

From the Rabbi's Desk
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Stories with a Twist [262]

Who Will Be Mine for a Day?

(Insights into Babylonian Talmud, Yevamot 37b. See also Yoma 18b)



Background to Our Story

Abba Arikha (Rav)



https://en.wikipedia.org/wiki/Abba_Arika

Abba Arikha (175–247) (Talmudic Aramaic: **אבא אריכא**; born: *Rav Abba bar Aybo*, Hebrew: **רב אבא בר איבו**), commonly known as Rav (Hebrew: **רב**), was a Jewish amora of the 3rd century. He was born and lived in Kafri, Sassanid Babylonia. He established at Sura the systematic study of the rabbinic traditions, which, using the Mishnah as text, led to the compilation of the Talmud. With him began the long period of ascendancy of the great academies of Babylonia, around the year 220. In the Talmud, he is frequently associated with Samuel of Nehardea, with whom he debated on many major issues.

Rav Nachman bar Yaakov



https://en.wikipedia.org/wiki/Rav_Nachman

Rav Nachman bar Yaakov (Hebrew: **רב נחמן בר יעקב**; died 320) was a Jewish Talmudist who lived in Babylonia, known as an Amora of the third generation, and pupil of Samuel of Nehardea. He was chief justice of the Jews who were subject to the exilarch (the political head of the Babylonian Jewish community), and was also head of the school of Nehardea. On the destruction of that town, he transferred his pupils to Shekanzib.

His marriage with the daughter of the wealthy exilarch enabled him to live in luxury and to entertain scholars and strangers lavishly. Thus Rav Isaac of Palestine, who visited Babylon, stayed at Rav Nachman's house and enjoyed his hospitality. When the guest, upon leaving, was asked by his host to bless him, the former answered with the beautiful parable of the

tree which sheltered the weary traveler beneath its shade and fed him with its fruit, so that the grateful wanderer blessed it with the words, "May thy scions be like unto thee." "And I," added Rav Isaac, "can bless you, who are blessed with material and spiritual wealth, only with the prayer that your scions too may be like you" (Ta'anit 5b-6a).

Mamzer



<https://en.wikipedia.org/wiki/Mamzer>

In the Hebrew Bible and Jewish religious law, a *mamzer* (Hebrew: ממזר, lit. "estranged person") is a person born from certain forbidden relationships or from incest (as defined by the Bible), or the descendant of such a person. Mamzer status (ממזרות, *mamzerut*) is not synonymous with illegitimacy, since it does not include children whose mothers were unmarried.

In the Talmud the term *mamzer* is applied to the descendants of specific illicit unions. According to the [Mishnah](#), a *mamzer* is the offspring of a biblically forbidden union for which his progenitors are liable to [extirpation](#) at the hands of heaven ([Yevamot](#) 4, Mishnah 13: "כל שחיבין עליו כרת בידי שמים"). An exception to this rule is when a Jewish man has connexion with a [menstruate woman](#), which although he is liable thereby to extirpation, the child born from such union is not a *mamzer*. The practical bearing of this ruling is that it excludes from such defamation a child born outside of wedlock, and which child is often wrongly called "[bastard](#)" under [common law](#). According to the [Shulchan Aruch](#), a *mamzer* can only be produced by two Jews ([Shulchan Aruch](#), "Even haEzer" 4:19).

There are two categories of *mamzerim*. A child born of incest as defined by the Bible is a *mamzer*. Note, however, that an incestuous relationship between one or two non-Jews cannot produce a *mamzer*, and if the product of such a union were to [convert](#) he or she would be the equal of any Jew ([Shulchan Aruch](#), "Even haEzer" 4:21).

A child born of a married woman's [adultery](#) is a *mamzer*. The child of a single woman and a man she could lawfully have married is not a *mamzer* ([Shulchan Aruch](#) E. H. 4.) It is irrelevant if the man is married or not. If one of the parents is not Jewish the child is not a *mamzer*. Any child born to a married woman, even if she is known to have been unfaithful, is presumed to be her husband's, unless she is so promiscuous that such a presumption becomes unsupportable ([Shulchan Aruch](#), "Even haEzer" 4:15), or if she enters a public relationship with another man (4:16).

A child born within 12 months of a woman's most recent meeting with her husband is presumed to be legitimate, since Jewish law believes that in rare cases a pregnancy can last that long (4:14). However, if more than 9 months have elapsed and she is known to have been unfaithful then the presumption does not apply ([Even haEzer](#) Rama 4:14). Modern [assisted reproductive technology](#) has complicated the issue. [Moshe Feinstein](#) ruled that if a married woman is inseminated by sperm from another man the child is not a *mamzer*, since it did not result from an act of adultery; [Joel Teitelbaum](#) (2005) disagreed, and ruled that since the child is known to be that of a man other than her husband it is a *mamzer*.

The status of an [abandoned child](#) (Hebrew: *asufi*) was determined by the state in which it was found. If there were indications that the foundling had been abandoned due to the parents being unable to support it, then Halakhically the child would not be a *mamzer*. However, if the unknown parents could have supported the child, it was regarded as potentially being a *mamzer*. A child whose mother is known, but not the father, was known as "silent one" (Hebrew: *shetukhi*), and fell into the same category as a foundling; this status, however, could be changed if the mother knew and revealed the identity of the father.

Like many other types of social category, in Judaism the *mamzer* status is hereditary - a child of a *mamzer* (whether mother or father) is also a *mamzer*. However, since these rules

are regarded as applying only to Jews, and since traditional Rabbinical law regards [being a Jew](#) as something which is only maternally inheritable, the child of a male *mamzer* and a non-Jewish woman cannot be a *mamzer*. However, the child of a female *mamzer* and a non-Jewish man is a *mamzer*.

Seven clean days



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When a woman accepts an offer of marriage, the emotional excitement can bring on early menstruation. This is especially true for a woman whose cycle is not totally regular. Furthermore, it is possible that out of her desire for her future husband, she may have experienced other vaginal secretions that masked the sensation of the flow of blood; therefore, even if she did not see or feel the release of blood, she must consider the possibility that there was blood. Consequently, she must observe the purification process for a menstruating woman and wait seven clean days before immersing in a ritual bath.

Legal Decisions Related to Our Story

A man should not marry his wife when at the same time his intention is to divorce her



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It is prohibited for a man to marry a woman if at the same time his intention is to divorce her, because it is stated: "Do not devise evil against your neighbor, as he dwells securely with you" (Proverbs 3:29). This is in accordance with the ruling of Rabbi Eliezer ben Ya'akov. The Rambam and *Shulhan Arukh* rule that if he informs her in advance that his intention is only to be married for a short time, then it is permissible. It would appear that this ruling is based on the Gemara here (*Beit Yosef*; see *Derisha*; Rambam *Sefer Kedusha, Hilkhhot Issurei Bia* 21:28 and *Sefer Nashim, Hilkhhot Geirushin* 10:21; *Shulhan Arukh, Even HaEzer* 2:10; 119:1).

One should not marry women in different countries



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A man should not marry a woman in one country and then go and marry another woman in a different country, lest a son from one marriage and a daughter from the other unite with one another and have children, who would be *mamzerim*. This is in accordance with the ruling of Rabbi Eliezer ben Ya'akov. However, if the man is renowned such that any children he has will be identified by their connection to their father, then it is permissible. This is in accordance with the Gemara's initial explanation of the actions of Rav and Rav Nahman. The *Beit Shmuel* notes that the Rif and Rosh do not refer to this exception, and it would seem that they hold that the Gemara retracted this explanation in its conclusion. This is possible if one assumes that according to the conclusion of the Gemara, Rav and Rav Nahman never actually married the women in the towns they visited (*Rambam Sefer Kedusha, Hilkhhot Issurei Bia* 21:29; *Shulhan Arukh, Even HaEzer* 2:11).

A woman who has an offer of marriage must wait seven clean Days

A woman who had an offer of marriage and accepted may not marry immediately; rather, she must count seven clean days since she may have experienced a flow of blood without being aware of it. She must check herself during those seven days to ensure she has not experienced any additional flow. Ideally, this should be done each day (Rema, based on the *Beit Yosef*). The Rambam rules that if the husband is a Torah scholar then she may marry him immediately, since he can be trusted to be careful not to engage in sexual relations with her. This ruling is based on the Gemara here. The Ra'avad disagrees and rules that the prohibition applies to a Torah scholar as well. It would appear that the majority of halakhic authorities concur with the opinion of the Ra'avad (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 11:9; *Shulhan Arukh, Yoreh De'a* 192:1).

The Text: Babylonian Talmud Yevamot 37b

אמר רבי אליעזר בן יעקב: לא ינשא אדם אשה במדינה זו, וילך וינשא אשה במדינה אחרת, שמה יזדווגו זה לזה ונמצא את נושא את אחותו.

איני? והא רב, פי איקלע לדרדשיר [מכריז] ואמר: מאן הויא ליומא. ורב נחמן, פי איקלע לשכנציב [מכריז] ואמר: מאן הויא ליומא!

שאני רבנן דפקיע שמיהו.

והאמר רבא: תבעוה לינשא ונתפייסה – צריכה לישב שבעה נקיים!

רבנן שלוחיהו הוו משדרי, ומודעי להו, ואיבעית אימא: לרבנן יחודי בעלמא הוא דמייחדי להו, דאמר מר: אינו דומה מי שיש לו פת בסלו למי שאין לו פת בסלו.

תנא, רבי אליעזר בן יעקב אומר: לא ינשא אדם אשתו ודעתו לגרשה, משום שנאמר "אל תחרש על רעה רעה והוא יושב לבטח אתך".

Rabbi Eliezer ben Ya'akov said: a man should not marry a woman in this country and then go and marry another woman in a different country, lest a son from one marriage and a daughter from the other, unaware that they are both children of the same father, unite with one another, and it could emerge that a brother marries his sister.

The Gemara asks: Is that so; is there really such a prohibition? But didn't Rav, when he happened to come to Dardeshir, make a public announcement saying: Who will be mine for the day, i.e., for the duration of his visit? Since his wife did not

accompany him to Dardeshir, he wished to be married to another woman while he was there, in order to avoid a situation that could lead him to having forbidden thoughts. And also Rav Naḥman, when he happened to come to Shakhnetziv, made a public announcement saying: Which woman will be my wife for the day? It would appear, from the fact that both Sages married wives in two different places, that there is no prohibition in doing so.

The Gemara rejects the proof: Sages are different, as their names are renowned, and therefore their children are always identified by their connection to their father.

The Gemara examines Rav and Rav Naḥman's actions: But didn't Rava say: With regard to a woman who had an offer of marriage and accepted, the emotional excitement may have caused her to have a flow of menstrual blood, which would make her ritually impure and prohibit her from engaging in intercourse. Even if she was unaware of any flow, she must consider the possibility that it occurred. To purify herself, she needs to wait seven consecutive days that are clean from any flow of menstrual blood and then immerse in a ritual bath. Only then may she marry. If so, how could Rav and Rav Naḥman marry women on the day they arrived?

The Gemara explains: These Sages would send messengers seven days ahead of their arrival and they would inform the women of the Sage's arrival. In this way, the woman who agreed to marry the Sage would have time to count the seven clean days. And if you wish, say that the Sages' intentions were merely to be in seclusion [*meyahadi*] with the woman but not to engage in intercourse with her. Therefore, it was permitted to marry her even if she became ritually impure. Being in seclusion with a woman was sufficient to help the Sages avoid any forbidden thoughts, as the Master said: One who has bread in his basket is incomparable to one who does not have bread in his basket, i.e., just as the knowledge that food is readily available is sufficient to psychologically alleviate one's feelings of hunger, so too, the knowledge that one's sexual desires could be met lessens the strength of the desire itself.

It is taught in a *baraita* that Rabbi Eliezer ben Ya'akov says: A man should not marry his wife when at the same time his intention is to divorce her, because it is stated: "Do not devise evil against your neighbor, as he dwells securely

with you” (Proverbs 3:29). It is wrong for one to intend to undermine the feelings of security that another has with him.



Explaining the Story - What’s going on in our story? (The sequence of events)

Comprehension and Analysis Questions

? Why did Rabbi Eliezer ben Ya’akov say “a man should not marry a woman in this country and then go and marry another woman in a different country”?

Bonus ? Why did Rav, when he happened to come to Dardeshir, and Rav Nachman, when he happened to come to Shakhnetziv make a public announcement saying: Who will be mine for the day?

Answer 1 _____

Answer 2 _____

Answer 3 _____



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Some later authorities suggest that Rav and Rav Naḥman were traveling to meet with the non-Jewish ruler and it was the custom of the ruler to provide a mistress for those who visited him (see *Avoda Zara* 76b). Therefore, Rav and Rav Naḥman asked to marry a wife so that they would not be offered a mistress by the ruler, since the custom was to offer a mistress only to one who came without his wife (*Imrei David*).

? What do you think of the Imrei David validation of Rav and Rav Nachman’s behavior?

? How does the gemarah address Rabbi Eliezer ben Ya’akov’s concern in the cases of Rav an Rav Nachman?

? What are the gemarah's two solutions to the problem that a woman must wait "seven clean days" before engaging in intercourse after receiving a marriage proposal?

Answer 1 _____

Answer 2 _____

? Why, according to Rabbi Eliezer ben Ya'akov, a man should not marry his wife when at the same time his intention is to divorce her?

Extra Bonus ? What technical solution could Rav and Rav Nachman advance to circumvent the above prohibition? What is problematic with such a solution?

"The Twist" – Or the Lessons We Can Learn from These Texts

! Solving your problems at the expense of someone else is never a good solution.

epilogue