.g., she was his sister, his aunt, in the niddah state or the like - or she was forbidden by virtue of a negative commandment [that does not involve either karet or execution], he is not liable for a fine if he was given a warning.²³ [Instead,] he should be lashed. [The rationale is that] a person is never punished [for the same transgression] by both lashes and a monetary assessment.

If he was not warned, since he is not to be given lashes, he should pay the fine.

12. [When the girl raped] was forbidden because of a positive commandment, or she was a sh'niyah or forbidden because of another Rabbinic commandment, [the rapist] is obligated to pay the fine whether he was warned against the transgression or not, because he is not punished by lashes.

[...]

15. If [a girl] dies after she [was seduced or raped], [the seducer or the rapist] is not liable for the fine, [as implied by Deuteronomy 22:29]: "the man who raped her must give the maiden's father..." [The verse states] "the father of the maiden," and not "the father of the dead maiden." [This applies] when she dies before the case came to court.²⁴

FOOTNOTES RENUMBERED

1. Between the ages of three and twelve and a half, as evident from Halachah 8. See Ramah (Even HaEzer 177:1).

2. See Hilchot Eruvin 1:12 and Hilchot Shekalim 1:2, where the Rambam describes the weight of this coin. According to the figures he gives in his Commentary on the Mishnah (Bechorot 8:8), in contemporary measure a sela is 19.2 grams. According to the Piskei Siddur of Rabbi Shneur Zalman of Liadi, it is 20.4 grams.

3. See Sefer HaMitzvot (Positive Commandment 220), which describes this mitzvah as "the commandment we have been given with regard to a man who seduces [a virgin]." (See also Sefer HaChinuch, Mitzvah 61.)

Both in the Mishneh Torah and in Sefer HaMitzvot, the payment of the fine by a seducer, a rapist and one who issues a slanderous report appears to be included in the same mitzvah (Nachalat Efrayim).

Hilchot Sanhedrin 5:8 states that the cases involving laws governing a seducer and a rapist are to be tried by judges with semichah, a qualification that is not possessed by Rabbinical judges in the post-Talmudic period. The Shulchan Aruch (Even HaEzer 177:2) states that in the present age, a seducer and a rapist should be compelled to satisfy the girl's father for the damage they have caused.

4. As mentioned in the following halachah, a rapist must marry the woman he raped, while a seducer need not. And, as mentioned in Chapter 2, Halachah 1, a rapist must also reimburse the woman for the pain and embarrassment he caused her.

5. The Ra'avad objects to the Rambam's ruling, explaining that unless there are witnesses to the relations, the woman has no way of proving her claim against the man. The Migdal Oz explains that this refers to an instance where witnesses saw the man and the woman engage in relations from afar and were not able to determine whether she was seduced or raped.

The assumptions mentioned by the Rambam are based on the passage (stated with regard to a consecrated maiden, Deuteronomy 23:24-27): "This is the law when a virgin maiden was consecrated to one man and another man meets her in the city and has relations with her. Both of them should be executed, [i.e., we assume the girl consented]... because she did not cry out in the city.... If the man encountered the maiden who was consecrated in the field..., the girl has not committed a sin... for the man attacked her in the field..., where there was no one to come to her aid."

6. **I.e., vaginal and not anal intercourse.** The Rambam's ruling is not accepted by the Ra'avad and Rabbenu Asher, who cite Kiddushin 9b-10a in support of their conception.

The Kiryat Sefer supports the Rambam's ruling, based on Sanhedrin 73b, which states that the man is not liable until he inserts the entire penis into the vagina, explaining that **it is only then that the woman will lose her virginity. Since she will never lose her virginity through anal intercourse, the man is not held liable.**

7. For a person who admits his culpability in matters punishable by a fine is not liable. See Chapter 2, Halachah 12 and notes.

8. For a warning is necessary only before infliction of the punishments of execution or lashing.

9. Although there are times when the Hebrew term na'arah, translated as "maiden," has a more specific meaning (see Hilchot Ishut 2:1), Ketubot40b explains that in this instance the intent is also a girl below the age of twelve.

Although most Rishonim agree with the Rambam, there are, however, significant authorities who rule that a fine need not be paid until the girl reaches the age of na'arut.

10. Generally, this refers to a girl of the age of twelve and a half who has manifested signs of physical maturity. If a girl does not manifest signs of physical maturity, she is not considered a bogeret until the age of 20 or 35. See Hilchot Ishut 2:1-4.

11. **For her hymen will grow back, as implied by Hilchot Ishut 3:11.**

12. Since the Torah states that the fine should be paid to the father, it is necessary to clarify that the fine must be paid even if the father is not alive.

13. As mentioned in Hilchot Gerushin 11;1, when a girl below the age of majority marries without being consecrated by her father, she can nullify the marriage without a formal divorce. This is called mi'un. When she takes this option, even if we know that she is still a virgin, she is not entitled to receive the fine because she has been married previously.

14. A woman who does not manifest female sexual characteristics, as explained in Hilchot Ishut 2:5. Since an aylonit never becomes a na'arah, she is not entitled to a fine (Kessef Mishneh). The Ra'avad maintains that an aylonit should receive a fine until she reaches the age of twenty.

15. Since they are not mentally competent, we fear that they were raped previously without their knowing about it. Compare to Hilchot Ishut 11:4,8. Note the Ra'avad, who states that a person who rapes or seduces a deaf mute is liable for a fine.

16. See Chapter 2, Halachah 17.

17. Even if we are certain that she and her husband never engaged in sexual relations, she is not paid a fine. Compare to Hilchot Ishut 11:1.

18. We do not assume that she entered into relations with her husband before the stage of nisu'in.

19. Although Deuteronomy 22:28 speaks of the fine being paid to the girl's father, from the fact that the verse mentions "a maiden who was not consecrated," Ketubot 38a derives that when a maiden has been consecrated, the fine should be paid to the woman who was raped.

20. Since she consented to relations, she waives the payment of the fine. See Chapter 2, Halachot 10-11.

Note Rav David Arameah, who states that this applies only when she is a na'arah. If she is still a minor, her father receives the fine, and she does not have the potential to waive it through her consent.

21. As the Rambam states in Hilchot Ishut 11:2, **we operate under the presumption that these women have engaged in relations previously: a convert and a Canaanite maidservant because non-Jews' morals are considered to be weak, and a woman held captive because she is at the mercy of her captors.**

22. **Even if she engaged in relations before the age of three, her hymen will grow back, as stated in the notes on Halachah 8.**

23. As stated in Hilchot Sanhedrin 12:2 and 16:4, a person receives corporal punishment for the commission of a transgression only when he has been warned previously.

24. Once, however, the case is heard before the court, the rapist is held liable if proven guilty, even if the maiden dies. The fine is given to the girl's heirs (Kessef Mishneh).

https://www.sefaria.org/Mishneh_Torah%2C_Virgin_Maiden.1

https://www.chabad.org/library/article_cdo/aid/960634/jewish/Naarah-Betulah-Chapter-One.htm

SEFER NASHIM (The Book of Women) NAARAH BETULAH (Virgin Maiden) Chapter 2

1. The fine of 50 silver pieces represents merely the payment for the pleasure of sexual relations. In addition, a seducer is obligated to pay for embarrassment and damages¹ in addition to the fixed amount mentioned by the Torah.

A rapist, moreover, also pays for the pain [he caused the girl]. [A seducer is not required to make this payment,] because a girl who willingly engages in relations does not [suffer] pain. A girl who is raped does, as reflected by [Deuteronomy 22:29]: "because he violated her."²

2. Thus, a seducer makes three payments: the fine, and compensation for embarrassment and damages. A rapist makes four payments: the fine, and compensation for embarrassment, pain and damages.

[...]

6. Damages [are evaluated] according to [the girl's] beauty. We look at her as if she were a maid-servant being sold in the marketplace: what price would she fetch as a virgin, and what price would she fetch as a non-virgin. For a man would like to buy a virgin maid-servant to give him to his servant, whose welfare and satisfaction he desires. [The rapist or the seducer] should pay the difference in the price.

The compensation for pain is evaluated based on her youth and the size of her body, and his age and the size of his body.³ We evaluate how much a father would be willing to pay so that such [a daughter] would not suffer pain from such [a man], and [the rapist is obligated to] pay [this amount].

[...]

9. We have already mentioned⁴ the girls for whom a fine need not be paid: They are ten: A bogeret, a girl who dissolved her marriage via mi'un, one who was divorced, an aytonit, a mentally incompetent girl, a deaf mute, a convert, a girl who had been taken captive, a freed slave, and one who has a tarnished reputation. A fine must be paid for all other girls.

10. Whenever a fine is required to be paid for a girl, compensation is also required for embarrassment and damages, and if she was raped she must also be compensated for the pain.

Conversely, whenever a fine is not required to be paid for her, she is not entitled to compensation for embarrassment and damages⁵ if she is seduced or raped. Exceptions to this are a bogeret, a girl who had dissolved her marriage via mi'un, a mentally incompetent girl and a deaf mute. [If they are seduced, no payment is required at all.]

11. What is implied? If a man rapes a bogeret or a girl who had dissolved her marriage via mi'un, although a fine is not required to be paid, compensation is also required for embarrassment damages and pain.⁶ And a man who rapes a mentally incompetent girl or a deaf mute is required to make compensation for pain.⁷ One who seduces any of these girls is not liable at all.⁸

12. A person is not ever liable to pay a fine because of his own admission. Instead, he is made liable by the testimony of witnesses.⁹ Therefore, [if a man] says: "I raped or seduced the daughter of so and so," he is not liable to pay a fine. He must, however, make restitution for the embarrassment and the damages [he caused].¹⁰

Similarly, when a maiden files a legal claim against a man, saying "You raped me," or "You seduced me," and he denies the matter entirely, he is required to take a Rabbinic oath¹¹ to support his claim, for if he admits his culpability, he would be liable for the embarrassment, the damages and the pain.¹²

[...]

17. I maintain that [the intent of] the Torah's statement [Leviticus 19:29], "Do not defile your daughter to have her play the harlot," is that a father should not say: "Since the obligation of the Torah for a seducer or a rapist was solely that he should give the father money, I will hire my virgin daughter to someone to have relations with her for whatever price I desire, or I will allow him to have relations for her without charge. For a man has the right to forgo monetary rights to him to any person he desires." To counter such thoughts, it is written: "Do not defile your daughter."

The Torah obligates a rapist and a seducer to pay money rather than be punished by lashes when the matter happened by chance, without the knowledge of [the girl's] father, and she did not ready herself for [the relations]. For this is an extraordinary and uncommon matter.

If, however, a person leaves his virgin daughter accessible for anyone to engage in relations with her, this will cause the entire earth to be filled with sexual immorality.¹³ For [ultimately], a father will marry his daughter and a brother his sister, [for in a sexually permissive society] a [girl] may become pregnant and give birth without knowing who the child's father is.

When a person has his daughter act in this manner, she is considered to be a harlot, and both the man and the girl who engage in relations should be punished by lashes, as [Deuteronomy 23:18] states: "There shall not be a harlot."¹⁴

[In such an instance,] the man is not required to pay a fine, for the Torah prescribed a fine only in the instance of seduction or rape. When a girl prepares herself [for relations] either on her initiative or on that of her father, she is a harlot. And the prohibition against harlotry applies both with regard to a virgin and a non-virgin.

For this reason our Sages stated that a girl who was reputed to have conducted herself immodestly while young is not entitled to a fine, as we have explained,¹⁵ for we can assume that she willingly opened herself to this experience.

FOOTNOTES RENUMBERED

1. As explained in the following halachot.
2. Inah, the word translated as "violated," more specifically means "oppressed." Significantly, Exodus 22:15, which describes the fine of the seducer, does not use this term.
3. The younger and smaller a girl, the more painful is the experience. Similarly, the older and larger the rapist, the more painful the experience is.
4. Chapter 1, Halachot 9 and 10.
5. The Tur (Even HaEzer 177) differs with the Rambam and maintains that these women are entitled to damages. The fact that they are not granted a fine has no bearing on this manner.
6. A fine is not required for a bogeret, because the verse mentions a na'arah, a younger maiden. Nevertheless, if one seduces a bogeret, no fine is required, because she willingly accepted any damages and embarrassment.
With regard to a minor who has dissolved her marriage through mi'un, we are obviously speaking of a girl who did not engage in sexual relations as a minor and was still a virgin. Although she is not entitled to a fine, since she was a virgin, she does receive damages. The commentaries have questioned the distinction between such a woman and a woman who is divorced after nisu'in, but is still a virgin.
7. He is not liable to make compensation for the embarrassment and damages because these women are not entitled to damages, because they have no financial worth; they would not be purchased if sold as slaves. (See Ketubot 32a, Bava Metzia 80a.) And with regard to embarrassment, since they are mentally incompetent, they suffer no embarrassment.

(Compare, however, to Hilchot Chovel UMazik 3:4, which states that a mentally incompetent person is not reimbursed for embarrassment, but a deaf mute is.)
8. For, as mentioned previously, a girl who is seduced does not suffer pain, and she either forgoes or need not be reimbursed for damages and embarrassment.
9. This is a principle that applies not only with regard to the fine in question, but with regard to all k'nasot levied by the Torah. To explain: There are two types of monetary penalties levied by the Torah: a) nezek, damages - i.e., compensation for personal injury and/or loss of property - and k'nas, a fine, payment required by the Torah over and above what a person would be held liable for damages.

Although a person is liable for nezek when he makes an admission of guilt, he is not held liable for a k'nas unless his guilt is established by witnesses. (See Hilchot Nizkei Mammon 2:8 and Hilchot Geneivah 3:7.) Moreover, even if he admits his guilt and then witnesses come, he is not liable for payment of the k'nas.

10. As mentioned in the Kessef Mishneh, the Rambam's statements here are in direct contradiction to his statements in Hilchot Chovel UMazik 5:6, where he states that when a person admits injuring a colleague, but

there are no witnesses who testify to the matter, he is not liable for the damages and the pain, but is liable for the injured's unemployment, embarrassment and medical treatment. (As reflected by the commentaries on Hilchot Chovel UMazik, this ruling is contested by many authorities.)

The Rambam's descendant, Rav Yehoshua, attempts to reconcile the Rambam's rulings, explaining that the laws governing the injuries suffered by a raped or seduced maiden differ from those governing other types of injury.

11. More precisely, the term used is sh'vuat hesset, a Rabbinic oath of lesser severity. See Hilchot Sh'vuot 11:13 and Hilchot To'en V'Nit'an 1:3.

12. The Rambam is emphasizing that if the only issue were the k'nas, the man would not be held liable for an oath, because this oath was instituted to encourage the defendant to admit his guilt. With regard to the k'nas, this admission would be of no significance, because his liability is dependent only on the testimony of witnesses. Nevertheless, since there is also a claim for damages, and on that matter his admission would make him liable, he is required to take an oath.

13. The Rambam is referring to the wording of the verse in Leviticus cited previously.

14. The Ra'avad differs and maintains that a woman is not considered to be a harlot unless she is a professional prostitute. See the discussion of this issue in Hilchot Ishut 1:4.

15. Chapter 1, Halachah 9.

https://www.sefaria.org/Mishneh_Torah%2C_Virgin_Maiden.2

https://www.chabad.org/library/article_cdo/aid/960635/jewish/Naarah-Betulah-Chapter-Two.htm

SEFER KEDUSHAH (The Book of Holiness) ISSUREI BIAH (Forbidden Intercourse) Chapter 1

It contains three sets of Halachot and this is their order:

The Laws of Issurei Biah

The Laws of Ma'achalot Assurot

The Laws of Shechita

They contain 37 mitzvot: one positive commandment and 36 negative commandments. They are:

1. Not to have sexual relations with one's mother,
2. Not to have relations with one's father's wife,
3. Not to have relations with one's sister,
4. Not to have relations with the daughter of one's father's wife,
5. Not to have relations with the daughter of one's son,
6. Not to have relations with one's daughter,
7. Not to have relations with the daughter of one's daughter,

8. Not to marry a woman and her daughter,
9. Not to marry a woman and her son's daughter,
10. Not to marry a woman and her daughter's daughter,
11. Not to have relations with the sister of one's father,
12. Not to have relations with the sister of one's mother,
13. Not to have relations with the wife of the brother of one's father,
14. Not to have relations with the wife of one's son,
15. Not to have relations with the wife of one's brother,
16. Not to have relations with the sister of one's wife,
17. Not to have relations with an animal,
18. For a woman not to engage in relations with an animal,
19. For [a man] not to engage in relations with another man,
20. Not to have relations with one's father,
21. Not to have relations with the brother of one's father,
22. Not to have relations with a married woman,
23. Not to have relations with [a woman in] the niddah state,
24. Not to marry a gentile,
25. For an Ammonite [convert] or a Moabite [convert] not to marry into God's congregation, [i.e., the Jewish people,]
26. Not to prevent a third generation Egyptian [convert] from marrying among the Jewish people,
27. Not to prevent a third generation Edomite [convert] from marrying among the Jewish people,
28. Not to allow a mamzer to marry among the Jewish people,
29. Not to allow a castrated male to marry among the Jewish people,
30. Not to castrate a male; [this includes] even an animal, beast, or fowl,
31. For a High Priest not to marry a widow,
32. For a High Priest not to engage in relations with a widow even outside the bounds of marriage,
33. That a High Priest should marry a virgin maiden,
34. That a priest should not marry a divorcee,
35. That he should not marry a zonah,
36. That he should not marry a chalahah,
37. That a person should not draw close to any of the woman forbidden to him even though he does not engage in relations.

These mitzvot are explained in the ensuing chapters.

1. When a person voluntarily engages in sexual relations with one of the arayot¹ mentioned in the Torah, he is liable for kerait,² as [Leviticus 18:29] states: "Whenever anyone performs any of these abominations, the souls will be cut off..." [The plural is used, referring to] the man and the woman.³ If they transgressed unknowingly, they are liable to bring a fixed⁴ sin offering. There are some arayot with whom relations are punishable by execution⁵ in addition to kerait which is applicable in all cases.⁶

[...]

11. [There is never any liability when] a man engages in forbidden relations without an erection, instead his organ was hanging loosely like the organ of the dead, e.g., one who was sick or a person with a congenital malady, i.e., he was born sexually inadequate. Even though he inserts his organ with his hand, he is not liable for kerait or lashes. Needless to say, he is not liable for execution. For this is not considered sexual intercourse. Nevertheless, [such an act] disqualifies a woman from partaking of terumah.⁷ And the court subjects both of them to stripes for rebellious conduct.⁸

12. When a person enters into sexual relations with one of the arayot as a casual act,⁹ although he did not intend to do so, he is liable.¹⁰ Similar concepts apply with regard to one who enters into relations with women forbidden by a negative commandment alone or with one of the shniyot.¹¹

When, however, a man has relations with one of the arayot after she died, he is not liable at all.¹² Needless to say, this applies with regard to those women with whom relations are forbidden by a negative commandment alone. When, by contrast, one has relations with a person who is trefe¹³ or who has relations with an animal which is trefe, he is liable. [The person or the animal] is [now] alive even though he will ultimately die from this illness. Even when the two signs¹⁴ which validate ritual slaughter were slit but [the woman or the animal] is making its last movements, if one enters into relations with [her or it] he is liable until she or it dies or is decapitated.

13. When an adult male enters into relations with any of the women forbidden in connection with the above transgressions who is three years and one day old or more,¹⁵ he is liable for execution, kerait, or lashes and she is not liable¹⁶ unless she is past majority. If she is younger than this, both participants are not liable, for the act is not considered as sexual relations.¹⁷

Similarly, when an adult woman enters into sexual relations with a minor, if he is nine years and one day old, she is liable for execution, kerait,¹⁸ or lashes and he is not liable. If he is younger than nine years old, they are both free of liability.¹⁹

14. When a man enters into relations with a male or has a male enter into relations with him, once the corona is inserted [into the anus] they should both be stoned if they are both adults. As [Leviticus 18:22] states: "Do not lie with a man," [holding one liable for the act, whether] he is the active or passive partner.

If a minor of nine years and a day or more is involved, the man who enters into relations or has the minor enter into relations with him should be stoned and the minor is not liable. If the male [minor] was less than nine years old, they are both free of liability.²⁰ It is, however, appropriate for the court to subject the adult to stripes for rebellious conduct for homosexual relations²¹ although his companion was less than nine years old.

[...]

23. When a father says: "My daughter is consecrated to this person," his word is accepted²² and she must marry him.²³ [Nevertheless,] if she acts unfaithfully while [consecrated] to him, she is not stoned to death²⁴

because of her father's statements unless there are witnesses [who testify] that she was consecrated in their presence.²⁵

Similarly, when a woman states: "I have been consecrated," [if it is discovered that she engaged in relations with another man,] she is not executed on the basis of her own statements. Instead, there must be witnesses [that she was consecrated] or she must have established a common conception [that this was the case].

FOOTNOTES RENUMBERED

1. In Hilchot Ishut 1:5, the Rambam defines the term arayot as "[Those women] with whom relations are forbidden by Scriptural Law and with whom relations are punishable by kereit as enumerated in Parshas Acharei Mot.
2. Literally, the soul's being cut off. This involves premature death in this world (before the age of 50, Mo'ed Kattan 28a) and the soul not meriting a portion in the world to come (Hilchot Teshuvah 8:1).
3. The prohibition and the punishment is incumbent on them both equally.
4. This term is used to distinguish the sacrifice from the "adjustable guilt offering" (korban olah viyoreid) that is brought for certain transgressions. See Hilchot Shegagot ch. 1 which describes the fixed sin offering, and ch. 10 which describes the adjustable guilt offering.
5. See Halachot 4-6.
6. Even if they cannot be executed because the court cannot find two appropriate witnesses, they are punishable by kerait.
7. I.e., if a priest's daughter or a priest's wife is involved in such a sexual act, she is forbidden to partake of terumah just as if she would be forbidden to do so had she engaged in ordinary relations (see Hilchot Terumah 6:6).
8. "Stripes for rebellious conduct" is a punishment which is not dependent on the Torah's binding laws, but rather is left to the court's jurisdiction based on its conception of what is appropriate for the moral standards of the persons involved and the community. Although such an act is not formally considered as sexual relations, chastisement is necessary to prevent such behavior from continuing.
9. The Hebrew term kimitasek literally means "as one was going about his business," i.e., he was performing other actions and without any intent, the forbidden act was performed.
10. Since he derived pleasure from the physical act, he is liable even though originally he had no intent (Yevamot 62b).

This refers only to liability for a sin offering for inadvertent transgression. Needless to say, he is not liable for punishment by the court, because in such instances, he must acknowledge a warning (Maggid Mishneh).

The commentaries question how sexual relations can be performed "as one was going about his business." With regard to the Sabbath prohibitions, we can appreciate the use of such a term. For example, a person intended to cut produce that was not connected to the ground and in the course of doing so also cut produce that was connected to the ground. But with regard to sexual relations, how is it possible to say that a man performed the act without intention? As stated above, "an erection is always a willful act."

Based on Hilchot Shegagot 2:7, the Maggid Mishneh interprets this as referring to an instance in which a person intended to engage in relations with his wife, but accidentally engaged in relations with his sister.

11. The Ra'avad questions the Rambam's statements and the Maggid Mishneh states that this clause is a printing error, for there is no sacrifice associated with these transgressions. The Kessef Mishneh offers a resolution, explaining that although he is not punished by an earthly court, nor is he obligated to bring a sacrifice, the transgressor is liable to God. He will reckon with the transgression on His scales of judgment. Rav David Arameah states that this teaches that the person has an obligation to confess his sin.

12. Yevamot 55b derives this concept through the techniques of Biblical exegesis.

13. An animal or a person that is sick or wounded and will die within a year.

14. I.e., the esophagus and the windpipe were cut.

15. I.e., she reaches the date of her third birthday.

16. **For a minor is never liable for punishment.** Even though she consented to the transgression, she is not subjected to punishment, because she is not considered as responsible for her actions (Nidah44b). **Despite the fact that the woman is not punished, the man receives the punishment mandated by the transgression.**

17. **For until that age, her signs of virginity will regenerate and hence, relations are not of consequence.** Nevertheless, even when the girl is below that age, it is forbidden to enter into such relations (the Rambam's Commentary to the Mishnah, Sanhedrin 7:4).

18. In his commentary to the Mishnah (ibid.), the Rambam states that the punishment of kerait is not given until the violator is 20 years of age. Until that age, the person is considered immature and hence, not held liable by the heavenly court.

19. **For below that age, relations are not of consequence.**

20. **For sexual relations with a male below the age of nine are not of consequence.** Nevertheless, it is forbidden to enter into such relations (the Rambam's Commentary to the Mishnah, Sanhedrin 7:4).

21. Although he is not liable according to Scriptural Law, his act certainly warrants punishment that will discourage him from continuing this pattern of conduct.

22. We are speaking about a girl who is a na'arah between the age of twelve and twelve and a half. Her father has the right to consecrate her to whoever he desires. Therefore we accept his word when he states that he consecrated her, as Deuteronomy 22:16 states: "I gave my daughter to this man" (Kiddushin 64a).

(A father's word is also accepted with regard to consecrating his daughter if she is younger. We are, nevertheless, compelled to say that here we are speaking about a na'arah, because punishment is mentioned and a girl below the age of twelve is never punished by the court.)

23. Or undergo formal divorce proceedings before marrying another man.

24. **The punishment given for relations with a consecrated maiden.**

25. Although the father's statement is given a certain amount of legal credibility, it is not considered as sufficient basis for capital punishment (Kiddushin63b).

https://www.sefaria.org/Mishneh_Torah%2C_Forbidden_Intercourse.1

https://www.chabad.org/library/article_cdo/aid/960647/jewish/Issurei-Biah-Chapter-One.htm

SEFER KEDUSHAH (The Book of Holiness) ISSUREI BIAH (Forbidden Intercourse) Chapter 3

1. **When a person has relations with the wife of a minor, he is not liable.**¹ [This applies] even to a yevamah with whom a nine year old [brother] had relations.² Similar [laws apply when] a person has relations with the wife of a deaf-mute,³ the wife of a mentally or emotionally unstable individual,⁴ the wife of a tumtum or an androgynus,⁵ a female deaf-mute or a woman who is mentally or emotionally unstable married to a mentally capable individual,⁶ or a woman whose consecration is of doubtful status or whose divorce is of doubtful status. **In all of the above situations, one is not liable. If they willfully transgress, they are given stripes for rebellious conduct.**

2. **[The following rules apply if a man] engages in relations with a female minor, the wife of an adult male.** If she was consecrated by her father, [the adulterer] is executed by strangulation.⁷ She is not liable for anything,⁸ [but] she is forbidden to her husband,⁹ as explained in Hilchot Sotah.¹⁰

If she has the right to perform mi'un¹¹, he is given stripes for rebellious conduct and she is permitted to [remain married] to her husband, even if he is a priest.¹²

[...]

4. **When a man has relations with a consecrated maiden, they are both executed by stoning.** They are not liable to be stoned to death until the maiden¹³ is a virgin, consecrated,¹⁴ and in her father's home. If she came of age¹⁵ or she entered the chupah¹⁶ even if the marriage was not consummated, they are executed by strangulation. [The lesser punishment is given] even if the father gave her to the emissaries of the husband¹⁷ and she committed adultery on the way.

5. **When a man has relations with a girl who is a minor** and is consecrated while she is living in her father's house, he is executed by stoning¹⁸ and she is not liable.¹⁹ **When a consecrated maiden who is the daughter of a priest commits adultery,** she is stoned to death.²⁰

6. When ten men enter into relations with her one after the other while she is a virgin in her father's home, the first is executed by stoning and the remainder, by strangulation.²¹

When does the above apply? When they had vaginal intercourse. If, however, they had anal intercourse, she is still a virgin and they are all executed by stoning.²²

7. When a consecrated maiden was a freed slave or a convert, even if she was freed or converted before she reached the age of three,²³ [the adulterer] is executed by strangulation,²⁴ as is the law with regard to all married women.

[...]

FOOTNOTES RENUMBERED

1. For there is no concept of marriage with regard to a male below the age of majority.

The term liable in this context means "liable for execution" if the transgression was performed willfully or "liable for a sacrifice" if it was performed inadvertently.

2. A yevamah is a childless widow whom one of the brothers of the deceased is obligated to marry. Now, relations with a yevamah do not require the conscious intent of the brother who seeks to marry her (Hilchot

Yibbum 2:3) and relations carried out by a nine year old are of consequence in certain contexts (Chapter 1, Halachah 14). Hence, one might think that by carrying out relations with the yevamah, the nine year old would acquire her as his wife. See also Hilchot Yibbum 5:18.

3. A deaf-mute is not considered of sufficient mental capacity to be responsible for his actions. Hence, as the Rambam states in Hilchot Ishut 4:9, he cannot consecrate a woman according to Scriptural Law. Although according to Rabbinic Law, his consecration is binding, he is not held liable for execution or a sacrifice for violating a Rabbinic prohibition.

4. In this instance, the consecration is not binding even according to Rabbinic Law (ibid.).

5. As mentioned in the notes to Chapter 1, Halachah 15, there is an unresolved doubt with regard to the halachic status of an androgynus and a doubt with regard to the physiological makeup of a tumtum. Hence we cannot be certain whether the adulterer is engaging in relations with a woman whose marriage is halachically significant.

6. **Since such women are not considered as capable of making responsible decisions, the man's consecration is not effective according to Scriptural Law.** And since the consecration is not effective according to Scriptural Law, there are no punishments that result from it. In particular, however, there is a difference between the two situations, for the consecration of a woman who is mentally or emotionally unstable is not effective at all. The consecration of a female deaf-mute, by contrast, is effective according to Rabbinic Law (Hilchot Ishut, loc. cit.).

7. He is given the punishment due any adulterer, for the consecration is binding according to Scriptural Law (Hilchot Ishut 3:11). This is speaking about a situation where the couple later married. Otherwise, the adulterer would be stoned to death. **Also, it is speaking about a situation where the child is over three years old. Otherwise, the relations are not significant.**

8. Neither punishment, nor a sacrifice. **For she is a minor and is not responsible for her conduct.**

9. As the Rambam states in Hilchot Gerushin 11:14, a woman who engages in adulterous relations becomes forbidden to her husband.

10. Chapter 2, Halachah 4. The Ra'avad both here and in Hilchot Sotah differs with the Rambam, basing his objections on Yevamot 33b which states **"The seduction of a minor is always considered equivalent to rape."** **Since she is not responsible for her actions, her consent is of no significance.** And if a woman is raped, she is permitted to her husband if he is not a priest (Hilchot Ishut 24:19).

The Maggid Mishneh admits that the question raised by the Ra'avad is substantial, but points to a passage in Ketubot 9a which appears to support the Rambam's decision. The Shulchan Aruch (Even HaEzer 178:3) cites both views without stating which to favor. The Beit Shmuel 178:3 states that the Ra'avad's view is accepted by most authorities.

11. Mi'un refers to a means of terminating a Rabbinically originated marriage arrangement. When a girl's father is not alive, our Sages gave her mother and/or her brothers the opportunity to consecrate her. This consecration is not binding according to Scriptural Law (see Hilchot Ishut 4:8, Hilchot Gerushin 11:1). Hence, an adulterer is not punished for relations with her.

This law also applies to a deaf-mute and anyone else whose consecration is acceptable only according to Rabbinic Law (Rav David Arameah).

12. A priest is not allowed to remain married to a woman who engaged in forbidden relations, even if she was compelled to do so. Nevertheless, in this instance, she can end her marriage whenever she desires without a formal divorce, it is as if she was never married. Hence, her "adultery" is not of consequence.

13. The term maiden has a specific halachic definition: a girl who at the age of 12 (or over) manifested signs of physical maturity. She remains in this category for six months (Hilchot Ishut 2:1).
14. But not married.
15. I.e., the six months mentioned above passed.
16. I.e., completed the marriage ceremony.
17. For from this time, she is no longer under her father's control.
18. Although the verse speaks about "a consecrated maiden," relations with even a younger girl are given the same punishment.
19. Since she is a minor, she is not responsible for her actions and is not subjected to any punishment.
20. I.e., she is given the more severe punishment.
21. Because after relations with the first, she is no longer a virgin. Hence, they are given the ordinary penalty for adultery.
22. For with regard to punishment, there is no difference between anal intercourse and vaginal intercourse.
23. In which instance, even if she had engaged in relations beforehand, her signs of virginity would return.
24. Ketubot 44a states that this concept is derived from a Scriptural reference. When speaking of this transgression, Deuteronomy 22:21 states: "He committed an abuse in Israel," i.e., involving a native-born Jewess. In his Commentary to the Mishneh (Ketubot 4:3), the Rambam offers a different explanation, one which has raised questions among the commentaries.

https://www.sefaria.org/Mishneh_Torah%2C_Forbidden_Intercourse.3

https://www.chabad.org/library/article_cdo/aid/960649/jewish/Issurei-Biah-Chapter-Three.htm

SEFER KEDUSHAH (The Book of Holiness) ISSUREI BIAH (Forbidden Intercourse) Chapter 4

1. [A woman in] the niddah¹ state is like all of the other arayot. A person who inserts his corona into her vaginal or anal orifice is liable for kerait. [This applies] even if she is a minor who is three years old, as applies with regard to other arayot.

For a woman can become impure as a niddah even on the day she is born.² And a girl who is ten days becomes impure because of zivah.³ This concept was communicated through the Oral Tradition. There is no difference between an adult and a minor with regard to the impurity associated with nidah and zivah.

[...]

FOOTNOTES

1. As will be explained, the term niddah refers to a woman who suffers vaginal bleeding at the expected time of her monthly period.

2. Although a woman usually does not begin menstrual bleeding until around the age of twelve. If, however, she does have menstrual bleeding before then, she is bound by the halachic consequences.

3. For if a woman bleeds for three consecutive days after the seven days associated with her menstrual period, she is considered as a zavah. The first three days this is possible is the eighth, ninth, and tenth days of her life.

Although, she can become impure from the day of her birth onward, punishment is not allotted for relations with her until she becomes three. For only at that age are relations with her significant, as stated in Chapter 1, Halachah 13.

https://www.sefaria.org/Mishneh_Torah%2C_Forbidden_Intercourse.4

https://www.chabad.org/library/article_cdo/aid/960651/jewish/Issurei-Biah-Chapter-Four.htm

SEFER KEDUSHAH (The Book of Holiness) ISSUREI BIAH (Forbidden Intercourse) Chapter 5

[...]

18. Hymeneal bleeding is pure. It is neither the blood of niddah or the blood of zivah, for it is not from the uterus. Instead, it is blood from a wound.

What are the laws applying to virgins [who suffer] hymeneal bleeding?¹ If she married when she was a minor, whether she never menstruated or whether she menstruated while in her father's home,² she is permitted to her husband until the wound heals. For any bleeding that she discovers stems from the wound. If she discovers other blood after the wound heals, she is considered as a niddah.

19. [The following rules apply when a woman] marries when she is a na'arah.³ If she never menstruated beforehand, she is permitted to her husband for four days, by day and by night, even though blood is flowing, provided the wound did not heal.⁴

If she had already menstruated in her father's home and then married, her husband should not [continue] to engage in relations with her.⁵ After the first time, he should separate. The hymeneal bleeding is considered as if it is the beginning of menstruation.

When a girl who has reached majority,⁶ but has not menstruated, she is given the entire first night.⁷

20. The [first] four nights⁸ that are granted to a na'arah who has not menstruated need not be consecutive. [Instead,] the couple may engage in relations the first night and wait even two or three months and engage in relations for a second night, provided the wound has not healed.⁹

21. Similarly, with regard to a minor who is allowed to continue engaging in relations until the wound heals, even if it does not heal for an entire year, they may engage in relations either non-consecutively or day after day.

22. [The following rules apply when a girl] married while she was a minor and became a na'arah while married to her husband. [If] the blood is still flowing because of the wound, all of the times she engaged in relations while a minor are considered as one night and she is given license to complete the four days granted to her¹⁰ during the period of na'arut.

Even if the three days she is granted during the period of na'arut are all non-consecutive, [e.g.,] they engaged in relations one night every two months, this is permitted, provided the wound has not healed.

23. How do we know whether or not the wound has healed? If [the woman] would discover blood when she stands but not when she sits; if she would discover [blood] when she sits on the earth, but not when she sits on pillows or blankets,¹¹ the wound has not healed.¹² If, however, the bleeding ceases and she does not discover [blood], whether she stands or whether she sits on a pillow, the wound has healed. Similarly, even if her bleeding has not ceased, but she continues to discover blood even when she is sitting on pillows and blankets, we assume that this is not blood from the wound, but rather menstrual bleeding.¹³

24. If she would discover blood in the midst of relations, [we assume] that it comes as a result of the wound.¹⁴ If she engaged in relations and did not discover blood and afterwards, discovered blood out of the context of relations, [we assume] that it is menstrual bleeding.

25. **When a man engages in relations with a virgin and she does not bleed and then, he engages in relations with her again and she does bleed, [we assume] that this is menstrual bleeding, even if she is a minor.** [The rationale is that] if it were hymeneal bleeding, it would have appeared the first time.

When a man has relations with a girl below the age of three and she bleeds, this is hymeneal bleeding.

FOOTNOTES RENUMBERED

1. It must be emphasized that all the laws that follow applied only in the Talmudic era. At present, the Jewish people have accepted upon themselves the stringency of considering even the slightest drop of blood as requiring a wait of seven "spotless" days. Accordingly, when a woman suffers hymeneal bleeding - even if she knows that it is not at all connected with her menstrual cycle, she is considered impure and must wait seven "spotless" days (Chapter 11, Halachot 4,8).

Note the comments of the Ra'avad and the Kessef Mishneh concerning when this stringency was adopted. Is it of Talmudic origin or was it originated in the post-Talmudic period?

2. Even if she menstruated, since she has not come of age, we assume that this is an abnormal occurrence which will not repeat itself.
3. A girl between the age of twelve and twelve and a half who has already manifested signs of physical maturity.
4. **Since she never menstruated before, we assume that she still is suffering hymeneal bleeding and not that she has begun to menstruate.**
5. Since she menstruated before, we recognize the possibility that this is also menstrual blood. **Hence, we require the couple to separate.** The Ra'avad protests the Rambam's ruling, noting that it follows the position of the School of Shammai, not the School of Hillel. The Maggid Mishneh supports the Rambam's decision, noting that Niddah 65b mentions the opinions of two Amoraim which support this view, indicating that in this instance the opinion of the School of Shammai is followed.
6. I.e., she has reached the age of twelve and half and manifested signs of physical maturity at age twelve.
7. I.e., that night the couple may engage in relations as many times as they desire. Needless to say, if she has already menstruated, the couple must separate after the first time they engage in relations (Maggid Mishneh).
8. More specifically, days and nights as stated in the previous halachah.
9. **And also, of course, that the woman has not begun to menstruate. If during the passage of time, she reaches full majority, she is given only one night from that time onward (Rabbi Akiva Eiger).**
10. As stated in Halachah 19. Thus she is given three more opportunities to engage in relations.

11. Since she is sitting on a soft surface, the wound will not be aggravated.
12. Even though her bleeding is not consistent.
13. Hence she is deemed impure and forbidden to engage in relations with her husband.
14. Hence we do not apply all the stringencies mentioned in the conclusion of ch. 4.

https://www.sefaria.org/Mishneh_Torah%2C_Forbidden_Intercourse.5

https://www.chabad.org/library/article_cdo/aid/960652/jewish/Issurei-Biah-Chapter-Five.htm

SEFER KEDUSHAH (The Book of Holiness) ISSUREI BIAH (Forbidden Intercourse) Chapter 11

[...]

6. This law was instituted in the era of the Geonim. They decreed that there be no concept of "pure" blood. For the stringency that women accepted upon themselves in the era of the Sages of the Talmud applies only to a woman who discovers bleeding that would render them impure. [In this instance, they accepted the custom of] waiting seven days. Blood which she discovers during her "days of purity" after counting [seven "spotless" days], by contrast, is not a matter of concern [according to Scriptural Law]. For the days of purity are not subject [to concern] with regard to niddah or zivah as we explained.¹

7. We have heard that in France,² even today, relations are allowed [despite] "pure" bleeding as was the law in the Talmudic era after [the woman] counts [seven "spotless" days] and immerses herself because of the impurity resulting from giving birth in the zivah state. This matter is dependent on local custom.³

8. Similarly, [stringencies were adopted] with regard to the laws of hymeneal bleeding in the present age. Even if a minor is below the age when she could be expected to menstruate and never discovered uterine bleeding, [her husband] must separate after engaging in the relations which are a mitzvah.⁴

Whenever she discovers hymeneal bleeding,⁵ she is impure. When the bleeding ceases, she must count seven "spotless" days [before immersing herself].

[...]

FOOTNOTES RENUMBERED

13. Chapter 7, Halachah 7.

14. Whose halachic tradition differed from that of the Sephardic community in many particulars.

15. The Rambam is referring to one of the principles mentioned in his introduction to the Mishneh Torah: Laws ordained by the Sages of the Talmud must be accepted universally throughout the Jewish community. Laws ordained by later authorities are subject to the halachic review of the local authorities.

The Rama (Yoreh De'ah 194:1) writes that it has already become universal Jewish practice to forbid relations when a woman discovers bleeding during her days of purity.

16. I.e., the first time the couple engage in relations. As explained in Chapter 5, Halachot 18-25, according to Scriptural Law, hymeneal bleeding does not represent any difficulty for it is not at all related to niddah or zivah.

Hence, according to Talmudic Law, when the wife is a minor, the couple may engage in relations until the hymeneal bleeding ceases. Even a girl who gets married at the age of twelve is granted certain leniency. The later Rabbis, however, required all couples to separate because of hymeneal bleeding.

The Maggid Mishneh emphasizes that the groom may complete relations and withdraw while erect even if he knows that bleeding has commenced. Although our Rabbis ordained this stringency, they did not apply it to the first time the couple engaged in relations.

He also states that even if no bleeding is discovered, if the bride was a virgin, we assume that there was a slight amount of blood that was not noticed and rule that she is impure. These laws are quoted by Shulchan Aruch (Yoreh De'ah193:1).

17. I.e., if all the hymeneal blood was not released during the first time the couple engaged in relations and bleeding was discovered after subsequent relations.

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https://www.chabad.org/library/article_cdo/aid/960659/jewish/Issurei-Biah-Chapter-Eleven.htm

SEFER KEDUSHAH (The Book of Holiness) ISSUREI BIAH (Forbidden Intercourse) Chapter 18

3. Similarly, a female convert or a freed [maid-servant] - even if she was converted or freed when she was less than three years old¹ - since she is not a native-born Jewess, she is deemed a zonah and is forbidden to [marry] a priest.

On this basis, [our Sages said: A woman who has relations with] a gentile, a netin,² a mamzer,³ an Ammonite or Moabite convert, a first- or second-generation Egyptian or Edomite convert,⁴ a man with maimed testicles or a severed member,⁵ or a challal who has relations with a [native born] Jewess causes her to be considered as a zonah and to be forbidden to [marry into] the priesthood. If she was a priest's daughter, she is disqualified from [partaking of] terumah.⁶ Similarly, a yevamah who engaged relations with a man other than her yavam becomes a zonah.⁷

An ayilonit⁸ is permitted to [marry] a priest. She is not a zonah.

[...]

10. When a priest⁹ consecrates a woman, whether a minor or past majority, and afterwards engages in relations with her and claims that she had engaged in relations previously,¹⁰ she is forbidden to him because of the doubt involved:¹¹ perhaps she engaged in relations before she was consecrated or perhaps it was afterwards.¹² When, by contrast, an Israelite makes such a claim, there are two doubts involved:¹³ Maybe [the forbidden relations] preceded the consecration or maybe they came afterwards. Even if we say that they came afterwards, maybe she was raped or maybe she participated willingly. For a raped woman is permitted to an Israelite, as we explained.¹⁴

11. Therefore if a girl's father consecrated her to an Israelite when she was less than three years old and [when they married, the Israelite] claimed that he discovered that she had engaged in relations previously, she is forbidden to him because of the doubt. For there is only one doubt involved: Maybe the relations were against her will¹⁵ or maybe she engaged willingly.¹⁶ When there is a doubt concerning a Scriptural prohibition involved, [we rule] stringently.

[...]

16. When a woman is dumb, deaf,¹⁷ she says: "I don't know the identity of the man with whom I engaged in relations," or she was a minor that cannot differentiate between a man who is acceptable and one who is not, she is considered as a zonah of questionable status.¹⁸ [After the fact,] if she married a priest, she must be divorced¹⁹ unless there is a twofold majority of men with whom she could have engaged in relations that are acceptable.²⁰

17. When a woman taken captive is redeemed and she is three years old or more,²¹ she is forbidden to [marry] a priest, because there is a question whether she is a zonah. Perhaps a gentile engaged in relations with her.

If there is a witness that a gentile did not enter into seclusion with her, she is acceptable to the priesthood.²² Even a servant, a maid-servant, or a relative²³ is acceptable with regard to this testimony. [Moreover,] when two women who were taken captive give testimony on behalf of each other, their word is accepted.²⁴ [The rationale is] that all the prohibitions involving questionable situations are of Rabbinic origin.²⁵ Therefore they ruled leniently with regard to a woman taken captive.

[...]

24. **When a father states: "I consecrated my daughter and I had her divorced,"²⁶ [as long as] she is a minor, his word is accepted.²⁷** "I consecrated my daughter and I had her divorced while she was a minor," when she is past majority, his word is not accepted with regard to her being considered as a divorcee.²⁸

[When he says,] "She was held captive and I redeemed her," his word is not accepted whether she is a minor or past majority. For the Torah deems him trustworthy only with regard to having her forbidden because of marriage, for it is written [Deuteronomy 22:16]: "I gave my daughter to this man,"²⁹ but not to have her disqualified as a zonah.³⁰

25. When the wife of a priest is forbidden to him because she was taken captive, [we grant a leniency]. Since [the prohibition was instituted because] of a doubt,³¹ she is permitted to dwell together with him in the same courtyard, provided his children and the members of his household will always be there to watch him.³²

26. [The following laws apply when] a city was held under siege and conquered. If the gentiles surrounded the city from all sides so that it was impossible for [even] one woman to escape³³ without being seen and placed under their dominion, all of the women in [the city] are forbidden [to marry into] the priesthood. They are considered as if they were held captive for perhaps they were raped by gentiles. [The only exception] are those less than three years old as explained.³⁴

[...]

FOOTNOTES RENUMBERED

1. At that age, even if she had engaged in relations, her hymen would regenerate and she would be considered as a virgin (Ketubot 11b). Nevertheless, she is not considered as a native-born Jewess.

The Ra'avad rules that such a woman is not considered as a zonah. Nevertheless, she is forbidden to marry into the priesthood, based on the interpretation of Ezekiel 44:22 advanced by Kiddushin 78a which states that a priest must marry only from "the seed of the House of Israel." Note the discussion of this difference of opinion by the Maggid Mishneh. See also Chapter 19, Halachah 12, which states that as long as converts marry among each other, their descendants are forbidden to marry into the priesthood.

2. See Chapter 12, Halachot 22-23, which defines this term and the prohibition against such a man marrying a native-born Jewess.
3. See Chapter 15 which describes the prohibition of such a man marrying a native-born Jewess.
4. See Chapter 12, Halachot 18-21, which describes the prohibition of such converts marrying a native-born Jewess.
5. See Chapter 16 which describes the prohibition of such a man marrying a native-born Jewess.
6. Leviticus 22:12 states "When the daughter of a priest is [possessed] by a foreigner, she may not partake of the terumah of holiness." Yevamot 68a states: "Since she engaged in relations with someone who is forbidden to her, she is disqualified."
7. Since she is forbidden to marry anyone other than her yevam relations with any other man cause her to be considered as a zonah.
8. The term ayonit refers to a woman who does not have female physical characteristics. Her breasts do not protrude, she stiffens during sexual relations, and her lower abdomen does not resemble that of a woman. She is considered incapable of giving birth (Hilchot Ishut 2:4-6).
9. In contrast to an Israelite, as the Rambam continues to explain.
10. The husband's word is accepted as stated in Hilchot Ishut 11:8-15. The rationale is that we operate on the presumption that a man will not take on the expense and trouble of making a wedding and then forfeit it because of a spurious claim.
11. Since the doubt involves a Scriptural prohibition, we rule stringently.
12. For if the relations took place afterwards, even if she was raped, she is forbidden to her husband as a zonah.
13. And when there are two doubts involved, even when a Scriptural prohibition is concerned, we rule leniently.
14. See Halachah 7.
15. Although a minor who willfully commits adultery is not punished, she is forbidden to her husband (Chapter 3, Halachah 2).
16. Since she was consecrated before the age of three, even if she had engaged in relations beforehand, her hymen would have regenerated. Thus there is only one doubt involved.
17. In these two instances, we assume that she lacks the intellectual sophistication to know the status of the man with whom she engaged in relations.
18. In all instances, the initial and preferred option is for her not to marry into the priesthood (Maggid Mishneh). A child born from these relations is considered a mamzer of questionable status, as stated in Chapter 15, Halachah 12.
19. Since a question of Scriptural Law which cannot be clarified is involved, we rule stringently.
20. In such an instance, we are not concerned with the doubt because of the high probability that the man was acceptable.
21. The minimum age from which time onward sexual relations are significant.

22. As the Rambam proceeds to explain, since the prohibition is of Rabbinic origin, we do not follow the Scriptural requirements applying to witnesses. Therefore although ordinarily the testimony of two acceptable witnesses is required, in this instance, we accept the testimony of only one witness and moreover, accept testimony from witnesses - women, servants, and relatives - who would ordinarily be disqualified.
23. There is a difference of opinion among the commentaries whether the testimony of a woman's son or daughter is acceptable. If they mention the matter in the course of conversation, their word is accepted as evident from the following halachah, If, however, a son or a daughter deliver testimony on their mother's behalf, most authorities maintain that the testimony is not accepted (see Chelkat Mechokek 7:1; Beit Shmuel 7:3).
24. Even though one could argue that each one is lying on the other's behalf.
25. Whenever there is a question whether or not a Scriptural prohibition applies, we rule stringently. This principle, however, is a point of Rabbinic Law. According to Scriptural Law, since the prohibition is not definitely established, one need not observe it.
26. As is his right until she reaches maturity [Hilchot Ishut 3:11 (see also 9:10).
27. And she is forbidden to marry into the priesthood.
28. For his word is accepted only as long as the matter is in his hands (see Kiddushin 64a).
29. Since he has the right to consecrate her and effect her divorce, his word is accepted with regard to her status.
30. The Beit Shmuel 7:15 explains that we do not accept his word based on the principle of miggo. To explain: one might think that since the father's word would be accepted were he to claim that he consecrated her and had her divorced, we accept his word if he claims that she was taken captive, for had he desired to lie, he could have claimed that she was divorced. We do not follow that argument, because the statement that she was taken captive involves a more encompassing prohibition, causing her to be forbidden to partake of terumah as well as being forbidden to marry a priest.
31. I.e., the prohibition was instituted because we suspect that she was defiled. The Beit Yosef (Even HaEzer 7) states that, based on the Rambam's statements, if there are witnesses that the woman was defiled, this leniency is not granted.
32. And see that the couple do not engage in intimacy.
33. This ruling (as continued in the following three halachot) reflects the Rambam's interpretation of Ketubot 27b. There are several other interpretations of that passage. The Shulchan Aruch (Even HaEzer 7:10) quotes the Rambam's view, but also that of dissenting authorities. See also Hilchot Ma'achalot Assurot 12:24 which states a ruling dependent on the same passage.
34. See Halachah 17.

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https://www.chabad.org/library/article_cdo/aid/960666/jewish/Issurei-Biah-Chapter-Eighteen.htm

SEFER KEDUSHAH (The Book of Holiness) ISSUREI BIAH (Forbidden Intercourse) Chapter 21

[...]

6. When a man embraces or kisses any of the women forbidden to him as ariyot despite the fact that his heart does not disturb him concerning the matter,¹ e.g., his adult sister, his mother's sister, or the like, it is very shameful. It is forbidden² and it is foolish conduct. [This applies] even if he has no desire or pleasure at all. For one should not show closeness to a woman forbidden as an ervah at all, whether an adult or a minor, except a woman to her son and a father to his daughter.³

7. **What is implied? A father is permitted to embrace his daughter, kiss her, and sleep with her with their bodies touching⁴ and a mother may do the same with her son as long as they are young. When they grow and become matures with the girl's body becoming developed,⁶ they should each sleep in clothing.**

If the daughter is embarrassed to stand before her father naked or she married,⁷ and similarly, if the mother was embarrassed to stand before her son naked, even if [the children] are minors, when one reaches the point when one is ashamed [of being naked] in their presence, they should sleep together only when clothed.⁸

8. Lesbian relations are forbidden. This is "the conduct of Egypt" which we were warned against, as [Leviticus 18:3] states: "Do not follow the conduct of Egypt." Our Sages said:⁹ What would they do? A man would marry a man, a woman would marry a woman, and a woman would marry two men.

Although this conduct is forbidden,¹⁰ lashes are not given for it, for it is not a specific prohibition¹¹ and there is no intercourse at all. Therefore such women are not forbidden to marry into the priesthood as zonot, nor does a woman become prohibited to her husband because of this,¹² for this is not considered harlotry. It is, however, appropriate to give them stripes for rebellious conduct¹³ because they performed a transgression. A man should take precautions with his wife with regard to this matter and should prevent women who are known to engage in such practices from visiting her and her from visiting them.

9. A man's wife is permitted to him. Therefore a man may do whatever he desires with his wife. He may engage in relations whenever he desires, kiss any organ he desires,¹⁴ engage in vaginal or anal intercourse or engage in physical intimacy without relations, provided he does not release seed in vain.¹⁵

Nevertheless, it is pious conduct for a person not to act frivolously concerning such matters and to sanctify himself at the time of relations, as explained in Hilchot Deot.¹⁶ He should not depart from the ordinary pattern of the world. For this act was [given to us] solely for the sake of procreation.¹⁷

[...]

18. **It is forbidden to release sperm wastefully.¹⁸ Therefore a person should not enter his wife and ejaculate outside of her.¹⁹ A man should not marry a minor who is not fit to give birth.²⁰**

Those who, however, release sperm with their hands, beyond the fact that they commit a great transgression, a person who does this will abide under a ban of ostracism. Concerning them, it is said: "Your hands are filled with blood." It is as if they killed a person.

19. It is forbidden for a person to intentionally cause himself to have an erection or to bring himself to [sexual] thoughts. If a [sexual] thought comes to his mind, he should divert his heart from profligate and destructive matters to the words of Torah²¹ which are "a beloved hind, arousing favor."²² For this reason, it is forbidden for a person to sleep on his back with his face upward,²³ Instead, he should turn to the side slightly so that he will not develop an erection.

[...]

25. Among our Sages' commands is that a person should marry off his sons and daughters close to the time they reach physical maturity.²⁴ For were he to leave them [unmarried], they may be motivated to promiscuity or sexual thoughts. Concerning this was applied the verse [Job 5:24]: "Scrutinize your dwelling and you shall not sin."²⁵

It is forbidden to marry a woman to a minor, for this is comparable to promiscuity.²⁶

26. A man is not permitted to abide without a wife.²⁷ He should not marry a barren woman or an elderly woman who is not fit to bear children.²⁸

A woman is permitted not to marry at all or to marry a eunuch.²⁹ A young man should not marry an elderly woman, nor an elderly man, a young woman, for such conduct leads to promiscuity.³⁰

[...]

FOOTNOTES RENUMBERED

1. I.e., he has no fear that this closeness will lead to intimacy.
2. Nevertheless, if one has no pleasure or desire, the act is not punished by lashes [the Rambam's Commentary to the Mishnah (Sanhedrin 7:3)].
3. The Chelkat Mechokek 21:10 adds that one may show physical closeness to one's granddaughter and to one's infant sister.
4. I.e., even unclothed.
5. In Hilchot Keriat Shema 3:19, the Rambam mentions that the children must also reached the age of majority, thirteen for boys and twelve for girls. In our translation, however, we have focused on the physical characteristics, because the Chelkat Mechokek 21:12 emphasizes that this is what is of primary importance.
6. The Rambam borrows the wording of Ezekiel 16:7 which literally means "her breasts are developed and her hair has grown."
7. The Maggid Mishneh states that this applies even if she is merely consecrated.
8. Even when children reach the stage when they and their parents are required to sleep together while clothed, their parents are still allowed to embrace them and kiss them (Beit Shmuel 7:15).
9. Sifra, commenting on the above verse.
10. By Scriptural Law. The verse is not merely cited as support for a Rabbinic injunction.
11. As stated in Sefer HaMitzvot (negative commandment 353), this is a general prohibition, including all types of forbidden sexual behavior. As stated in Hilchot Sanhedrin 18:2-3, lashes are not given for the violation of prohibitions that are of a general nature.
12. As would apply were this to be considered as adultery.
13. This represents a change of opinion from his statements in his Commentary to the Mishnah (Sanhedrin 7:3) where he writes that even according to Rabbinic Law, no punishment should be given.
14. The Beit Shmuel 25:1 quotes many authorities who forbid a man from kissing his wife's genitalia.

15. See Halachah 18.

16. In Hilchot Deot, ch. 3, the Rambam elaborates on the concept that all of a person's actions, even his sexual conduct, must be for the sake of heaven. In Chapter 5, Halachot 4-5, the Rambam elaborates on refined habits of sexual conduct.

17. In his Commentary to the Mishnah (Sanhedrin 7:3), the Rambam writes:

The intent of sexual relations is the preservation of the species and not only pleasure. The aspect of pleasure was introduced only to motivate the created beings toward that ultimate goal....

The proof of this is that desire and pleasure cease after ejaculation; this was the entire goal for which our instincts were aroused. If the goal were pleasure, satisfaction would continue as long as man desired.

18. When stating this prohibition, Shulchan Aruch (Even HaEzer 23:1) adds: "This transgression is more severe than any of the sins in the Torah."

19. See the commentaries to Genesis, ch. 38, which relate that this was the sin of Judah's two sons: Er and Onan. They married Tamar, but did not desire that she become pregnant. Hence they did not release their sperm within her. Their sin angered God and He caused them to die.

20. For in essence, whenever the couple engage in intercourse, he will be releasing sperm without purpose, because she is not old enough to become pregnant. Niddah 13b states that those who marry minors hold back Mashiach's coming.

It must be emphasized that if a man does marry a minor, he is permitted to engage in relations with her [Rama (Even HaEzer 23:5)]. Similarly, relations are permitted in other instances where they will not lead to pregnancy: e.g., when the woman is already pregnant, directly after birth, or she is past menopause. Since a man has conjugal duties to his wife, he is not allowed to ignore them even though she will not become pregnant.

21. See Chapter 22, Halachah 21. See also Avot D'Rabbi Nattan 20:1 which implies that this is not merely a matter of will power and mind control. Instead, directing one's attention to the Torah awakens spiritual influences which prevent a person's attention from focusing on sexual thoughts.

22. This analogy for the Torah is taken from Proverbs 5:19.

23. Needless to say, it is forbidden for one to sleep on his belly.

24. I.e., directly after a youth becomes thirteen (Chelkat Mechokek 1:3).

25. I.e., having foresight with regard to one's children's sexual behavior will prevent sin. See the conclusion of Hilchot Sotah where the Rambam cites the same verse in a different - although somewhat related - context.

26. According to Scriptural Law, a man cannot consecrate a woman until he reaches the age of thirteen and demonstrates signs of physical maturity. Hence, if a couple are married beforehand, all relations are comparable to promiscuity. See Chelkat Mechokek, loc. cit. and Beit Shmuel 1:4 who discuss certain views that maintain that it is permitted to marry beforehand.

27. Lest he be prompted to sexual thoughts.

28. This certainly applies before the man has fulfilled the obligation to be fruitful and multiply (i.e., he fathered a boy and a girl). Even after he has fulfilled that mitzvah, he should marry a woman capable of bearing children [Hilchot Ishut 15:7, 16; Shulchan Aruch (Even HaEzer 1:8)]. In the latter situation, however, there is room for certain leniencies.

29. For she is not bound by the commandment of procreation.

30. We assume that the difference in age will lead to a lack of sexual harmony and cause the man and/or woman to seek fulfillment outside of marriage.

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https://www.chabad.org/library/article_cdo/aid/960669/jewish/Issurei-Biah-Chapter-Twenty-One.htm

SEFER KEDUSHAH (The Book of Holiness) ISSUREI BIAH (Forbidden Intercourse) Chapter 22

[..]

2. Jewish men were not suspected of engaging in relations with men or with animals. Hence, there is no prohibition against entering into privacy with them.¹ If, however, a person distances himself from entering into privacy even with a male or an animal, it is praiseworthy. Sages of great stature would distance themselves from animals so that they would not be alone with them.²

The prohibition against entering into privacy with woman forbidden as ariot has been transmitted by the Oral Tradition.³

[...]

5. Similarly, a Jewish child should not be entrusted to a gentile with the intent that he teach him to read or teach him a craft, for all gentiles are suspect to engage in homosexual relations. Similarly, we do not house an animal in an inn belonging to gentiles, not even a male in an inn with males and a female in an inn with females.⁴

6. We do not entrust an animal, beast, or fowl to a gentile shepherd, not even a male animal to a male shepherd and a female animal to a female shepherd, because they are all suspect to sodomize animals. We have already explained⁵ that [gentiles] are forbidden to engage in homosexuality or sodomy. And [Leviticus 19:14] states: "Do not place a stumbling block before the blind."⁶

7. Why do we not entrust a female animal to a female gentile? For [all gentiles] are assumed to be promiscuous and when a gentile man will come to sleep with this gentile woman, it is possible that he will not find her and instead, sodomize the animal. Or even if he does find her, he may sodomize the animal.

[...]

10. It is permitted to enter into privacy with a female child less than three years old and a male child less than nine years old. For [our Sages] only issued decrees concerning entering into privacy with a woman fit to engage in relations and a male fit to engage in relations.⁷

[...]

18. There is nothing in the entire Torah that is more difficult for the majority of people to separate themselves from than sexual misconduct and forbidden relationships. Our Sages said:⁸ When the Jews were commanded regarding forbidden sexual relations, they wept and accepted this mitzvah with complaints and moaning, as implied by the phrase: "Crying among their families," [which is interpreted as meaning]: "Crying about family matters."

[...]

FOOTNOTES RENUMBERED

1. The Shulchan Aruch (Even HaEzer 24:1) writes that homosexuality had become prevalent in his community and hence, it was deemed appropriate not to enter into privacy with other men. The Bayit Chadash states that in places where this transgression is not widespread, there is no need for taking such precautions.
2. See Kiddushin 81b.
3. Kiddushin 80b states that "there is an allusion to the prohibition against entering into privacy in the Torah." The Rambam understands that to mean that the prohibition was conveyed by the Oral Tradition and our Sages found an allusion for it in the Torah. The Tur (Even HaEzer 22), however, follows the opinion of Tosafot who maintains that the prohibition is of Scriptural origin.
4. For we fear that the gentiles will engage in sexual misconduct. See Halachah 7.
5. Chapter 14, Halachah 10.
6. As interpreted by Avodah Zarah 6b, et al, this verse is a command not to place a person in a situation where he is likely to sin. By placing an animal belonging to him in the gentile's possession, the Jew is making it possible for him to sin.
7. **And this does not apply below the ages mentioned in the halachah.**
8. Sifri, Parshat Bahaaloscha; Shabbat 130b.

https://www.sefaria.org/Mishneh_Torah%2C_Forbidden_Intercourse.22

https://www.chabad.org/library/article_cdo/aid/960670/jewish/Issurei-Biah-Chapter-Twenty-Two.htm

SEFER NASHIM (The Book of Women) YIBBUM vCHALITZAH (Levirate Marriage and Release) Chapter 1

Introduction to Hilchos Yibbum vChalitzah

They contain three mitzvot: two positive commandments and one negative commandment. They are:

- 1) To marry the widow of one's childless brother;
- 2) To free her of this obligation through chalitzah;
- 3) For a childless widow not to marry another man until the mandate upon her deceased husband's brother [to marry her] is removed.

A [childless] widow who is fit to be married by her husband's brother is referred to as zekukah l'yibbum. [Her husband's brother is referred to as a yavam.] The mandate obligating her to the yavam is referred to as zikah.

These mitzvot are explained in the chapters [that follow]:

1. It is a positive commandment¹ of Scriptural law for a man to marry the widow of his paternal² brother if he died without leaving children, as [Deuteronomy 25:5] states: "[And one of them dies] childless,... her husband's brother should cohabit with her." [This applies to a widow] from nisu'in, or from erusin.

[The childless widow is referred to as a yevamah; the rite through which they marry, yibbum.]

Scriptural law does not require a man to consecrate his yevamah, for she is his wife that heaven acquired for him. [All that is necessary] is that he cohabit with her. Her deceased husband's estate is responsible for her marriage contract.³

2. If the yavam does not want to perform the rite of yibbum, or if the woman does not consent,⁴ he should [free her from this obligation through the rite of] chalitzah. [Only] afterwards is she permitted to marry another man.

It is a positive commandment⁵ of Scriptural law for [a brother] to perform chalitzah for [the deceased's widow], if he does not want to perform the rite of yibbum, as [Deuteronomy 25:9] states: "She shall... remove his shoe."⁶

The mitzvah of yibbum takes precedence over the mitzvah of chalitzah.⁷

3. The Torah's words [Deuteronomy 25:5], "When one of them dies childless" [should not be interpreted narrowly].⁸ [When the deceased] has a son, a daughter, a descendant of a son, or a descendant of a daughter, as long as he has left progeny⁹ - whether from the woman [to whom he is presently married] or from another woman, his wife is free from the obligation of chalitzah or yibbum.

Even if he has a descendant who is illegitimate or an idolater, [that descendant] frees [the deceased's] wife from the obligation of chalitzah or yibbum.

[...]

16. As explained in Hilchot Ishut,¹⁰ the sexual relations in which a boy of nine years and one day engages are halachically significant. This is a law received through the Oral Tradition.

Accordingly, when a yavam who is below the age of majority, but over the age of nine, engages in sexual relations with his yevamah, he should maintain [his bond with her].¹¹ He may not, however, perform the rite of chalitzah until he attains the age of majority and is inspected [for signs of physical maturity].¹² For with regard to chalitzah, the term ish ("man") is specifically mentioned in the Torah.¹³

If [a yavam] is below this age, sexual relations in which he engages are of no halachic significance. [Moreover,] even the sexual relations in which a nine-year-old engages do not acquire [the yevamah for him in a manner that is] binding [entirely].¹⁴ Therefore, his yevamah is not permitted to marry another man until he engages in relations with her after he attains majority [and divorces her], or performs the rite of chalitzah [at that age], as will be explained.¹⁵

17. Similarly, with regard to a yevamah who is below the age of majority: If her yavam desires to perform the rite of yibbum with her, he may.¹⁶ He may not, however, perform the rite of chalitzah with her until she attains the age of majority and is inspected [for physical signs of maturity]. Even if she engaged in sexual relations after she became twelve years old,¹⁷ she may not perform the rite of chalitzah until she undergoes an inspection and manifests signs of physical maturity.

18. Just as a yavam may not perform chalitzah until he attains manhood, so too, a yevamah may not perform chalitzah until she attains womanhood.¹⁸

When a yavam who is below the age of majority engages in sexual relations with a yevamah who is also below the age of majority, they should grow up together.

[...]

FOOTNOTES RENUMBERED

1. Sefer HaMitzvot (Positive Commandment 216) and Sefer HaChinuch (Mitzvah 598) include this mitzvah as one of the 613 mitzvot of the Torah.

In his Guide for the Perplexed, the Rambam explains that marriage of this nature was a custom carried out before the giving of the Torah (as reflected by Genesis 38:8), and the Torah allowed this rite to be perpetuated. Sefer HaChinuch explains that the closeness shared with the deceased by both his widow and his brother enjoins them to come together and produce a child who will perpetuate the deceased's memory and virtue. As Sefer HaChinuch mentions, there are also profound mystic concepts associated with this mitzvah.

2. Implied is an exclusion. One should not perform this rite with the widow of one's maternal brother (Yevamot 17b; Halachah 7 below).

3. See Hilchot Ishut 22:10-14.

4. According to the Rambam's conception, the woman cannot be compelled to marry her brother-in-law against her will. See Chapter 2, Halachah 10 and notes.

5. Sefer HaMitzvot (Positive Commandment 217) and Sefer HaChinuch (Mitzvah 599) include this mitzvah as one of the 613 mitzvot of the Torah.

6. The woman also participates - indeed she plays a more active role - in the rite of chalitzah. Nevertheless, the mitzvah is considered to be incumbent on the brother of the deceased, because the effect of this mitzvah is that he foregoes a right - the right to marry the woman - that belongs to him. Until he performs chalitzah, the woman is bonded to him, and through performing chalitzah he severs this connection. Therefore, the mitzvah is considered his.

Moreover, chalitzah is a means to dissolve the connection established by kiddushin. Since kiddushin are established by the man, chalitzah is also his initiative. See the Kovetz who questions whether the man is obligated to perform chalitzah or he merely has the opportunity of doing so.

7. The concluding mishnah of the first chapter of Bechorot states:

The mitzvah of yibbum takes precedence over the mitzvah of chalitzah. [This applied] originally, when the participants [in the rite] intended to perform a mitzvah. In the present age, when they do not intend to perform a mitzvah, the mitzvah of chalitzah takes precedence over the mitzvah of yibbum.

In his Commentary on the Mishnah, the Rambam explains that the Mishnah follows the opinion of Abba Shaul, who maintains that the prohibition against marrying one's brother's wife is not removed entirely by the mitzvah of yibbum. Instead, it is **merely temporarily** superseded. And therefore, if the couple have any intentions other than the fulfillment of the mitzvah, they transgress this prohibition. As such, rather than involve oneself in such a challenge, one should perform the mitzvah of chalitzah.

In that commentary, and in a subsequent responsum, the Rambam explains that the halachah follows the opinion of the Sages who differ with Abba Shaul. These Sages maintain that when a man dies childless, the prohibition against his brother's marrying his wife is lifted entirely. Even if the brother marries the widow

because of her looks, or because of her money, there is no prohibition involved. For that reason, the mitzvah of yibbum takes precedence.

The Ashkenazic community, following the rulings of Rabbenu Tam and the authorities who succeeded him, do not accept this ruling and follow Abba Shaul's opinion. Accordingly, the Shulchan Aruch (Even HaEzer 165:1) quotes the Rambam's view, while the Ramah states that chalitzah is preferable, and that a couple should not be allowed to perform yibbum unless the court is certain that their intent is solely to perform the mitzvah.

There is some discussion of the Rambam's intent by the commentaries, for his ruling in Hilchot Gerushin 10:16 implies a recognition of the importance of chalitzah. Nevertheless, the clarity of his statements in his Commentary on the Mishnah and in Sefer HaMitzvot makes it obvious that he follows the opinion of the Sages who differ with Abba Shaul. At present, even within the Sephardic community, the mitzvah of chalitzah is generally observed.

[Note also the opinion of the Beit Shmuel 174:3, who states that even according to the Ashkenazic authorities, by Scriptural law yibbum takes precedence, and that the primacy given to chalitzah is a Rabbinic institution.]

8. The Hebrew word בן, translated as "son," can also mean "child" or "descendant." Hence, the ruling mentioned by the Rambam.

9. If, however, a man fathered a child [or children], and he [they all] died in the father's lifetime, the man's wife is obligated to perform the rite of yibbum.

10. Chapter 11, Halachah 3.

11. I.e., none of the other brothers should marry her instead. See Chapter 5, Halachot 18-19.

12. Two pubic hairs, as stated in Hilchot Ishut 2:10.

13. Deuteronomy 25:7 states: "If the man does not desire...."

14. Rather, these sexual relations are considered to be equivalent to a ma'amar, the status of which is discussed in Chapter 2, Halachah 1.

15. See Chapter 5, Halachah 21, where this situation is described in detail.

16. Yevamot 119a explains that there is a certain **dimension of leniency** implied by this ruling. Since the woman is below the age of majority, it is possible that as she grows older she will manifest signs of being an aytonit, a woman who lacks female sexual characteristics (Hilchot Ishut 2:3,6). If that were to be the case, then the mitzvah of yibbum would not apply to such a woman, as stated in Chapter 6, Halachah 8, and relations with her would still be forbidden. Nevertheless, since the overwhelming probability is that a woman will not be an aytonit, our Sages did not impose any restrictions.

17. Rav David Arameah interprets this to be referring to engaging in relations with her previous husband before her death. Although with regard to her husband, we assume that she has manifested signs of physical maturity, as stated in Hilchot Gerushin 11:5, with regard to the laws of yibbum and chalitzah an inspection is required. Note an alternative explanation offered by the Or Sameach.

18. See Chapter 6, Halachah 6.

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https://www.chabad.org/library/article_cdo/aid/960619/jewish/Yibbum-vChalitzah-Chapter-One.htm

SEFER NASHIM (The Book of Women) YIBBUM vCHALITZAH (Levirate Marriage and Release) Chapter 2

3. When [a yavam] engages in marital relations with his yevamah, he acquires her [as his wife]. [This applies] regardless of whether he entered into these relations unintentionally¹ or with a licentious intent,² under duress or willingly, whether he acted with a licentious intent and she acted unintentionally or under duress, or she acted with a licentious intent and he acted unintentionally or under duress, whether she was asleep³ or awake, whether he performed vaginal or anal intercourse,⁴ whether he inserted merely the head of his penis or the entire organ.⁵

4. When does the above apply? When [the yavam] intends to perform a sexual act. If, however, he fell from the roof [with an erection] and [accidentally] inserted his organ into his yevamah, had relations with her when he was so intoxicated that he was not conscious of anything,⁶ or when he was asleep, he does not acquire her [as his wife].

If he intended to masturbate in a hole in the wall and unintentionally inserted his organ into his yevamah, he does not acquire her [as his wife].⁷ If he intended to sodomize an animal and unintentionally inserted his organ into his yevamah, he does acquire her [as his wife].⁸

[...]

FOOTNOTES RENUMBERED

1. Note the Shulchan Aruch (Even HaEzer 166:9), which cites a minority opinion that differentiates between whether the yevamah had been married to her first husband or merely consecrated by him. In the latter instance, she must be consecrated a second time.

2. Our translation is based on Rashi's gloss, Yevamot53b.

3. Although it is improper for a husband to engage in relations with his wife when she is asleep, this does not negate the effectiveness of the yavam's act.

4. The purpose of yibbum is to "perpetuate the name of his brother" (Deuteronomy 25:7) - i.e., to conceive progeny. **Although this objective cannot be achieved through anal intercourse, it is still an effective means of acquisition.** Since both the man and the woman are capable of conceiving children, the fact that they cannot accomplish that through this sexual act does not detract from its effectiveness (Beit Shmuel 166:6).

5. Our translation is based on Hilchot Issurei Bi'ah1:10.

6. Note the Or Sameach, who questions this ruling based on the Jerusalem Talmud (Yevamot 6:1, quoted by the Rambam in Chapter 6, Halachah 3), which states that when a mentally incompetent person performs yibbum, his act is binding. The Or Sameach explains that a mentally incompetent person may have the intent to engage in sexual relations. In this instance, however, the person has lost control of his faculties to the extent that he has no intent whatsoever.

7. For masturbation is not considered to be sexual relations.

8. For sodomy is considered to be a forbidden form of relations.

https://www.sefaria.org/Mishneh_Torah%2C_Levirate_Marriage_and_Release.2

https://www.chabad.org/library/article_cdo/aid/960620/jewish/Yibbum-vChalitzah-Chapter-Two.htm

SEFER NASHIM (The Book of Women) YIBBUM vCHALITZAH (Levirate Marriage and Release) Chapter 5

[...]

18. When a yavam who is below the age of majority, [but more than] nine years and one day old, enters into relations [with a yevamah], [the consequence] is equivalent to [that of] a ma'amar given by an adult;¹ [the yevamah] is not acquired as a wife in a complete manner.²

When [a yavam who is below the age of majority, but more than] nine years and one day old, gives a ma'amar at the outset, it is effective and causes [the yevamah] to be forbidden to [his brothers] who are past majority. If, however, he gives [the ma'amar after a ma'amar has been given by his brothers who are past majority, his ma'amar] is of no consequence.

[Similarly,] a get that he gives or chalitzah that he performs is always of no consequence, whether it precedes [his brothers' actions] or follows them.³

19. What is implied? When a [yavam who is below the age of majority, but more than] nine years and one day old, engages in relations with his yevamah, or gives her a ma'amar at the outset, he disqualifies her [from performing yibbum] with his other brothers. If, however, [one of the brothers] past majority gave his yevamah a ma'amar, and then [the brother who is below the age of majority, but more than] nine years and one day old, gives her or another one of the wives [of the deceased brother] a ma'amar, his actions are of no consequence, and he does not cause [the yevamah] to be forbidden to his elder brother.⁴

If, however, [the brother who is below the age of majority, but more than] nine years and one day old engages in relations with her or with another one of the wives of [the deceased brother], he causes [the yevamah] to be forbidden to his elder brother, as would be the case when two [brothers] past majority each gave a ma'amar one after the other, as we have explained.⁵

20. When a [yavam who is below the age of majority, but more than] nine years and one day old, has engaged in relations with his yevamah, and then one of his brothers past majority entered into relations with her, performed chalitzah with her, gave her a get, or performed one of these activities with another [one of the deceased brother's] wives, he disqualified the minor [from marrying his yevamah].⁶

Similarly, if the minor has engaged in relations with another [one of the deceased brother's] wives, or another brother who is also [below the age of majority, but more than] nine years and one day old, has engaged in relations with this woman, or with another [one of the deceased brother's] wives, [the woman with whom the first brother originally engaged in relations] is disqualified [from marrying him], as is the ruling whenever two ma'amarim are given one after the other.

21. When a [yavam who is below the age of majority, but more than] nine years and one day old, engages in relations with his yevamah and then does not engage in relations with her again after he attains majority, [he is] required [to give her] a get and perform chalitzah. The get [is necessary] because the relations in which he engaged are considered equivalent to a ma'amar. The chalitzah [is necessary] in order to permit the woman to marry another man, for she did not engage in relations that established a complete marriage bond.

If [her yavam] engaged in relations with her after he attained majority, all that is required [to enable her to marry another man] is a get.⁷

22. [The same laws that apply to a yavam who is below the age of majority, but more than] nine years and one day old [apply to a yavam who] is twenty years old and has not manifested signs of physical maturity, but has also not manifested physical signs of impotency, as explained in the beginning of this book.⁸

23. As explained,⁹ both the consecration of a girl below the age of majority who is fit to leave her husband through the rite of mi'un,¹⁰ and [the consecration of a girl who is] a deaf-mute are Rabbinic institutions. Nevertheless, they are two different types of ordinances. [For] the consecration of a minor was ordained so that [men] will not relate to her in an unrestrained manner.¹¹ Her consecration is thus tentative until she comes of age. Consecration was ordained for a deaf-mute [for a different reason,] so that she will not remain unmarried forever.

Accordingly, if all the yevamot coming from one household are below majority or all are deaf mutes,¹² entering into relations with one of them frees them all from their obligation.¹³

24. If [by contrast, the deceased was married to] a deaf-mute and a minor, engaging in relations with one does not free the other of her obligation.¹⁴

What is the alternative? The minor should be instructed to [nullify her marriage through] mi'un,¹⁵ and [a yavam] should marry the deaf-mute.¹⁶ If he desires to divorce her, he may write a get for her after they engage in relations.¹⁷ She is then permitted [to marry] another man.

25. If one [of the deceased's wives] was mentally competent, and one was a deaf-mute, engaging in relations with the mentally competent woman, or performing chalitzah with her frees the deaf-mute of her obligation. Engaging in relations with the deaf-mute, by contrast, does not free the mentally competent woman [from her obligation]. For the consecration of the deaf-mute is merely a Rabbinic institution.¹⁸

Similar [laws apply when one of the deceased wives was] above majority, and one was a minor. Engaging in relations with the woman past majority, or performing chalitzah with her frees the minor of her obligation. Engaging in relations with the minor, by contrast, does not free the woman past majority [from her obligation].

26. [The following rules apply if] both [the deceased's wives] were minors who are entitled to absolve their marriages through mi'un. If the yavam engages in relations with one of them, and then he or one of his brothers engages in relations with the other, this does not disqualify the marriage to the first.¹⁹ Nevertheless, we should instruct [the second one] to dissolve her marriage through] mi'un.²⁰ He should then maintain [his marriage] with the minor yevamah with whom he engaged in relations first.

27. Similar laws apply if [the deceased was married to] a minor and a deaf-mute. If the yavam first enters into relations with the minor, and then he or one of his brothers engages in relations with the deaf-mute, this does not disqualify the marriage to the minor. The deaf-mute, however, must be divorced via a get.²¹

[The rationale is that] the relations with the minor are considered superior to relations with the deaf-mute, for ultimately the minor will be fit [to enter into a marriage bond that is binding according to Scriptural law]. Therefore, he should maintain his relationship with the minor with whom he engaged in relations first.²²

28. [In the above situation,] if the yavam first enters into relations with the deaf-mute, and then he or one of his brothers engages in relations with the minor, this disqualifies the marriage to the deaf-mute.²³ We should instruct the minor to dissolve her marriage through] mi'un;²⁴ the deaf-mute must be divorced with a get.²⁵

[...]

30

[The following rules apply if the deceased was married to] a woman past the age of majority and one below the age of majority. [If the yavam] first enters into relations with the woman past majority, and then he or one

of his brothers engages in relations with the minor, this does not disqualify the marriage to the woman past majority.²⁶ We should, however, instruct the minor to dissolve her marriage through mi'un.²⁷

If he first enters into relations with the minor, and then he or one of his brothers engages in relations with the woman past majority, we should instruct the minor to dissolve her marriage through mi'un,²⁸ and he should remain married to the woman past majority. [The rationale is that] relations with her establish a fully binding marriage bond.

FOOTNOTES RENUMBERED

1. As mentioned in Chapter 1, Halachah 15 (and Hilchot Ishut 11:3), when a boy over nine years old enters into sexual relations with a woman, his actions are considered of consequence in certain contexts.

The Maggid Mishneh and Rashi (Kiddushin 19a) explain that when a minor above nine years old enters into relations with a woman, he acquires her as his wife according to Scriptural law. (Nevertheless, if another man enters into relations with her, the other man is not executed for committing adultery.) Our Sages, however, reduced the level of connection established and caused their marriage bond to have only the effectiveness of a ma'amar.

[The rationale why yibbum performed by a minor is effective although a minor does not possess the intellectual maturity to take responsibility for his conduct is that we find that yibbum does not require intent at all; what is significant is the act of sexual relations. (See Chapter 2, Halachah 3.)]

Tosafot differ and maintain that, in this context, the relations of a nine-year old are of no consequence according to Scriptural law. Nevertheless, the Rabbis enforced a stringency and considered these relations to be equivalent to a ma'amar.

2. This concept is illustrated in the halachah that follows, as is another consequence of the principle that the sexual relations that this youth engages in are considered equivalent to a ma'amar given by an adult.

3. As mentioned in Chapter 4, Halachah 16, chalitzah performed by a minor is of no consequence, because the passage concerning chalitzah explicitly mentions an אִישׁ - i.e., a male past majority. Since chalitzah performed by a minor is of no consequence, a get given by him is of no consequence, because the disqualification caused by a get is an extension by the Rabbis of the Scriptural prohibition caused by chalitzah.

Significantly, the Rambam's statements here represent a reversal of his ruling in his Commentary on the Mishnah (Yevamot 10:6), in which he rules that a get given by a minor does disqualify a yevamah from performing yibbum with the minor's brothers.

4. Had the younger brother been past the age of majority, he would have disqualified the yevamah from performing yibbum with his older brother, as stated in Halachot 7 and 14.

5. See Halachot 7 and 14.

6. Since the minor's relations possess only the strength of a ma'amar, their effectiveness can be nullified by the actions of an older brother.

7. For the relations in which they engaged after the yavam attained majority complete the marriage bond.

8. As explained in Hilchot Ishut 2:11, a male who does not manifest signs of impotency is considered a minor until he attains the age of 35.

9. See Hilchot Ishut 4:7-9.

10. As explained in Hilchot Ishut 4:7 and Hilchot Gerushin 11:1, when a girl's father died and she is below the age of majority, our Sages ordained that her mother and/or brothers can arrange a marriage for her. This marriage is not binding according to Scriptural law. Accordingly, when creating this option, our Sages gave the girl the possibility of nullifying the marriage before she reaches majority merely by making a verbal statement.

11. If, however, she marries, they would respect the limits of modesty and her husband would protect her (Yevamot 112b).

12. If, however, one is a mentally capable woman past the age of majority, yibbum or chalitzah should be performed with her - for her marriage is binding according to Scriptural law - and not with those whose marriage is binding only by virtue of a Rabbinic ordinance.

13. For their marriage bonds all share the same status.

14. The marriage relationship of each one possesses an advantage over the other. The marriage with the minor, had it not been interrupted, could have blossomed into a marriage bond binding according to Scriptural law. On the other hand, there is an advantage to the marriage to the deaf-mute, because the minor had the option of ending her marriage at will, while that of the deaf-mute was binding. As evident from Halachot 27 and 28, the marriage to the minor is preferable.

15. For just as she can dissolve her relationship with her husband while he is alive, she can nullify it afterwards, freeing herself from any obligation to the yavam (Hilchot Gerushin 11:3).

The Ra'avad differs and maintains that a minor is permitted to free herself from an obligation to the yavam through mi'un only when this facilitates the establishment of a marriage bond that is binding according to Scriptural law. (See Halachah 30 and Chapter 7, Halachah 15.) In this instance, however, she is not given the privilege. Instead, she must wait until she attains majority and then perform chalitzah. The Shulchan Aruch (Even HaEzer171:1) quotes the Rambam's view.

16. Since the deaf-mute is not considered responsible for her actions, she cannot perform chalitzah. She must either perform yibbum or remain unmarried for the remainder of her life.

If the yavam performs yibbum with the minor, he may not perform yibbum with the deaf-mute, for he is permitted to perform yibbum only with one of his deceased brother's wives.

17. The deaf-mute is not considered responsible for her actions. Nevertheless, since according to Scriptural and Talmudic law a get may be given without the woman's consent, the divorce is binding (Hilchot Gerushin 10:23).

18. And performing yibbum with a woman who is consecrated only according to Rabbinic law does not free a woman who is consecrated according to Scriptural law from her obligation.

19. For, as mentioned in Halachah 14, after a yavam engages in relations with his yevamah, their relationship cannot be disqualified.

20. If the second wife does not perform mi'un, her consecration is also binding. Nevertheless, it involves the violation of a positive commandment. Moreover, a get is required for nullifying this marriage, and she becomes forbidden to the priesthood. If, however, she dissolves her marriage through mi'un, a get is not required.

21. For relations with her are forbidden, and yet her consecration is binding.

22. Although the Ra'avad differs with the Rambam and maintains that it is forbidden to remain married to the minor, the Shulchan Aruch (Even HaEzer171:7) follows the Rambam's ruling.

23. For the marriage to the minor is preferable to that of the deaf-mute.

24. Since the yavam entered into relations with the deaf-mute first, he is not able to remain married to the minor. She should therefore dissolve her obligation to him through mi'un. The Sages preferred this option rather than having her wait until she attains majority and receives a get and chalitzah, because of the impression that the latter process might create (Or Sameach). Moreover, far fewer legal details are involved (Kin'at Eliyahu).

Note the Tur (Even HaEzer 171), which interprets the Ra'avad's comments on this halachah as implying that the yavam should remain married to the minor. The Tur does not accept this view.

25. Once the minor has performed mi'un, it appears that there is no obligation for the deaf-mute to be divorced, for the minor has uprooted her connection to her deceased husband, and as such, the relations with her seemingly should not affect the status of the deaf-mute. Nevertheless, our Sages ruled that the deaf-mute must be divorced, as a penalty, because the yavam should have waited to engage in relations with her until the minor performed mi'un (Or Sameach).

The Tur (loc. Cit.) differs and maintains that the yavam may remain married to the deaf-mute. The Shulchan Aruch (Even HaEzer 171:8) quotes the Rambam's view, while the Ramah mentions that of the Tur.

26. For these are "acceptable relations."

27. Since the yavam entered into relations with the woman past majority first, he is not able to remain married to the minor. She should therefore dissolve her obligation to him through mi'un, rather than having her receive a get, because in this manner she is not disqualified from the priesthood.

28. In this way, the minor dissolves all connection to the yavam, and there is no prohibition against his remaining married to the woman past majority. This option is preferred so that the yavam will have performed an act of yibbum that is binding according to Scriptural law.

https://www.sefaria.org/Mishneh_Torah%2C_Levirate_Marriage_and_Release.5

https://www.chabad.org/library/article_cdo/aid/960623/jewish/Yibbum-vChalitzah-Chapter-Five.htm

SEFER NASHIM (The Book of Women) YIBBUM vCHALITZAH (Levirate Marriage and Release) Chapter 6

[...]

3. These are [the brothers] who are fit to perform the rite of yibbum,¹ but not the rite of chalitzah: a deaf-mute, a mentally incompetent man and a minor. [The rationale is that] they lack the mental competence to perform chalitzah.

When a deaf-mute performs yibbum, he may never divorce [his yevamah]. For by entering into relations with her, he establishes a marriage bond that is completely binding, and he is incapable of divorcing a woman in a completely effective manner.²

[When a yavam who is below the age of majority but more than] nine years and one day old performs yibbum, [he acquires his yevamah as a wife]. He may not, however, divorce [her] until he attains majority, as we have explained.³

[...]

6. These are [the yevamot] who may perform the rite of yibbum, but not the rite of chalitzah: a deaf-mute, a mentally incompetent woman and a minor.⁴

[The rationale why they cannot perform chalitzah is that] they lack the mental competence to read and to understand. If the yavam desires to divorce the deaf-mute with a get after he engages in relations with her, he may.⁵

[...]

30

[In the following situation, chalitzah and not yibbum is required. A yavam] who is below the age of majority, [but more than] nine years and one day old, enters into relations with his yevamah and dies before he attains majority. She then becomes obligated for yibbum to the minor's older brother for a second time. She should perform chalitzah, but not yibbum. As we have explained,⁶ relations in which a minor engages are considered equivalent to a ma'amar given by [a brother] past majority. Hence, the woman has two obligations for yibbum incumbent on her.

[...]

FOOTNOTES RENUMBERED

1. The intent is not that they should be encouraged to perform yibbum, but that if they perform yibbum, they acquire the yevamah as a wife. The rationale is that the act of yibbum does not require intent, as stated in Chapter 2, Halachah 3.

2. In the Kessef Mishneh, Rav Yosef Karo emphasizes that this ruling applies only when the yevamah's deceased husband was mentally competent. If the deceased also was a deaf-mute, the deaf-mute yavam may divorce her by signalling with hand motions. Rav Yosef Karo reiterates this decision in the Shulchan Aruch (Even HaEzer172:12).

3. See Chapter 5, Halachah 18. Note Chapter 5, Halachah 21, which states that if he did not enter into relations with his yevamah after he attained majority, he must also perform the rite of chalitzah.

4. With regard to a minor, see Chapter 4, Halachah 16.

5. For according to Scriptural and Talmudic law, neither a woman's understanding nor her consent is necessary for a divorce to be effective.

6. Chapter 5, Halachah 18.

https://www.sefaria.org/Mishneh_Torah%2C_Levirate_Marriage_and_Release.6

https://www.chabad.org/library/article_cdo/aid/960624/jewish/Yibbum-vChalitzah-Chapter-Six.htm

SEFER NASHIM (The Book of Women) YIBBUM vCHALITZAH (Levirate Marriage and Release) Chapter 7

[...]

13. [The following rules apply when] a girl below the age of majority was given in marriage by her father, and her husband divorced her, remarried her and then died [childless] while she was still below the age of majority.

She is forbidden to her yavam,¹ for the divorce was a fully binding divorce, since she was married off by her father.² The remarriage, by contrast, is not fully binding, because the consecration of a minor is not a completely binding consecration, as explained.³

14. The same law applies when a man divorces a woman who is mentally competent, she becomes a deaf-mute, he remarries her and dies [childless] while she is a deaf-mute. She is forbidden to the yavam and should not perform either chalitzah or yibbum.⁴

Another woman married [to the deceased husband of] the minor or the deaf-mute may perform chalitzah, or yibbum.⁵

If [the deceased] remarried her while she was a minor or a deaf-mute, but she attained majority or regained her control of her faculties while married to him, and then he died [childless], she is permitted to her yavam.⁶

15. When two brothers were married to two sisters, who were both below the age of majority and fit to dissolve their marriages through mi'un, or they were deaf-mutes, and one [of the brothers] dies [childless], his wife is not obligated to perform either chalitzah or yibbum, because she is the sister [of the yavam's] wife.⁷

If one [of the sisters] was above the age of majority and one was below, and the husband of the younger one died [childless], his wife is not obligated to perform either chalitzah or yibbum, because she is the sister [of the yavam's] wife.⁸ If the husband of the older [sister] died [childless], we instruct the younger one to absolve [her marriage to] her husband through mi'un, allowing the older [sister] to perform yibbum.⁹

[...]

FOOTNOTES RENUMBERED

1. For the prohibition forbidding a woman divorced by her husband to her yavam is of Scriptural origin, while her remarriage is binding according to Rabbinic law alone.

The Ra'avad and Rabbenu Asher rule that the minor must perform chalitzah when she attains majority. The Ma'aseh Rokeach states this might also be the Rambam's intent (as reflected by the fact that he states that "she is forbidden to her yavam," and in the next halachah he adds that she "should not perform either chalitzah or yibbum"). Most commentaries do not, however, accept this interpretation.

2. The Rambam's wording is somewhat imprecise. The kiddushin the husband gives the father are binding according to Scriptural law, because the Torah granted him the right to consecrate her, as stated in Hilchot Ishut 3:11. If the girl is able to distinguish between a get and another object, she can be divorced according to Scriptural law, as stated in Hilchot Gerushin 2:19.

3. Until she reaches the age of twelve and manifests signs of physical maturity, she is not able to effect kiddushin that are binding according to Scriptural law. (Moreover, the girl's father also does not have the potential to consecrate her again according to Scriptural law once she has been divorced, as stated in Hilchot Ishut 3:12.)

4. In this instance as well, the divorce is binding according to Scriptural law, while the remarriage is merely a Rabbinic institution.

5. Since the remarriage of the minor or the deaf-mute is only a Rabbinic institution, while the marriage of the deceased's other wife is based on Scriptural law, the remarriage of the minor or the deaf-mute has no effect on the other wife's obligation to her yavam. See Shulchan Aruch (Even HaEzer173:23).

6. If her husband engaged in marital relations with her after she attained majority or regained control of her faculties, he acquires her as a wife according to Scriptural law. (See Hilchot Gerushin 11:6.) Therefore, there is no difference between her and another woman who was married, divorced and remarried.

7. Since both sisters share the same status, we allow the marriage of the sister whose husband is alive to continue. There is no mandate for him to perform yibbum, for the marriage to his yevamah would still be Rabbinical in origin.

8. Since the marriage of the older sister is binding according to Scriptural law, the younger sister has no obligation to the yavam.

9. The yibbum of the older sister is given priority over the marriage of the younger sister, because the older sister's first marriage is binding according to Scriptural law, and the obligation of yibbum is mandated by that authority. The marriage of the younger sister, by contrast, is binding only according to Rabbinic law.

Therefore, the younger sister is advised to perform mi'un, thus dissolving her marriage as if it had never existed. At this point, there is nothing preventing her husband from marrying her sister, his yavam. (See Chapter 4, Halachah 30.)

https://www.sefaria.org/Mishneh_Torah%2C_Levirate_Marriage_and_Release.7

https://www.chabad.org/library/article_cdo/aid/960625/jewish/Yibbum-vChalitzah-Chapter-Seven.htm

SEFER NASHIM (The Book of Women) SOTAH (Woman Suspected of Infidelity) Chapter 2

[...]

4. When a minor is married off by her father, she is forbidden to her husband if she willingly commits adultery. Therefore, she is given a warning, not to compel her to drink [the bitter water], but so that she will be denied [the money due her by virtue of] her ketubah, as stated above.¹

With regard to a minor who is entitled to nullify her marriage through mi'un,² by contrast, no warning is given, for she has no desire to be forbidden to her husband. [Even if she commits adultery,] she is not forbidden to her husband, even if he is a priest.³

FOOTNOTES RENUMBERED

1. The Ra'avad differs with the Rambam's ruling, maintaining that a minor is never forbidden to her husband because of adultery unless he is a priest, basing his opinion on Yevamot 33b, which states: "The seduction of a minor is always considered equivalent to rape."

In his gloss on Hilchot Issurei Bi'ah 3:2, the Maggid Mishneh substantiates the Rambam's ruling, citing Ketubot 9a, which states that the statements of a husband who claims that his wife is not a virgin are accepted and cause her to be forbidden to him. According to the Rambam, this applies even when the girl is a minor. (See also the Kessef Mishneh.)

2. I.e., an orphan who was married off by someone other than her father. See Hilchot Ishut 4:8; Hilchot Gerushin 11:1.

3. Since according to Scriptural law, her marriage is not binding, relations with another man are not considered adulterous. Even a priest who may not marry a woman who engaged in a forbidden sexual relationship may remain married to this girl.

https://www.sefaria.org/Mishneh_Torah%2C_Woman_Suspected_of_Infidelity.2

https://www.chabad.org/library/article_cdo/aid/960639/jewish/Sotah-Chapter-Two.htm

Appendix 5: Shulchan Aruch Quotes

Rabbi Karo Shulchan Aruch

The following Shulchan Aruch quotes are a comprehensive representation of the law codes Rabbi Karo assembled governing the institution of child marriage and sexual intercourse with prepubescent children. For balance I have included the few contrary opinions expressed. Links are provided for further study and validation.

Shulchan Arukh, Even HaEzer 1:3,8-10

[...]

1:3 It is incumbent on every man that they should marry a woman at the age of 18 and the diligent get married at 13 and this mitzvah is for those who choose it, but before the age of 13 one should not marry, because it is similar to harlotry. If 20 years go by and he has not taken a wife and he who lets 20 years pass, or he who does not want to marry, the courts can force him to marry in order to fulfill the mitzvah of being fruitful and multiplying. What are the things that might delay marriage? If he is busy with Torah, or if it is too burdensome and he fears to marry a woman in order that he is not burdened in his livelihood and he will not fail in Torah it is permitted to delay. Rem"a: In this time, **its custom** that one does not force in regards to this. Likewise he who does not fulfill the mitzvah of being fruitful and multiplying and he comes to marry a woman who is not a bat banim, for example...

[...]

1:8 Even though he fulfilled the obligation of be fruitful and multiply, he is forbidden from being without a wife and he needs to marry a woman who is capable of bearing children (see Yevamot 61b). He may sell a sefer Torah in order to do so if he has a doubt that he has enough children or if he has a doubt that he has married a woman of child bearing capability. If he does not have children he sells so that he can marry a woman capable of bearing children but if he has children he should not sell it and marry a woman who is capable of bearing children, **but he should not be without a wife**. And some say, that even if he has sons, he sells the sefer Torah to marry a woman capable of bearing children. Isserless: **However, if it is recognized that the will not be more grandchildren and it is not appropriate that more will not be born to him, he marries a woman who is not**

capable of bearing children, and thus if he has many sons and he fears that if he marries a woman of child bearing age an altercation will come and discord will come between the children and his wife he is permitted to marry a woman who is not capable of bearing children but it is forbidden to settle down without a wife because of this fear.

1:9 A man may marry a number of women provided that he has the means to sustain them, and what we find is that the sages gave worthy suggestion that a man marry no more than four women so that he may fulfill his sexual obligation once a month. In a place where they are accustomed to only marry one woman they are not permitted to marry another woman. Note: it is forbidden to marry two women in two places.

1:10 RABBEINU GERSHOM DECREED CHEREM for one who marries [another] in addition to his wife, but in regards to a Levirate marriage, he did not decree chereim, and such is also the case with a betrothed woman. Rema: If he doesn't want to marry another, but rather to release her, and this is the rule in any place that a mitzvah would be delayed -- for instance, if he was married to his wife for ten years and she didn't give birth (Mordechai, Perek 'Hacholetz' Rashba siman 280 and Maharam Padua Siman 19). However there are those who disagree and say that Rabbeinu Gershom's decree applies even in a case in which a mitzvah is involved, and even in the case of a Levirate marriage, and one must do Chalitzah (see Hagahot Mordechai in Yebamot and Ketubot). And in the case where the first wife is not easily divorceable, e.g. she became mentally infirmed, or the husband is legally allowed to divorce her but she won't accept a Get from him, one should be more lenient and allow him to marry another (see Rashb"i). And this case if she is betrothed and neither wants to marry him nor to be released from the betrothal. AND HIS [Rabbeinu Gershom's] DECREE was not unilaterally accepted in all the lands. Rema: Particularly in a place where it is known that his decree wasn't unilaterally accepted, but basically it applies everywhere. See Section 14 Siman 228 for what one should do if he moved from a place where they are stringent on this ruling to a place where they are more lenient. AND HE ONLY EXTENDED THE DECREE until the end of the 5th century (i.e. 500 years from when he said it). Rema: In any case, in all of these lands, the decree and the custom stand in their place, and we don't marry two women, and this is a punishable offense, and we force someone who did marry two wives to divorce one of them. And there are those who say that in this day and age, we shouldn't punish one who disobeys this decree because the fifth century [since it was declared] has already passed [and so it is expired], but this is not our custom. There are those who say that one whose wife refuses to accept a Get, he can serve it to her through someone else and then marry another, and this is the custom in some places. And in a place where this is not the custom, one should not be stringent, and a man may marry a second [wife] without divorcing the first.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.1

Shulchan Arukh, Even HaEzer 2:9

2:9 A young man should not marry an old woman and an old man should not marry a young girl for this thing causes whoredom.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.2

Shulchan Arukh, Even HaEzer 6:2,8,9,14,18

6:2 A minor girl who refuses her husband is permitted to marry a priest, but if he gave her a Get she is forbidden. If after he gave her a Get, he remarried her and she then refused she becomes permitted to a priest

because her refusal nullifies the Get. **If after she was divorced she was married to a different man and refused him, there are those who say she is permitted to a priest.**

[...]

6:8 Who is deemed a "zonah" [who is forbidden to a kohen]? Whoever is not a Jewess, or who is a Jewess that had sexual relations with a man to whom she is forbidden to marry in a generally applicable prohibition, or who had sexual relations with a "cholol" (the child of a kohen and a woman who was forbidden to the kohen), even though she is permitted to be married to this man. **Accordingly, a woman who committed bestiality, even though she [is punished] with stoning, she does not become a zonah and she does not become invalid to a kohen, because she did not have sexual relations with a human.** And a man that has relations with a menstruating woman, even though she is punished with kareth, she does not become a zonah and she does not become invalid to a kohen, because she is not forbidden to him. And similarly a man that has relations with a single woman, even though she is a lewd woman that made herself freely available, which is punishable with lashes, she does not become a zonah and she does not become invalid to a kohen, because she is not forbidden to him. However, a woman who had sexual relations with someone who is forbidden by a Biblical negative commandment, which are generally prohibited and are not uniquely [forbidden] to kohanim, or with someone who is forbidden by a Biblical affirmative commandment and it need not even be said with someone who is forbidden by virtue of a forbidden incestual relationship or with a non-Jew or slave, since she is forbidden to this person to marry, she is deemed a zonah. **And so with a convert and a freed slave, even if she converted or was freed while she was less than three years old, since she was not a Jewess, she is deemed a zonah and is forbidden to a kohen.** And so a woman who is subject to yibum (levirate marriage) with whom an unrelated person had relations, she becomes a zona. **Some opinions** say that one who has relations with one who is forbidden by a Biblical affirmative commandment or by a Biblical negative commandment even the other negative commandments she does not become a zonah except for instance in which one has relations with a woman subject to yibum.

6:9 Any woman who becomes a zonah upon sexual relations, it is whether she was raped or consented or was inadvertent, whether it was the usual way or the unusual way (sodomy), once there is penetration she is disqualified as a zonah, **provided that she is at least three years and one day old, and the male is at least nine years and one day old, or older.**

[...]

6:14 **A Cohen who betrothes an adult or child, and after some time has relations with her and finds her not a virgin, she is forbidden to him by doubt** - perhaps she had relations before betrothal [and is permitted] or perhaps after betrothal [and is forbidden]. But if a Yisrael who makes this claim, she is not forbidden to him, for there are two doubts here - perhaps before betrothal and perhaps after betrothal, and even if it was after betrothal, perhaps it was forced [and she is not forbidden] and perhaps it was willingly [and she is forbidden], for if she is raped she remains permitted to a Yisrael. **Therefore if her father betrothed her to a Yisrael when she was less than three years and one day old, and he claims to have found her not a virgin, she is forbidden to him by doubt,** because there is only one doubt here - perhaps it was forced, or perhaps willingly, and in a Torah prohibition we must be stringent in a doubtful case.

[...]

6:18 "If they saw that she had intercourse or she was impregnated in the city, even if there was only one non-Jew there or one disqualified priest or someone like that, she may not be married ab initio to a priest, for all [populations] that are fixed are judged as fifty/fifty.

And if she is married, she need not be divorced since she says, "I had relations with a valid one."

If she was mute or deaf or if she said, "I don't know whom I had intercourse with"" or if she was a minor who couldn't tell the difference between a valid one and an invalid one, this one is a doubtfully profaned woman and if she is married to a priest she must be divorced, unless there were two majorities found there who were valid.

And there are those who say that even if she was impregnated in the city if the man who had intercourse went to her she may be married ab initio, since most of the city and most of its groups are valid, unless she went to him.

And in general as well, when we don't know who went to whom, she may be married ab initio.

If the child of a non-Jew was mixed up with a Jewish child, they immerse both for the sake of conversion, and each of them is a doubtful convert."

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.6

[Shulchan Arukh, Even HaEzer 7:1](#)

7:1 A girl who was taken captive and was three years and a day or older is prohibited to a Cohen, because she is suspected to have had illicit relations, that she was copulated with by a non-Jew. And if she has a witness that no non-Jew was secluded with her, she is allowed to a Cohen. Even a slave or maidservant or relative is trusted in this testimony. Rema: and even women who are not trusted in women's testimony, like her mother-in-law, etc. are trusted with a captive (Rif on Ketubot 2). Two captives that testify about each other are trusted. Also a minor who speaks in innocence [without knowing the implications of his testimony] is trusted. An event: a child was captured with his mother, the child spoke in his innocence and said: We were captured among the non-Jews, me and my mother, I went to draw water, and my mind was on my mother, to gather wood, and my mind was on my mother. The wise-ones married her to a Cohen according to his testimony. There is one who writes that a child is believed even if he means to testify.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.7

[Shulchan Arukh, Even HaEzer 12:2](#)

12:2 A woman who vowed not to receive any benefit from her husband, and he did not annul [that vow] for her, and she came before a Sage to release her [from the vow], and he forbade her [and as a consequence she and her husband must divorce] because he did not find for her an opening to release her, [the Sage] may not marry her, lest they say: "He forbade her in order to marry her." But if he married her, he need not divorce her. This applies to an individual expert, but a court [of three] is not suspected [of not releasing her from her vow so that one of them could marry her]. Based on this reason, if [a young girl] refuses [to marry a man whom her mother or brothers arrange for her to marry when she was a child] or is released from a levirate marriage in front of a court, one of them [the members of the court] can marry her.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.12

Shulchan Arukh, Even HaEzer 13:6

13:6 A [young girl who] refuses [to marry the man her mother or brothers arranged for her to marry while she was a minor] need not wait [90 days after this refusal before marrying someone else]. They only decreed [the waiting period] for a divorcee. And likewise a [single] woman who has relations need not wait, because she turns herself during sex such that she will not become pregnant. And likewise a raped women or a seduced woman need not wait [90 days after the rape or seduction to marry another man]. And the same applies to a woman taken captive, even if she is an adult. Rem"a: **Some say** that all of these need to wait if they are adults and capable of becoming pregnant (Tur). A woman who is raped while married to her husband, if she had not had sex with her husband prior to the rape, she must wait (Or Zarua).

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.13

Shulchan Arukh, Even HaEzer 20:1

20:1 If one has bodily contact or petting with one of the arayot (people with whom sexual relations are forbidden), or he hugged and had genital contact (literally kissing; c.f. Yevamot 55b) and benefited from nearness of the flesh, he receives (biblically sanctioned) lashes, and in suspected of having relations with arayot. Note: if he had intercourse with her, whether vaginally or anally, as soon as he begins intercourse, which is defined as insertion of the glans, he is liable for death or excision. And the witnesses do not need to observe closely similar to insertion of the eyeliner in the tube, rather as soon as the witnesses see them intertwined with one another in the manner of adulterers, they are punishable by death (Tur), and the women is forbidden to her husband (Nimukei Yosef, Yevamot chapter 2). An adult woman who had relations with a minor male under the age of 9 years, is not liable for death at his hand (Tur). It appears to me that she is similarly not forbidden to her husband. And therefore the Rabbi, author of the Turim code wrote many laws defining when people are liable for death or not. The **modern day repercussions** of these laws (when we no longer administer capital punishment) is that they define which relations cause a woman to become forbidden to her husband, and see further. **A female less than 3 years old, her intercourse is not considered as intercourse, and her virginity returns (Hagahot Yevamot). Even if the years were intercalated (e.g. she had intercourse at 37 months old in a leap year) her virginity returns (words of the Rav, based on Yerushalmi Ketubboth chapter 1).**

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.20

Shulchan Arukh, Even HaEzer 21:7

21:7 To hug or kiss one of the arayos whom people do not normally lust after, such as his adult sister or his aunt or similar, even though he derives no pleasure at all, is very reprehensible, forbidden, and the act of a fool. This is because there are no relatives for [the purposes of] licentiousness at all, whether adult or minor, except the father to his daughter and the mother to her son. How is this? **A father is permitted to hug his daughter, kiss her, and sleep next to her with flesh touching, and so too a mother with her son, as long as they are minors.** When they grow up, so that the son is an adult, and the daughter is an adult until "her breasts are formed and her hair grows" (Ezekiel 16:7), they must sleep clothed. **If the daughter is embarrassed to stand before her father naked, or she is betrothed, and likewise if the mother is embarrassed to stand before her son**

naked even if they are minors, when they reach the point of being embarrassed, they may not sleep together except clothed.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.21

Shulchan Arukh, Even HaEzer 22:10,11

22:10 It is permitted to seclude with two women bound for levirate marriage; or two co-wives; or a woman with her mother-in-law; or a woman with the daughter of her husband; or a woman with the daughter of her mother-in-law, because they are antagonistic to (lit. hate) one another and will not cover-up for one another. Similarly [it is permitted to be secluded] with a woman who has with her a young female child who [is old enough to] understand the nature of intercourse but [is young enough that she] will not offer herself for intercourse, the adult woman will not engage in promiscuity in front of the child because she will reveal her secret.

22:11 A girl younger than 3 years old, or a boy younger than 9 years old, it is permitted to be secluded with them, for [the Sages] only forbade seclusion only with a woman or man fit for [legally accountable] intercourse.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.22

Shulchan Arukh, Even HaEzer 23:1,5

23:1 It is prohibited to spill seed needlessly and this sin is more severe than all Torah transgressions. For this reason a man should not thresh inside and sprinkle [his semen] outside [of a woman], and he should not marry a girl who is unable to have children.

[...]

23:5 A woman who has some sort of closure in her womb and therefore when her husband has relations with her he sprinkles outside, this is prohibited (but it is permitted to have relations with a minor or an ayilonit since this is the way of the land).

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.23

Shulchan Arukh, Even HaEzer 25:2

25:2 A man should not act with levity with his wife, nor should he degrade his speech with nonsense, even between him and her. The verse says, "He tells man what his speech is" (Amos 4:13) and the Sages comment, "Even light conversation between a man and his wife will be brought to judgement in the future." He should not speak with her during intercourse, nor before it, lest he direct his thoughts to another woman. If he does speak with her and proceed immediately to intercourse, about him the verse says, "He tells man what his speech is". He may speak about matters pertinent to the intercourse, to increase his desire, or if there was strife between them and he needed to appeal to her and appease her, he may speak with her to appeal to her. *Rem"a: He may do with his wife whatever he wishes. He may have intercourse whenever he wishes, he may kiss any part of her body that he desires, he may have vaginal [typical] or anal [atypical] intercourse, or*

stimulate himself with other parts of her body, so long as he does not ejaculate outside the vagina (Tur). Some authorities are lenient and say that he may even ejaculate during anal intercourse, if it is occasional and not his habit (Tur). Even though all of this is permissible, anyone who wishes to sanctify himself [by abstaining] from the permitted is called holy. He should not have frequent intercourse so that he is always with her, for this is extremely detrimental and it is the way of boors; it is meritorious to minimize intercourse, only keeping to the minimum required by marital obligations. Even when fulfilling marital obligations he should not focus on his pleasure, it should instead be as on paying back an obligation, for he is obligated in marital duties, and to fulfill the mitzvah of being fruitful and multiplying, and to have children who study Torah and perform mitzvot for the people of Israel. **He may not have intercourse without her consent, and if she is not interested he should appease her until she is interested.** He should be very private during intercourse, having no people of any kind around, even a child, unless it is a baby who cannot speak.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.25

Shulchan Arukh, Even HaEzer 26:4

26:4 The woman is betrothed in 3 ways; with money, a document or with intimate relations, as learned from the Torah, but our sages prohibited betrothal by having relations because of impropriety, and if they transgressed this and he betrothed her with relations, he receives rabbinically decreed whiplashes and she is still betrothed. Even if he betrothed her with money or with a document and they did not arrange the marriage agreement beforehand or he betrothed her in the market place, he receives rabbinically decreed whiplashes and she is still betrothed. Rem"a: **There are those who say** that we don't give whiplashes if he betrothed her with money or a document, even in the market and without any arrangement and in my life, I never saw someone given whiplashes for becoming betrothed without arrangement.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.26

Shulchan Arukh, Even HaEzer 33:1,2

33:1 With sex, how? He said to her before two witnesses: "Behold you are married to me with this sex," and he secludes himself with her before two witnesses, behold she is betrothed (even though she is bold.) Either he has sex with her in the normative fashion or he has sex with her in the non-normative fashion. And her status is only as someone who is engaged, not like a married woman. Ram'a: There are **those who say** that it is precisely when he has sex with her in the house of his father-in-law, but if he brought her into his own house and had sex with her, or betrothed her already and had sex with her, she is considered like a married woman. There are those who say that a single man who has sex with a single woman before witnesses, we are considered lest he intends [this act] for the sake of marriage, and the presumption is that a man does not have promiscuous sex. But if he is already presumed towards promiscuity, or that he has another wife, we are not concerned. **There are those who are lenient in this matter.**

33:2 The one who marries a woman with sex, his intention [is fulfilled] upon finishing the sexual act. Therefore, if before he finished she received kiddushin from another, she is married to the second [person]. But if he was stimulated in her, and leaves immediately, or when he said before that his intention to acquire upon being stimulated, he acquires immediately.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.33

Shulchan Arukh, Even HaEzer 37:1-27

All the Laws Concerning Betrothal of a Minor (27 Paragraphs)

37:1 The father may betroth his daughter without her consent, all the time she is a minor. Likewise when she is a *na'arah*.

The father may betroth his daughter without her consent, all the time she is a minor. Likewise when she is a *na'arah* the father has control over her and the betrothal money belongs to him. Likewise he is entitled to her finds, to the production of her hands, and to her wedding contract. If she be widowed or divorced from the betrothal, he is entitled to everything until she comes of age. Therefore the father accepts the betrothal money, etc. of his daughter from the day she is born until she comes of age. Even if she was a deaf-mute or insane and the father betrothed her, behold she is a fully married woman. If she were three years old and one day she may be betrothed by means of *Bi'ah* with the consent of her father. If she is younger than this, if her father hands her over for intercourse, she is not betrothed. [Note: There are those who say that there is no binding betrothal with a non-viable infant, if his father accepted for her a betrothal and the one who betrothes her later betrothes her sister, she needs a bill of divorce.] (*Or Zarua*)

37:2 When the daughter comes of age her father has no control over her, and behold she is like all other women that are not betrothed except by their own will. (If women are able to testify that she is of age, see below Chapter 164 paragraph 11 and Chapter 155 paragraph 15.)

37:3 If she was married by her father and if she were to be widowed or divorced during her father's lifetime, behold she has control over herself, even though she is still a minor since she was married, her father no longer has control. However if she were betrothed and were to be widowed or divorced a few times before she came of age, control returns to her father.

37:4 If she were to be betrothed, before she came of age without permission of her father, it is not a valid betrothal.

37:5 If her father were to betroth her in the morning and she betrothed herself in the evening and both of them did it on the day that completed the six months of the days of her *na'aruth* and they examine and find her to be of age then she is considered to be adult and the betrothal of her father is not valid. There are those who say that even if she does not contradict him and say that the signs of maturity were there in the morning. However, there are those who say that this applies only if she contradicts him, but if she does not contradict him she needs a bill of divorce from both of them.

37:6 If during the six months of *na'aruth* she is betrothed by her father without her knowledge and she betrothed herself without her father's knowledge and she is found showing signs of maturity behold it is doubtful and she needs a bill of divorce from both of them.

37:7 Just as the father is able to make a betrothal for her by himself, so too is he able to arrange a betrothal for her by means of his agent or by herself, that he would say to her go out and accept your betrothal. (Note: he is required to say this to her before witnesses because an agent who accepts the betrothal requires witnesses. (The *Pesakim* of R. Israel B. Petachian Isserlein, paragraph 50) as was explained above, Chapter 35 paragraph 3. And if it is visible to all that he is preparing her for the marriage ceremony and to accept betrothal it is as if he had spoken before witnesses (R. Isaac Ben Sheshet, #479) and there is no distinction between a *na'arah* and a minor (R. Nissim B. Reuben Gerondi, first Chapter of *Kidushin*) and this is the correct view.

However, some disagree and say that a minor is not able to accept betrothal, rather her father by himself must accept for her (R. Isaac Alfasi and Mordecai b. Hillel in the name of R. Meir).

In order to remove himself from the controversy the father should hold the hand of the minor at the exact moment she accepts the betrothal or stand next to her when she accepts so that it is as if he accepts by himself (Kol Bo and in *T'rumat Hadeshen*, #43). And it is more preferable than his accepting it alone, **for behold there are those who say it is forbidden to betroth a minor daughter as will soon be explained.** And when one does (same place as above in *T'rumat Hadeshen*) betroth a minor he says to her "Behold you are betrothed to me" (R. Nissim B. Reuben Gerondi in first Chapter in *Kidushin*) and if he said "your daughter is betrothed to me" this is betrothal for behold she stands in place of her father even though he gives her the betrothal (R. Isaac Ben Sheshet, paragraph 479).

If he betrothes her with a document, he writes in the document, "your daughter is betrothed to me" and at the moment that he gives it to her he says "behold you are betrothed to me" (*Ibid.* R. Nissim B. Reuben). And if he uses different words even so she is betrothed. **And when they send the minor daughters to another place and the father is not with them, when they accept their betrothal since he has prepared her to enter marriage and betrothal it is as if he is holding her hand at the moment she accepts** [*Pesakim* of R. Israel B. Petachiak Isserlain #33].]

37:8 It is a *mitzvah* that one should not betroth his daughter while she is a minor, rather until she has grown and can say "I want so and so" [Note: **There are those who say that it is customary in this time to betroth our minor daughters since we are in exile and there is not always sufficient money for the dowry and also we are few in number and we are not always able to find a worthy match (Tosaphot) and thus is the practice**].

37:9 The father that gave permission to his agent to betroth his daughter and then goes out and betrothes her to another, if the agent betrothed her to a different one, which ever of them came first, this is betrothal. But if it is not known which one was first she is forbidden to both of them and she needs a bill of divorce from both of them.

37:10 If you appoint another agent and do not cancel the agency of the first explicitly, and each of them goes out and betrothes, she needs a bill of divorce from both of them.

37:11 A minor or a *na'arah* that betrothes herself without the knowledge of her father or marries herself, this has no validity at all and even a *mi'un* is not needed. This is the case even if the father originally made the match and even if the father explicitly consented after the betrothal. **There are those who say** that if the father consented when he heard, there is a betrothal from the exact moment of hearing even if he did not make the match. Even if he did not consent immediately upon hearing but rather was quiet and did not object and afterward was satisfied, "the end of the matter proves the beginning" and there is betrothal from the moment of hearing even if the money was spent before hearing.

[Note: **There are those who say** that if the money is spent before there is no betrothal, Mordecai Chapter *Haish Mekadesh* in the name of R. Samuel b. Meir and R. Eleizer b. Joel Halevi and R. Eliezer b. Nathan.] To what does this refer: when she or her father did not object before he consented. However if she objected or her father objected before he consented there is no betrothal even if the father consents afterwards. [Note: **There are those who say** that if the father heard and was silent and did not object immediately it is as if he had consented, but if the father did not hear or if he went away on a trip and the daughter grew and she was quiet and did not object, then the betrothal grew with her and she needs a bill of divorce (R. Isaac Ben Sheshet Chapter 479). And there are those who say that he must have intercourse with her after she has grown (R. Solomon Ben Adret Chapter 1 #1219). There are those who are strict according to the first opinion.

37:12 A minor who betrothes herself to one whom the father had expressed his desire to have her betroth, we assume that he is satisfied.

37:13 She became betrothed with her father's consent, yet was married without his consent, whether her father is present or whether he was away, they are not married. (Thus) if she dies he does not become her heir, he is not allowed to defile himself on her behalf. (And there are those who say that this same ruling applies if the father dies before she is wed and thus she is wed. This is the meaning in Mordechai, Chapter 2 of *Kidushin*, citing some rabbis).

37:14 A minor whose father went to a distant land, and whose brothers and mother marry her off--this is valid betrothal, and requires *mi'un*. And so when her father returns no other betrothal is required. **Yet there are those who claim** that it is not considered a valid betrothal and she does not need even *mi'un*. In any case, we do not have to prohibit her to him, on the grounds that she could be considered as one who is a single woman living like a harlot with him, since she was with him in a situation akin to betrothal and marriage. [Note: **Even if the father comes and objects, we should not prohibit her to him, and his intercourse with her is not considered fornication.** Yet he can keep her with him until she comes of age, and then her betrothal will be completed. **However, in the case when the father betrothes her to another before she comes of age, she requires a bill of divorce from both men** (Yizhak ben Sheshet, Chapter 193). And there it is written that she requires a bill of divorce from the second but Isserless ruled that she requires from them both. It is proper to rule strictly in accord with the first opinion. **There are those who rule** even more strictly to say that in every case where her father is in a distant land, even if a minor betrothes herself we are concerned that if he were to find out, he would be satisfied, it being then a doubtful betrothal (Mordechai, Chapter *Haish Mekadesh*). There was a case of a man who divorced his wife and arranged with her that she should take care of his daughters--to feed them, to raise them, and to marry them off, and that is what she did. But along came the father and objected to the marriage of his minor daughters, and they ruled that if he ordered to have them raised and married off, whatever she did is post facto valid and that he has no right to object, as long as he expressed his will in the presence of witnesses, since an agent who accepts betrothal on someone's behalf requires witnesses, as it is explained above in Chapter 35, Sec. 3. However, if he empowers her to marry them off when they come of age, and she married them off in their minority, her deeds are null and void and he can object because she deviated from what he requested of her. (Yizhak ben Sheshet, Chapter 493)].

37:15 If one betrothes an unspecified daughter, or says to him: "one of your daughters is betrothed unto me," the grown daughter is not included, even if she gave him permission to accept her betrothal and that the money would belong to him, but only if she designated him as an agent to accept betrothals, in an unspecified way and did not specify "from Ploni." But if she did specify Ploni, she too is doubtfully betrothed, and the rest of the grown daughters are not included.

37:16 If he who has two daughters, even if they are both minors, and he arranges a match for one of them with an individual, and then after a while accepts from him a betrothal, and said: "Your daughter, unspecified, is betrothed unto me," even if both were busying themselves with her, they are forbidden to him, and they require a bill of divorce from him. [Note: And even if he corrected himself within a very short time and specified "your daughter named so and so," is of no help. (Mordechai, Beginning of *Kidushin*, citing R. Eliezer B. Joel Halevi). And in all cases like this, where there is betrothal which cannot lead to consummation of the marriage, we compel him to divorce. (R. Solomon ben Adret, p. 236).] He who betrothes his daughter in an unspecified way--the grown one is not included.

37:17 He who has two sets of daughters from two wives, and all of them are within his jurisdiction to betroth, and he said to the betrother at the time of the betrothal: "I have betrothed unto you my eldest daughter, yet I do not know if it is the older of the eldest set, or the elder of the younger set, or, whether it is the youngest of

the eldest set, who is older than the oldest of the youngest set!"--they are all permitted except for the oldest of the eldest set.

37:18 Similarly, if he says to him: "I betrothed unto you my young daughter, yet I do not know if it was the youngest of the younger set or the youngest of the eldest set, or the oldest of the younger set, who is younger than the youngest of the older set!" they are all permissible except for the youngest of the younger set.

37:19 If one has five sons and they appoint their father as an agent to betroth for them and the father of the sons says to one who has five daughters "One of your daughters is betrothed to one of my sons," and the father accepts the betrothal, each one requires a bill of divorce from each brother. If one brother dies, all of them require four bills of divorce and *Halizah* from one of them.

37:20 The father who said, "I betrothed my daughter and I do not know to whom," she is forbidden to all until he says: "It has become known to me to whom I betrothed my daughter!" even if he does not find out until she has come of age. [There are those who say that if the groom stood before him at first, and the father did not recognize him but afterward said that he did recognize him he is not believed. (*Bet Yosef* in the name of the Tosephot.)]

37:21 If one came and said (before the father) (Rabenu Nissim and Rabenu Yeruham) "I betrothed her," he is believed and she is permitted to him, since the father says "I don't know" and when he marries her he need not betroth her. However if the father contradicts him there are those who say that he is not believed, even to require in her behalf a bill of divorce.

37:22 If two men come and each one of them says "I betrothed her" both of them give a bill of divorce. However if they want, one may give a bill of divorce and one may marry (and he needs a betrothal when he marries her inasmuch as she is divorced from another) (R. Nissim B. Reuben Gerondi and R. Solomon Ben Adret).

37:23 If one came and married her and afterwards another came and said "I betrothed her" he is not believed so as to forbid her to him. And there are those who say that even if he did not actually marry her but rather they only gave her license to marry, it is the same as marrying her.

37:24 A woman says "I betrothed myself and I do not know to whom" and a man came and said "I betrothed you" he is believed. Give her a bill of divorce, to make her available to all, but not to marry her, but if he married her, we do not take her from him. [If there is one witness that he betrothed her, he is *â priori* permitted to marry (R. Nissim B. Reuben Gerondi, Chapter *Haomer*)].

37:25 The father that said, concerning his daughter while she was yet a minor or a *na'rah*, "I betrothed her and I divorced her," he is believed, to make her unfit to the priesthood, only if he said "I divorced her" at the same time he mentioned "I betrothed her," but where she is presumed to be a man's wife according to his own mouth, he is not believed if he says after a while "I divorced her."

37:26 If after she came of age he said "I betrothed her and I divorced her while she was a minor," he is not believed.

37:27 A father that said that he betrothed his daughter, and afterward betrothed her to another, and he said the first betrothal was done in the presence of witnesses disqualified by the Torah, and had no validity whatever, then he is believed. (It appears to me that only if he said this within a very brief time is he believed, as was explained close by in paragraph 25.)

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Shulchan Arukh, Even HaEzer 43:1,2

43:1 If a minor who betrothed or married, his actions are null, for the Rabbis did not decree marriage for a minor. And it is forbidden to marry him a woman while he is yet a minor.

Rama: Nevertheless, if he already married her, he does not need to divorce her, and she is permitted to remain as is until he reaches the age of majority.

Mechaber: Even if he sent her marital gifts (sivlonot) after he attained majority, it is still null and void, for we are not concerned that he sent the gifts as an act of kiddushin (betrothal). However, if there are witnesses that he secluded with her after attaining majority, she needs a get (divorce), for we presume that he had intercourse for the sake of actualizing kiddushin. If he maintained her [as his wife] after attaining majority (and after seclusion, as per Chelkat Mechokek), her ketuba contract is valid and he does not need to write her a new ketuba. This applies only to the basic 100 or 200 [zuz] (for widow or virgin respectively) but she does not have rights to the additional monies written into the ketuba.

Rama: If he did not write her a ketuba when he was a minor, when he attains majority he writes only 100 zuz into the ketuba, for at that time she is not a virgin (Hagahot Alfasi, beginning of chapter Mi sheHaya Nasui)."

43:2 One who engages an orphaned minor, or a minor released from her father's domain, when she can perform *miyun* and all her laws will be explained in *Siman 154*. Rem"a: And see later on *Siman 169* who is believed regarding a male and female minor if they [later] grew up. If it was doubtful if they were minors or not, it is a doubtful *Kiddushin*. *Beit Din* is able to stop from marrying the minor, just like her mother and her brothers have this right, and they are able to put conditions [on the marriage] that if she does *miyun*, she will lose all that is hers. But they don't have the right to marry off the minor.

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Shulchan Arukh, Even HaEzer 56:4

56:4 Someone who betroths his minor daughter, and her fiancée wants to complete the marriage, both the daughter or her father can prevent her from marrying until she becomes an adult (age); if she wants to enter marriage, she may enter, but it is inappropriate to do so. "Rem"a": If she and her fiancée want to marry, and her father dies, her relatives may not protest (their marriage), even though she is sickly and he wants to get married quickly in order to be able to inherit her (if she dies) (Mordekhai, Perek Halsh Mekadesh).

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.56

Shulchan Arukh, Even HaEzer 63:1,2

63:1 It is permissible to have intercourse with a virgin on Shabbat. When one has intercourse with a virgin, once he performs the commanded sexual act he should immediately separate, even if she is a child who is not old enough to menstruate, and she has not menstruated. Nevertheless, that particular sexual act may be completely normally with a 'living member' Even if she inspected and did not find any blood, she is deemed impure, for perhaps a drop of blood the size of a mustard seed was seen but it was covered by semen. She

must find herself totally clean and inspect for seven days. She should not start inspecting until the fifth day after intercourse, like any other woman who had intercourse and then menstruated. [Her husband] must interact with her like any other menstruant, as far as the rules of distance are concerned, except that in the case of a genuine menstruant he may not sleep in her bed even if she is not in the bed, and in the case of the bride he may sleep in her bed after she has risen from it, even on the sheets that the blood is on.

63:2 Some authorities say that after he finds the hymen [blood] he should recite the following blessing: Blessed are you Hashem, the King of the World, who watered the nut in the Garden of Eden, [the rose of the valley, a foreigner shall not rule in the sealed wellspring. Therefore the beloved morning star has been guarded in purity, as a law that shall not be forsaken. Blessed is the One who chooses the offspring of Abraham]. Rem"a: Other authorities say that we do not recite this blessing without a cup of wine.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.63

[Shulchan Arukh, Even HaEzer 64:1](#)

64:1 One who marries a virgin should celebrate with her for seven days, during which time he should not do any work or buy and sell in the marketplace. Rather he should eat, drink, and be happy with her. This applies whether he was previously married or not. (Rema: A bridegroom is forbidden from doing work, and is forbidden from going to the marketplace alone [Ran, chapter kama d'ktiv and pirkei rav Eliezer]).

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[Shulchan Arukh, Even HaEzer 67:3,4.11](#)

67:3 A convert, a woman taken captive, and a maidservant that was redeemed, converted, or freed: if she is less than three-years-old and a day, their ketubah is [worth] 200 [shekel] and they have claim of virgins; from 3-years-old and a day and above, their ketubah is 100 [shekel] and they do not have the claim of virgins.

67:4 A female child less than three-years-old and one day that was taken as a wife, even if an adult had relations with her, her ketubah is 200 [zuz]; a child less than 9-years-old and a day that had relations with an adult woman, her ketubah is worth 200 [zuz], but only if he did not break her hymen, but if he broke her hymen, she gets only 100 [zuz]

[...]

67:11 A minor, even from nine years and up, that his father marries off, [his wife] has no *Ketubah*; but if he had relations with her after he matured, she has no main part of the *Ketubah*, [which is] 200 [Zuz] for a virgin, and a *Maneh* for a widow; but the additional part that he writes her while a minor, she doesn't have, even if *Beis Din* married her. And even the main part [of the *Ketubah*] she can't collect by the power of the *Ketubah* document, but only by condition of *Beis Din*. Therefore, she can only collect from his current property (lit. sons of the free) and not from [property with] a lien that he sold since he was a minor. And so is the law with a convert that converted with his wife, and the only difference [between this case and the one above] is that in this one, her *Ketubah* is only a *Maneh* according to the Rambam.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.67

Shulchan Arukh, Even HaEzer 68:7

68:7 When they said that his claim about the virginity is a [valid] claim, if he is a priest, she is forbidden to him, and if she is the wife of an Israelite, she is permitted to him, unless her father accepted for her a betrothal at less than three years and one day of age. gloss: And some say that that, that she is forbidden when she is a wife of an Israelite is only when she does not explain herself, but if she says, 'I was raped', she is believed (Tur). **And some say as well, that [it is] only when she is mature in front of us, but when she is still a child, she is not forbidden.**

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.68

Shulchan Arukh, Even HaEzer 76:1-4,7,8

76:1 **How does one fulfill his conjugal obligation? Every man is obligated to perform his marital duties according to his strength and according to his profession. Peddlers are obligated every night.**

76:2 The **laborers**, if their work was in the city, **twice a week**; and **if their work was in a different city, once a week**. And there are those who say that if they were not sleeping the entire night in their homes, their period is eight days. The **donkey drivers, once a week**. The **camel drivers, once every thirty days**. The **sailors, once every six months**. **Sages, their period is once a week**. And the way of sages is to have sex from the night of Shabbat to the night of Shabbat.

76:3 In regard to what are we talking about, in regards to one whose body is healthy and is able to fulfill the fixed season, but one who is not healthy is only obligated according to what they estimate that he is able to fulfill.

76:4 Each person is obligated to visit his wife on the night of her dipping [into the mikvah], and at the time that he goes on the way.

[...]

76:7 **A man can marry many women, even 100, whether all at once or one after another, and his wife cannot prevent [it],** as long as he can give the appropriate [amount of] food, clothing and "time" (marital relations) to each one; and he can't force them to live in one courtyard, rather each one for herself. And how much is her "time" (marital relations) - according to the number. How so? A worker who has two wives, this one has "time" once a week and this one has "time" once a week. **If he has four wives**, it comes out that the "time" of each one is once every two weeks; and similarly **if he was a sailor and he has four wives**, the "time" for each one of them would be once in two years. **Therefore, the Rabbis commanded that a person shouldn't marry more than 4 wives, even if he has a lot of money, so that they get their "time" once a month.**

76:8 In what case are these things said? **In a place where they are accustomed to marry two and three women**. But in a place where they are **accustomed to only marry one woman**, he is not permitted to marry another woman in addition to his wife without her permission, and certainly if he stipulated in her Ketuba (marriage contract) that he would not marry another woman in addition to her.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.76

Shulchan Arukh, Even HaEzer 112:3

112:3 If she was betrothed while still a minor, she loses her food support from her brothers, and the groom is liable for her sustenance. Rama: Some authorities say that she does not lose food support unless betrothed from the time of reaching maidenhood (between 12 and 12.5 years old) (so writes Magid Mishna chapter 19 in the name of Rabbenu Chananel and Rashba). Some authorities qualify the rule (of a minor losing food support) by applying it only when she betrothed herself, but if she was betrothed with the knowledge of her brothers, she does not lose food support (Tur in the name of Ramah).

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.112

Shulchan Arukh, Even HaEzer 113:7

113:7 An orphan girl who is married off by her mother or brothers with her consent, and they gave her 100 or 50 zuz, when she matures she may extract an appropriately sustaining dowry from them. Rem"a: Even if she said nothing for a long period after she reached maturity, she still may come afterwards and demand support. [This is true] even if the brothers providing her with food. Even though she did not object at the time of marriage, [we do not say she forfeited the right to do so later] because she was only a child and was not eligible to object. If the daughter married after she matured, whether she was a maiden to fully adult, and she did not demand her support, she has lost her claim to support, unless the brothers were providing her with food after her marriage (Rem"a: and she was aware of that at the time of the marriage). If she did object at the time of the marriage, she may extract the appropriate sum for herself whenever she wishes. If she matured while still living in her father's house, whether before or after his death (Rem"a: some authorities dispute this and hold that of he died after she was fully adult she receives no support), if the brothers designated some amount to provide her food, as she has no claim to food, and she was silent and did not demand a supporting dowry, she has forfeited her claim. If she objected, she has not forfeited her claim. If the brothers did not designate funds to provide her with food, and they did provide food in her adulthood, even though she did not object she has not forfeited her supporting dowry for as long as they are providing her food, for she can claim that [in recognition of the kindness of] feeding her while they were not obligated to do so, and she was not yet married, that she did not demand her support. Rem"a: If someone ordered that his daughter be given a third of his property, and her brothers married her off and did not give it to her, they must give it to her later.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.113

Shulchan Arukh, Even HaEzer 116:5,6

116:5 The woman who refuses to continue her marriage to her husband after she reaches maturity is not given the one hundred or two hundred [zuz, which are the primary Ketubah], but she is given any additional amounts. Her husband must provide her with food and redeem her if she is taken captive for as long as they are married. He may consume the profits of her properties, though if he travelled abroad and she borrowed to provide her food or redeem herself, and she then refused to continue the marriage, he does not need to reimburse her even though he has consumed the profits of her properties. This is true even of the profits are extant.

116:6 A minor who is divorced, her law is the same as an adult divorcee.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.116

Shulchan Arukh, Even HaEzer 119:6

119:6 He is allowed to divorce her without her knowledge. Rem"a: And even if he cannot pay her *ketubah* or dowry, she cannot prevent it since this is a divorce. Rather she divorces and claims what he is obligated to her (Teshuvat HaRosh, and Rivash). And all this is the law, but Rabbeinu Gershom decreed that [a man] cannot divorce a woman without her knowledge if she has not violated religion as is explained (Siman 115). And even if he wants to give her the *ketubah*, he cannot divorce her nowadays without her knowledge (Smak Siman 184). Nowadays, if he violated and divorced her against her will, and she remarried, the man is not called a sinner (Kol Bo). If he divorced her with her knowledge, and the *get* was found to be invalid, he is able to divorce her afterwards against her will (ibid.). If she developed blemishes, see earlier Siman 117 whether he is able to forcibly divorce her, there are those who say that in the place of a mitzvah he is able to forcibly divorce his wife, or they permit him to marry two women (Moharam Padwa Siman 13). As was explained in Siman 1. Therefore, a *ketana* [girl younger than 12], can be divorced even though her knowledge is incomplete even if her father received her engagement, which is from the Torah. Or if she is a deaf mute, and he married her when she was well, and she became deaf. But if she became mentally unstable, and she cannot guard herself he cannot divorce her until she is well, since he cannot abandon her. Therefore he puts her aside and marries another, and feeds her from her own [property]. And he is not obligated in food, clothing, or marital relations, and he is not obligated to heal her. And some say that he is obligated to feed and heal her (Beit Yosef in the name of the Rashba and the Tur in the name of the Rimah and the Ra'avad). And this was decided earlier (70:4). And this is the main [law]. And he need not redeem her [from captivity]. And if he divorced her, she is divorced as long as she can guard her *get*. And some say that even in retrospect, she is not divorced (And this is implied by the Mahaiv Siman 52). But if she is sometimes mentally unstable and sometimes as in a dream, and he divorces her when she is as in a dream because it appeared that she would stay that way, he did not do what was proper (Piskei Mahari Siman 215). And see later (121:3) And he takes her out of his house and is not obligated to care for her.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.119

Shulchan Arukh, Even HaEzer 141:2-7

141:2 A betrothed (through erusin) maiden (between the ages of 12 and 12.5 years), even though she is divorced by receipt of the *get* into her own hand just as [she is divorced] by her father's receipt [of the *get*], her father may appoint an agent for receipt, but she may not appoint an agent unless she has no father, or she has been fully married (through nisuin).

141:3 A minor, even if she has no father or she has been fully married (through nisuin) cannot appoint an agent for receiving a *get*, but her father may appoint an agent if she was [only] betrothed (through erusin; but not if she was fully married through nisuin).

141:4 If one betrothed (by kiddushin) a minor by the hand of her father, and divorced her while she was still a minor... Rama: while still only betrothed and her father yet alive (Tur), Mechaber: ...her father receives her *get*, and she may not receive the *get* without his knowledge [and consent]. But some authorities say that she may indeed receive her *get*.

141:5 If she (a minor) was fully married (by nisuin), her father may not receive her get.

141:6 If her father betrothed her while she was a minor, and then he died, or she completed marriage with nisuin; if she recognizes the difference between her get and something else, i.e. when given a stone she throws it away, but when proffered a nut she will take it, and some say when she reaches the age of young girls...

Rama: which is about 6 or 7 years old, depending on her mental acuity (Tur), **Mechaber**: ... she may be divorced by her own acceptance of the get. If she cannot differentiate between a get and other items, yet received a get to her own hand, she is not divorced. But she may be divorced by her father's acceptance of a get, even if she cannot distinguish between a get and other items. There is an authority who argues and says that any girl who cannot distinguish between a get and other items may not be divorced even by the hand of their father. Rama: See infra in Seder haGet se'if 96 how to write a get for a minor who is being divorced via her father's acceptance of the get.

141:7 Everywhere that a Katana is able to accept a get, she has the laws of a courtyard or [the laws of one] being able to acquire whatever is in her four amos of personal space, just as there is [the ability to acquire] to a Gedolah.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.141

Shulchan Arukh, Even HaEzer 155:1-6,10-12

155:1 A ketana [girl less than 12 years and a day old] who does not have a father, or she has a father but her father had married her off and she became a widow or she was divorced while still a ketana, and thus she becomes like an orphan in her father's lifetime for he has no authority over her anymore, and she is married off with her permission, since her marriage is only on a rabbinical level, if she does not like her husband, she does not need a get [bill of divorce] from him, but rather she can leave through [the law of] me'un [where she can simply denounce the marriage]. But if she was married off without her permission, or even if it was with her permission, but she didn't know to keep her marriage, she doesn't even need me'un. Rem"a: Ideally the court should make sure not to allow the marriage of an orphan ketana when it seems it will end in me'un. And we can only judge this according to what we can see (Hagahot Maimoni perek 11 in the name of R"Y).

155:2 What is [a case of] a ketana [a girl less than 12 and a day] who must do a me'un [i.e. refusal of marriage which allows her to leave her husband when she is married off as a ketana]? From 6 years old until 10 years old, we examine her according to her intellectual abilities, if she knows [that she must] guard her marriage, and that when she is married, that the guarding is not like the guarding of a nut or date or similar, that is [a case where] she needs to perform me'un. But if she does not know to guard her marriage, she needs not me'un, but rather she can leave to her mother's house, as if she were never married. Less than 6, even if her sense of understand is great, and she knows to guard, she does not need me'un. More than 10, even if she is very dumb, she needs me'un. Rem"a: Some say that all this is only when she is married off by the permission of her brother and mother, but if she was married off without their permission, she does not need me'un [to go free] (Hagahot Alfasi perek Bet Shammai). Some say that if she is already past toddler's age, she needs to do me'un (Bet Yosef in the name of the Ritva).

155:3 The me'un [i.e. refusal of marriage in which a ketana girl can go free from marriage without a bill of divorce] is when she says, "I do not like so-and-so my husband," or "I do not like the marriage my mother and brother set up." Even if she doesn't say anything, but leaves and gets proposed to someone else while she is a ketana [less than 12 and a day], even if she was in nisuin [full marriage], her proposal is her refusal.

155:4 A girl who does me'un [refusal of marriage while she is a ketana where she can go free without a bill of divorce], whether it [is a refusal] from erusin [engagement] or from nissuin [full marriage], even if it was not in her husband's presence and not in the presence of the court, will only [work] when it is in front of two who will testify to it. And some say, ideally there needs to be three [witnesses].

155:5 Just like she can do me'un [refusal of marriage when she is a ketana that allows her to go free even with a bill of divorce] to her husband, so too she can do me'un to her yibum [levirate marriage], if she didn't do me'un to her [present] husband.

155:6 If she does me'un [refusal of marriage when she is married off as a ketana girl less than 12 and a day that allows her to go free without a bill of divorce] and she does nissuin [full marriage] with another, she may do me'un with him [as well]. And so with a third [husband] and a fourth [husband], even many times, so long as she is a ketana.

[...]

155:10 A female minor who did mei'un (declared her marriage annulled) receives no ketubah [whether] a hundred or two hundred [zekukim], but does receive an addition [made to the ketubah]. All the time she had not done mi'un, her husband has a right to her handiwork and whatever she finds. He is obligated to feed her and redeem her all the time she is living with him. But he went overseas and she borrowed to eat or to redeem herself, and she [then] rose up and did mei'un, he is not obligated to pay, even if he ate her fruit [profits arising from her possessions], and even if they still exist, such as if he collected them and they are lying in his jurisdiction, he does not return them. Regarding properties of tzon barzel and melog [], if they still exist, he takes them. If some of the tzon barzel were lost, he must pay, but from the melog property he is exempt. He is permitted to [marry] her relatives [after mei'un] and she is permitted to his relatives. She is kosher to [marry] the priesthood and she does not need to wait three months to marry [again]. If she married another man and he divorced her or died, she is permitted to return to the first [husband she did mi'un with]. Furthermore, even if the first divorced her and took her back, and she did mi'un with him, and she married someone else after she gave him mi'un, and the other divorced her, she may return to the first. For whoever goes out with mi'un, even if there was a divorce beforehand, it as if she was never divorced from him with a divorce document and she may return to him. **But if one divorces a female minor with a divorce document, she receives a ketubah, and he is forbidden to her relatives, and she is forbidden to his relatives, and she is forbidden to priesthood, and she needs to wait for three months.** And if she married another and did mei'un to him, she may not return to the first because she left him with a divorce document, even though she left the last one with mei'un. And this obviously applies if the last one divorced her or died. She is also forbidden to the father of the first one and to his son, and to his brothers, like other divorced women, even though she left the last one with mei'un. And if she did mei'un with the first, and he took her back and divorced her and she married another and became a widow or was divorced or did mi'un to him, she may not return to the first or to his relatives. For whoever left him with mi'un in the end, her law is that of a woman who did mi'un. And whoever left him with a divorce in the end, her law is that of a divorced woman.

155:11 She who refuses the redeemer, is forbidden to marry his father, for she is looked upon like his daughter-in-law once his son (the original husband) dies and she must be redeemed. However, she is permitted to marry other relatives (of the husband). Some say that (she) additionally (cannot marry) any other relatives (of the husband). She is originally (not allowed to marry) any of the deceased husband's relatives (except for the redeemer), but if the redeemer refused her, then she is allowed to marry his relatives (This is how the Beit Yosef ruled). And always, if she refuses one of the redeemers, she is permitted to marry the other brothers.

155:12 **Until when may a minor reject [a marriage contracted for her by other family members in the absence of her father]? Until she grows two [pubic] hairs after [the age of] twelve years, or until she gives birth and**

from the time when [she becomes] pregnant, she is considered an adult (Or Zarua). As long as she has not grown two hairs and has not given birth, she is considered a minor, even if she shows signs of being an aylonit. (aylonit- a woman who never goes through normal puberty.) But if she is twenty years of age, and shows signs of being an ayilonit, then she is considered an adult retroactively from the time she turned twelve, even if she grows two hairs later (Choshen Mishpat 235), and she may not reject [the marriage]. A woman who is nineteen years and thirty days of age has the same law as one who is twenty years of age, since thirty days in a year are considered as a year. And there is [also an authority] who says that she is not considered [as though she was] twenty years of age until she is twenty years minus thirty days of age.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.155

Shulchan Arukh, Even HaEzer 167:1-5

167:1 A youth younger than 9, his sexual intercourse is not [considered] anything [from a halachic standpoint]. From 9 years and one day and on, his sexual intercourse acquires through levirate marriage, as speech would for an adult [over 13]. And a woman normally cannot acquire anything. Therefore, if he marries a woman and dies, she is exempt from halitza and the levirate marriage.

167:2 A boy of 9 years and a day who has sexual intercourse for levirate marriage, cannot let her go through a divorce document, until he gets older [to 13] and then has sexual intercourse with her after that point. If he does not have sexual intercourse with her after that point, and he comes to let her go, she needs a divorce document and halitza. If he has sexual intercourse with her when he is a youth [younger than 13], and he dies before he gets older [to 13], or he dies after he gets older [to 13] but he did not have sexual intercourse with her after that point, she does halitza and not levirate marriage. And once he gets older [to 13], if he marries another [and he dies], and he has not [yet] has sexual intercourse for his levirate marriage after he got older [to 13], both [women] must do halitza, but not levirate marriage.

167:3 A youth does not do halitza until he is 13 years of age and one day, and they check him then that he has the two hairs [that determine Biblical maturity]. But if he had two hairs before he got older [to 13], he is not considered an adult through [the hairs], but rather only if two other hairs came after he got older. Nevertheless, if two hairs are found after he got older, we do not suspect perhaps they were there from before.

167:4 A girl ages 3 and a day and up, her sexual intercourse is considered such for anything [on a halachic level]. And if her levirate husband has sexual intercourse with her, she is acquired. But she cannot do halitza until she is 12 and a day years old, and they check her after that to find if she has two hairs [as a sign of maturity].

167:5 A youth boy who has sexual intercourse with his levirate wife who is a youth girl, they must grow older [to 13/12 respectively] together. And if he comes to divorce her before he gets older, he cannot, for the divorce document of a youth is not an [effective] divorce document.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.167

Shulchan Arukh, Even HaEzer 169:49

169:49 A k'tana [pre-pubescent girl] who performed chalitza to an adult male - her chalitza is considered disqualified, and she is further disqualified from performing chalitza with any of the other brothers. Once she grows up, she may perform chalitza with one of the brothers, and needn't do it again with the other brothers.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.169

Shulchan Arukh, Even HaEzer 170:16

170:16 Sexual relations with a nine year old are equivalent to [engagement via] speech with a man of majority age. Therefore, if he had relations with his brother's widow, he has rendered her unfit for all his brothers. And, if after he (the minor) had relations with her his older brother came along and had relations with her or her co-wife, or [engaged her via] speech or gave her a bill of divorce or did halitsa with her or one of her co-wives, she has now been rendered unfit to the minor. And so too, if the minor came along and had relations with a co-wife, or if his brother of nine years of age had relations with her or her co-wife; she has been rendered unfit to him as is the law with [engagement via] speech after [engagement via] speech. So too if the brother of majority age did [engagement via] speech with his brother's widow, and then the nine year old came along and had relations with her or her co-wife, she is rendered unfit as in the case of [engagement via] speech after [engagement via] speech. The [engagement via] speech of a nine year old is not accounted as that of a man of majority age, and it is not effective, except in the first case (i.e. not to render the situation unfit), and not as the second one. How is this? A minor does [engagement via] speech, this is effective to render her unfit for the other brothers. But, if the older brother did [engagement via] speech, and then the nine year old came along and did [engagement via] speech with her or her co-wife, this is not effective in rendering her forbidden to his older brother. But [engagement via] speech of a nine year after [engagement via] speech of a nine year old - there are those that say that it is effective since the first one was nine years old. In regard to bills of divorce and halitsa - there is nothing to them by a nine year old, neither at the beginning or at the end.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.170

Shulchan Arukh, Even HaEzer 171:1-10

171:1 A man who was married to an orphan of minor age (note: who was married off by her brother or mother, and whose marriage is valid by Rabbinical decree) and a deaf woman (whose marriage is also only valid by Rabbinical ruling) and he died, and the women have fallen to his brother for possible levirate marriage, consummation of levirate marriage with one of these (Rabbinically married) women does not free her co-wife from levirate bonds. What is their resolution? We instruct the minor to reject him (annul the marriage), and the brother marries the deaf woman. If he wants to divorce her, he writes a divorce after consummating the marriage, and she is then permitted to a stranger.

171:2 If both wives were deaf or both were minors, consummation of levirate marriage with one frees her co-wife [from levirate bonds].

171:3 If one wife was of majority age, and the other was a minor, consummation of levirate marriage or chalitza (ceremony severing the levirate bond) with the adult wife frees the minor [from levirate bond], but consummation of levirate marriage with the minor does not free the adult wife.

171:4 If one wife was wise (of sound mind), and the other wife was deaf, consummation of levirate marriage or chalitza with the wise wife frees the deaf wife from levirate bond, but consummation of levirate marriage with the deaf wife does not free the wise wife.

171:5 If both [wives] were minors, and the living brother consummated levirate marriage with one of them, and then he or another brother had sexual relations with the second [minor wife], this did not invalidate the levirate marriage of the first, but he is forbidden to stay with the second. Therefore we instruct the second to reject (annul) her marriage, and he upholds marriage with the first.

171:6 Similarly, if both were deaf, sexual relations with the second woman do not invalidate [the levirate marriage to] the first; the second woman is forbidden to him, and he should divorce her with a get.

171:7 A minor girl and a deaf girl, when the levir first has relations with the minor and then he or his brother has relations with the deaf girl, he has not disqualified the minor, and the deaf girl requires a get. For relations with a minor is has greater legal consequences than relations with a deaf girl, for the minor will be fit for marriage after some time. Therefore, he should uphold the minor who had relations first.

171:8 If he had relations with the deaf girl, and then he or his brother had relations with the minor, he has disqualified the deaf girl. And we should instruct the minor to refuse marriage, and then he divorces the deaf girl through a get. This is the opinion of the Rambam, but others disagree with him, as is explicit in the Tur and the Nimukei Yosef, ch. Bet Shammai.

171:9 One was a girl of sound senses and the other deaf, if the levir had relations with the girl of sound senses first, and then he or his brother had relations with the deaf girl, he has not disqualified the girl of sound senses, but the deaf girl requires a get.

If the levir had relations with the deaf girl first, and then he or his brother had relations with the girl of sound senses, he has disqualified the deaf girl. And the deaf girl goes out with a get, and the girl of sound senses [goes out] with a get and halitzah."

171:10 If one was of majority age and one was a minor, and he had relations with the adult, and afterwards he or his brother had relations with the minor, he has not disqualified the adult, and they instruct the minor that she should reject her marriage. If he had relations with the minor, and afterwards he or his brother had relations with the adult, they instruct the minor that she should reject her marriage, and he upholds marriage with the adult.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.171

Shulchan Arukh, Even HaEzer 173:13-17

173:13 A female minor was married to the brother from her mother [the mother's brother, the girl's uncle] and she is [married to her uncle] for a moment, and he dies, and remains or she marries the brother from her father's side, and he [the brother from the father's side] dies, and she falls to the brother-in-law while she is still a minor, they [beis din?] don't say you will refuse [to marry her], to uproot the marriage of the original brother-in-law, in order that levirate marriage will be preformed] rather the other wife [making reference to the minor in this case] has chalitza preformed and not levirate marriage, that is if she refuses [levirate marriage].

173:14 A minor female that is not forbidden for him marry, and he dies, or she refuses the performance levirate marriage [with a brother of the husband], she is forbidden to the brother-in-law [in this case] and permitted to others without chalitza, if there are no other brothers [than the one]. and specifically her [the widow of the deceased], but her sister is permitted to him, even she is permitted to the remainder of brothers that she did not refuse [for the performance of levirate marriage].

173:15 [in a case where] one who's brother's wife is suspected she was divorced from him, he preforms chalitza and no levirate marriage is preformed. But if it was [a case of] doubtful they were married [in the first place, certainly [in] this [case] his is able to preform levirate marriage.

173:16 The one who divorces his wife who is an adult or a minor that is too be married to his brother [after the divorce], and she returns [back to the to her original husband], and he [the husband] dies, she falls to the commitment of the brother-in-law [requiring levirate marriage], she is permitted to him [the brother-in-law]. But a minor that is married off by her father, and she is divorced [from her too be husband] through her father, and she returns [to her too be husband] and he dies [the now current husband] while she is still a minor, it is forbidden to preform levirate marriage. and is the case with a divorcee who is sharp-sighted, and does not listen to her husband, and she returns to her former husband, and he [the husband] dies, and she does not listen [she does not listen to anyone?]; whether this or this the other wife [of the dead husband] is permitted to the brother-in-law.

173:17 The woman who returns [back to her house; in regard to a prenuptial marriage] when she is a minor or deaf [she wont listen to her husband], and she becomes an adult and regains her hearing and went [back] to him, and he dies [after she returns to her former husband] its permitted to preform levirate marriage. and its not necessary to say to her if she returns after she matures or regains her hearing [the laws of levirate marriage will apply]

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Shulchan Arukh, Even HaEzer 177:1-5

177:1 One who seduces a virgin of Israel before she reaches majority age, which is from three years and onward (Tur, the Rosh) pays embarrassment, blemishing and a fine. And if he rapes her he also pays the pain. And if the seducer married her he need not pay the fine.

177:2 A rapist or a seducer are judged by three judges, as long as they were ordained in the land of Israel. And now when there are no such ordained judges, we excommunicate them until they appease their fellow. And when they give an amount of money to him that is appropriate, we release their excommunication. And as for a daughter, as long as she is in her father's domain, her father get's everything (ibid). See Tur in this paragraph who discussed this matter at length, and the Shulkhan Arukh abbreviated them, for this is not common.

177:3 One who rapes a virgin must marry her, as long as she and her father so desire. Even if she is lame or blind. And he may never divorce her except with her consent.

Therefore, he need not write her a ketubah. But if he transgressed and divorced her, they force him to remarry her."

177:4 If she was prohibited to him, even derabanan, he may not marry her. Also, if he marries her and he finds some sexual impropriety, he must divorce her. Hagah: If an evil report goes out about her, for instance witnesses came and testify that she asked them to engage in fornication, she gets no fine. But if it is just a

rumor that a bad name went out about her, she doesn't lose the fine (Tur). If he rapes her and then seduces her, it is called rape, even though afterward she agreed [to have relations] with him (Maharik, root 129).

177:5 One about whom it has been claimed [that he had relations] with an unmarried woman, there are those who say that he shouldn't marry her because of the bad talk [that will result] for it looks like they are confirming the rumor. But there are those that say it is a mitzvah to marry her.

Hagah: The first reasoning is the main one. And if there is fear that she will go out to an "evil culture" (i.e. marry out of Judaism), he may marry her. And all of this refers to a simple rumor, but if he certainly had relations with her, it is a mitzvah to marry her, but we don't enforce that (ibid).

But if a rumor went out concerning that she had relations with two men, the first only a rumor and the second added to her insult, the second has a mitzvah to marry her. But if the rumor is of equal strength with regard to both, one is married and one is not married, the second has a mitzvah to marry her (ibid).

See above siman 22, whether she is trustworthy in this matter.

A prostitute that was requested of one who promised to pay her a price and he denies it, he must take an oath as is true in other suits (Ribash, siman 41). This is what the Torah obligated the rapist and the seducer to pay money, when it just happened. But a father is not allowed to give his daughter to be a harlot, and about this it is written, ""Do not defile your daughter to make her a harlot"" (Leviticus 19:29). And anyone who prepares herself to be a harlot, whether on her own accord or her father's is considered a ""kedeshah"" and there is no distinction in this matter between a virgin and a non-virgin. And a court may fine prostitutes in order to erect a fence.

And it happened with one who fornicated with a non-Jew, that they cut her nose off, in order to disfigure her (Responsa of the Rosh 18)."

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer.177

Shulchan Arukh, Even HaEzer 178:3

178:3 A minor girl whose father married her off and she willingly fornicated, there are those who say she is prohibited. Therefore, they can profess jealousy over her, in order to cause her to lose her ketubah. And there are those who say that she is not prohibited to her husband unless he is a priest. Hagah: An adult who accidentally fornicated, thinking he was her husband but he was someone else, is permitted to her Israelite husband (Rambam, chapter 24, Hilkhos Ishut). But if she thought it was permitted to fornicate, this is like one who does so intentionally and she is forbidden to her husband (Maharik, root 167). A woman who was secluded with men on the road and she came back and said: "I was secluded and I was raped" there are those who say she is believed with a "since" argument, for [she could have said] I did not have relations. And there are those who said she loses the ability to make such an argument, since she was illicitly secluded (both opinions are found in the Mordecai, second chapter of Ketubot).

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Shulchan Arukh, Even HaEzer, Seder HaGet 93-96

Seder HaGet 93 If she is a minor, and she married, she is not divorced [with the get] accepted by her father. [I.E he receives the money on her behalf]

Seder HaGet 94 And if she is an engaged minor, according to all she is divorced through her father. There is a disagreement if she is divorced through herself [i.e. she does it], and it is advisable to be stringent, that she does not receives it except through her father.

Seder HaGet 95 A minor may be divorced only when she can tell the difference between her get and some other object, such that she will take a bundle and throw it away, or take a nut and keep it, **or when she has reached the age of children, which is six or seven.** But younger than that, she may not be divorced, according to Rashi, even by her father. But according to Rabbenu Tam, this ruling is specific to being divorced by herself and she may be divorced by her father, and the Ro"sh agreed with this.

Seder HaGet 96 A minor who was divorced with her father as agent: we should be strict and write two bills of divorce and give them to her. One should be in the formula of all other bills of divorce and the second, "your daughter point that you married to etc...." Rem"a: but if the bill of divorce is passed to the minor with her father's knowledge, only one bill of divorce is needed, just like all other bills of divorce. See sections 141 and 37 above.

https://www.sefaria.org/Shulchan_Arukh%2C_Even_HaEzer%2C_Seder_HaGet.93?lang=bi

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