

Sefaria Mishneh Torah Forbidden Intercourse 2:14 (mitzvah to marry niece)

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אִשֶּׁת אָבִיו וְאִשֶּׁת בְּנוֹ וְאִשֶּׁת אָחִיו וְאִשֶּׁת אָחִי אָבִיו אֲרֻבַּעַתָּן עֲרוּהָ עָלָיו לְעוֹלָם. בֵּין מִן הָאֲרוּסִין בֵּין מִן הַנְּשׂוּאִין. בֵּין שְׁנֵתָּגְרָשׁוּ בֵּין שְׁלֹא נִתְּגְרָשׁוּ. בֵּין בְּחַיֵּי בַּעֲלֵיהֶן בֵּין אַחֵר מִימֵת בַּעֲלֵיהֶן. חוּץ מֵאִשֶּׁת אָחִיו שְׁלֹא הָיָה בּוֹ. וְאִם בָּא עַל אַחַת מֵהֶן בְּחַיֵּי בַּעֲלָהּ חֵיב שְׂתִימָם. מָשׁוּם שֶׁאֵר בְּשָׂר וּמָשׁוּם אִשָּׁת אִישׁ. שֶׁהָרִי שְׁנֵי־הֶן הָאֲסוּרִין בָּאִין בְּאַחַד:

The [following] four women: the wife of a man's father, the wife of his son, the wife of his brother, and the wife of the brother of his father, are considered an *ervah*¹*The singular of the term arayot mentioned in the first chapter.* for him forever, whether after consecration or after marriage, in the lifetime of their husbands or after their deaths, [even] if they were divorced - with the exception of the wife of one's brother who did not leave a son.²*When a man dies childless, one of the brothers of the deceased is obligated to marry his widow to propagate his name. This obligation, yibbum in Hebrew, is described in Deuteronomy, ch. 25, and in Hilchot Yibbum ViChalitzah.*

If a man engages in relations with one of these woman during the lifetime of their husbands, he is liable for two [sin-offerings]³*I.e., if he transgresses inadvertently. If he transgresses intentionally, he is liable for execution, by stoning for relations with his father's wife and his son's wife, and by strangulation for relations with his brother's wife and the wife of his father's brother. (For the latter two transgressions are punishable by kerait and so he receives the penalty for adultery alone.)*]: for incestuous relations and adulterous relations, for both of these prohibitions take effect at the same time.⁴*See Chapter 17, Halachah 8, and notes where this concept is explained.*

לפִּיכָּךְ הֵבֵא עַל אִמּוֹ שֶׁהִיא אִשֶּׁת אָבִיו חֵיב שְׂתִימָם. בֵּין בְּחַיֵּי אָבִיו בֵּין לְאַחֵר מִימֵת אָבִיו. אַחַת מְשׁוּם אִמּוֹ וְאַחַת מְשׁוּם אִשֶּׁת אָבִיו. אֶחָד אָחִיו מֵאָבִיו אוֹ אָחִיו מֵאִמּוֹ. בֵּין מִנְּשׂוּאִין בֵּין מִזְנוּת. אִשְׁתּוֹ עֲרוּהָ עָלָיו. אֲבָל אִשֶּׁת אָחִי אָבִיו מִן הָאֵם הָרִי הִיא שְׁנֵי־הָ כִּמוֹ שֶׁבְּאַרְנָה. וְאֶחָד אֲחֻתּוֹ מֵאָבִיו אוֹ מֵאִמּוֹ. בֵּין מִן הַנְּשׂוּאִין בֵּין מִזְנוּת. כְּגוֹן שֶׁנִּתְּנָה אִמּוֹ אוֹ אָבִיו עִם אֲחֵרִים וְהִיָּתָה לוֹ אֲחֻת מִזְנוּת. הָרִי זֶה עֲרוּהָ עָלָיו שֶׁנֶּאֱמַר (ויקרא יח ט) "מוֹלֶדֶת בֵּית אוֹ מוֹלֶדֶת חוּץ":

Therefore a person who engages in relations with his mother who is his father's wife is liable for two [sin-offerings], one because [the woman is] his mother and one because she is his father's wife. [This applies] both during his father's lifetime and after his father's death.⁵*Since the Rambam speaks of laws that apply after the father's death, he mentions only two prohibitions. During the father's lifetime, he is liable for a third prohibition: relations with a married woman.*

The wives of both a person's paternal brother and his maternal brother are considered an *ervah* for him. [This applies regardless if he and/or his brother were conceived] in marriage or in a promiscuous relationship.⁶*For the prohibition against relations with all blood relatives applies*

regardless of whether the person was conceived within marriage or outside of it. The wife of the maternal brother of a man's father is, however, forbidden [only] as a *shniyah*, as explained.⁷ *Hilchot Ishut 1:5. This is merely a Rabbinical prohibition.* Both a person's paternal sister and his maternal sister are considered an *ervah* for him. [This applies regardless if he and/or his sister were conceived] in marriage or in a promiscuous relationship, e.g., his mother or his father acted promiscuously with others and his sister was conceived promiscuously, as [implied by Leviticus 18:9]: "one born at home or one born beyond [marriage]."

בת אשת אביו שהיא אחותו מאביו הרי היא ערוה עליו שנאמר (ויקרא יח יא) "ערוה בת אשת אביו מולדת אביו". אבל אם נשא אביו אשה ויש לה בת מאיש אחר אותה הבת מתרת לו שאין זו מולדת אביו. והלא משום אחותו חייב עליה ולמה נאמר (ויקרא יח יא) "בת אשת אביו" לחיוב עליה אף משום זה:

The daughter of his father's wife who is his paternal sister is an *ervah* for him, [as *ibid.*:11] states: "the nakedness of the daughter of your father's wife, your father's offspring." If, however, a man's father marries a woman and she has a daughter from another man, that daughter is permitted to him.⁸ *Even if they were raised in the same household like a brother and a sister, marriage between them is permitted. We are not considered with the possible impression such a union might create [Shulchan Aruch (Even HaEzer 15:11)].* She is not "your father's offspring." Behold one is already liable for [relations] with her because she is a sister, why then [does the Torah mention]: "the daughter of your father's wife"? So that one should be liable for this prohibition as well.⁹ *And thus be required to bring two sin offerings.*

לפיכך הבא על אחותו שהיא בת נשואת אביו חייב שתיים. אחת משום (ויקרא יח ט) "ערוה אחותך" ואחת משום (ויקרא יח יא) "ערוה בת אשת אביו". אבל אם אנס אביו אשה או פתה אותה והוליד ממנה בת ובא עליה אינו חייב אלא משום אחותו בלבד. שאין בת האנוסה בת אשת אביו:

Therefore a man who engages in relations with his sister who was born to his father's wife in marriage is liable for two [sin offerings]: one because of "the nakedness of your sister" and one because of "the nakedness of the daughter of your father's wife." If, however, one's father raped or seduced a woman and conceived a daughter, one is liable only for having relations with one's sister. For the daughter of the woman who was raped is not the daughter of the wife of one's father.¹⁰ *This applies even if afterwards, the father marries the woman who he raped or seduced (Minchat Chinuch, mitzvah 196).*

אחות אמו בין אחותה מאביה בין אחותה מאמה בין מן הנשואין בין מזנות הרי זו ערוה עליו משום אחות אב. וכן אחות האב בין מן האם בין מן האב בין מן הנשואין בין מזנות הרי זו ערוה עליו משום אחות אב:

The sister of his mother is considered an *ervah* for him. [This applies to both her paternal and maternal sister and applies regardless whether she [was conceived] in marriage or in a promiscuous relationship. Similarly, his father's sister - both his paternal and maternal sister, whether she [was conceived] in marriage or in a promiscuous relationship - is considered an *ervah* for him.

הבא על אשה דרך זנות והוליד ממנה בת אותה הבת ערוה עליו משום בתו. ואף על פי שלא נאמר בתורה ערוה בתו לא תגלה מאסר שאתה בת הבת שמתק מן הבת ואסורה מן התורה. ואינו מדברי סופרים. לפיכך הבא על בתו מנשואתו חייב שתים. משום בתו ומשום ערוה אשה ובתה:

When a person has promiscuous relations with a woman and conceives a daughter with her, that daughter is considered an *ervah* for him.¹¹*The fact that her mother was not married to him is not significant.* Although the Torah does not state: "Do not reveal the nakedness of your daughter," the prohibition is of Scriptural origin. Since [the Torah] forbade [relations] with the daughter of one's daughter, it did not mention [the prohibition against] one's daughter. This is not from the words of our Sages.¹²*The Rambam's statements touch on an involved issue. In his Sefer HaMitzvot (General Principle 2), he writes that every concept derived through the principles of Biblical exegesis has the power of Scriptural Law. Nevertheless, commandments derived through these principles are not considered as part of the 613 mitzvot, but are instead "from the words of our Sages."*

The prohibition against relations with one's daughter, the Rambam states, is not in that category. Although it is not explicitly mentioned in the Torah and Sanhedrin 76a uses different principles of exegesis to derive it, it is not "from the words of our Sages." Instead, it is as if it was explicitly stated in the Torah. From Hilchot Ma'achalot Assurot 9:2, it appears that the Rambam's intent is that since the Torah mentions the prohibition against relations with the daughter of one's daughter, the prohibition against relations with one's daughter is obvious. There is no need for the Torah to mention it. It must be mentioned that many other authorities do not follow the same understanding as the Rambam and consider concepts derived through the principles of Biblical exegesis as fully binding Scriptural Law. According to their understanding, there is no difficulty with the prohibition against relations with one's daughter being considered of Scriptural origin. Therefore a person who has relations with a daughter born of his wife is liable for two [sin offerings],¹³From the Ra'avad's statements, it appears that he does not require a sin offering for relations with one's daughter. The parenthesis are based on the understanding of the Maggid Mishneh. for [relations with] his daughter and for relations with a woman and her daughter.¹⁴As stated in the following halachah.

כיון שקדש אדם אשה נאסרו עליו מקרובותיה שש נשים. וכל אחת מהן ערוה עליו לעולם בין פנס בין גרש בין בחי אשתו בין לאחר מותה. ואלו הן. אמה ואם אביה ובתה ובת בתה ובת בנה. ואם בא על אחת מהן בחי אשתו

When a person consecrates a woman, her close relatives - six women - become forbidden to him as an *ervah* forever. This applies whether he consummates [the bond through *nisuin*] or divorces her, in the lifetime of his wife and after her death. They are: a) her mother, b) her mother's mother, c) her father's mother, d) her daughter,¹⁵ When stating this law, Shulchan Aruch (Even HaEzer 15:13) emphasizes that if a man rapes a woman, after her death, he may marry her daughter who was conceived by another man. The Ramah adds that even if the rapist marries her daughter during her lifetime, he is not compelled to divorce her. e) her daughter's daughter, and f) her son's daughter. If he has relations with one of these women during the lifetime of his wife, both [he and she] are executed by burning.

בְּאֵשׁ יִשְׂרְפוּ אֹתוֹ וְאֶתֶּהָ." בְּזִמְנוֹ שֶׁשְׁתֵּיהֶן קִיְּמוֹת אִשְׁתּוֹ וְזוֹ שֶׁבָּא עָלֶיהָ הָרִי הוּא וְהָעֶרְוָה נִשְׂרָפִין. וּבְזִמְנוֹ שֶׁאִין שְׁתֵּיהֶן קִיְּמוֹת אִין שֶׁם שְׂרָפָה:

If he has relations with one of these women after his wife's death, they are liable for *kerait*,¹⁶ This is based on the Rambam's understanding of Sanhedrin 76b. Rashi, the Ramban, and the Rashba differ and maintain that after the death of the man's wife, he is prohibited against relations with her close relatives, but is not liable for *kerait*. but they are not executed by the court, as [derived from Leviticus 20:14]: "In fire, he and they shall be burnt." [This implies¹⁷ The use of the plural term "they" should not be interpreted to mean that the man's wife should be executed by being burnt to death. For what evil has she committed? Instead, the intent is that only in her lifetime is the death penalty applied (Rashi, Sanhedrin 76b). that only] when both women - his wife and the woman with whom he had relations - are alive, he and the *ervah* are executed by burning. When both [women] are not alive, there is no execution by burning.¹⁸ Sanhedrin, loc. cit., speaks about relations with one's mother-in-law, stating that only when one's wife is alive are these relations punishable by death. Since, however, the prohibition against relations with all the other five women mentioned above is derived from the prohibition against relations with one's mother-in-law, they are bound by the same laws (Maggid Mishneh).

וְכֵן אַחֻת אִשְׁתּוֹ עֶרְוָה עָלָיו עַד שְׁתֵּמוֹת אִשְׁתּוֹ. בֵּין אַחֻתָּהּ מֵאִמָּה בֵּין אַחֻתָּהּ מֵאָבִיהָ בֵּין מִן הַנְּשׂוֹאִין בֵּין מִזְנוֹת הָרִי זֶה עֶרְוָה עָלָיו:

Similarly, the sister of his wife is considered an *ervah* for him until his wife dies.¹⁹ For Leviticus 18:18 explicitly states that the prohibition against relations with the sister of one's wife is "in her lifetime." While the wife is alive, even if she is divorced, the man is forbidden to engage in relations with her sister [Shulchan Aruch (Even HaEzer 15:26)]. After his wife's death,

however, he may marry her sister. Both her maternal sister and her paternal sister, whether conceived in marriage or promiscuously, are considered as an *ervah* for him.

עבר ונאף עם אחת משבע נשים אלו בין בזדון בין בשגגה אף על פי שהוא והנאפֶת במיתת בית דין או בכרת לא נאסרה אשתו עליו חוץ מאחות ארוסתו שהיא אוסרת אשתו עליו כמו שבארנו בהלכות גרושין:

If a man transgressed and engaged in relations with one of these seven women, whether intentionally or inadvertently, although he and the woman are liable for execution by the court or *kerait*, he is not forbidden to engage in relations with his wife.²⁰ *For his wife has not transgressed and there is no reason that she should become forbidden.* The only exception is [when he engages in relations with] the sister of the woman he consecrated. In this instance, his wife is forbidden to him, as explained in *Hilchot Gerushin*.²¹ *The Rambam is referring to Hilchot Gerushin 10:8-10 which states:*

A man consecrated a woman, she journeyed to another country, the husband heard she died, and [then] married her sister. [If,] afterwards, it was discovered that she had not died, he must divorce both women.... Why did they require that the sister of the woman whom the man consecrated be divorced? Lest people say that the [first] kiddushin were given conditionally, [the condition was not fulfilled,] and thus the law would allow marriage to her sister. Since the [first] woman's sister was divorced... the man's first wife is also forbidden to him lest people think that he married his divorcee's sister.

The Maggid Mishneh explains that the Rambam maintains that a divorce is required only in such an instance. If, by contrast, he enters into promiscuous relations with the sister of the woman he consecrated, he may still marry her if she consents. This explanation resolves the protests made by the Ra'avad to the Rambam's statements.

הבועל אשה דרך זנות לא נאסרו עליו קרובותיה שהן השבע נשים שאמרנו. אבל חכמים אסרו על מי שנאף עם אשה לשא אחת מן השבע נשים קרובותיה כל זמן שהזונה קימת. מפני שהזונה באה לקרובותיה לבקר אותן והוא מתניח עמה ולבו גם בה ויבוא לידי עברה שיבעל הערוה. ולא עוד אלא אפלו נטען על אשה הרי זה לא ישא אחת מקרובותיה עד שתמות זו שנטען עליה. ואם כנס הקרובה שזונה עם קרובותיה לא יוציא:

When a man engages in promiscuous relations with a woman, the seven relatives mentioned above are not forbidden to him [according to Scriptural Law].²² *For the verses (Leviticus 18:18, 20:14) on which these prohibitions are based mention "taking," i.e., marriage.* Nevertheless, our Sages²³ *See Yevamot 97a.* prohibited anyone who had promiscuous relations with a woman from marrying one of these seven relatives during the promiscuous woman's lifetime.²⁴ *After her death, however, there are no restrictions on marrying her relatives (ibid., for the reason for the decree no longer applies.* [The rationale is that] the promiscuous woman will come to visit her relatives. He will thus enter into solitude with her. [Since] he is familiar with her, we fear that

they will transgress and thus he will engage in relations with an *ervah*.²⁵ *For since he is married to one of her close relatives, she is an ervah for him.*

Even if a man is merely suspected of relations with a woman,²⁶ *In his Commentary to the Mishnah (Yevamot 11:1), the Rambam states that this applies when the suspicion is verified.* he should not marry one of her relatives until the woman with whom he was suspected of having relations died. If, however, he married the relative of the woman with whom he was suspected of having relations, he should not divorce her.

מי שנטען על ערוה או שיצא לו שם רע עמה לא ידור עמה במבוי אחד ולא יראה באותה שכונה. ומעשה שהיו מרגיין אתריו עם חמותו והכו אותו חכמים מכת מרדות מפני שעבר על פתח ביתה:

When a person was suspected of having relations with an *ervah* or a rumor to that effect was circulated, he should not dwell together with her in the same lane or appear in the same neighborhood.²⁷ *This ruling is derived from the law stated in the following clause of the halachah. The Ra'avad questions the Rambam's deduction, stating that extra stringency is appropriate with regard to one's mother-in-law, but otherwise, there is no need to enforce such a restriction. The Maggid Mishneh states that for that reason, lashes were given only with regard to one's mother-in-law, but agrees with the Rambam's ruling, stating that curbs should be placed on any conduct that may lead to promiscuity. See also Chapter 21, Halachah 27. An incident occurred concerning a man who was rumored [to have engaged in relations] with his mother-in-law and our Sages had him beaten²⁸ See Hilchot Sanhedrin 24:5 which states that a judge has the power to subject a person to lashes even if he is not liable according to Torah Law. because he passed by the entrance to her home.*

הבא על אשה ובתה דרך זנות או על אשה ואחותה וכיוצא בהן הרי זה כמי שבא על שתי נשים נכריות שאין נעשות ערוה זו עם זו אלא בגשואין לא בזנות. וכן אם אנס אביו או בנו או אחיו או אחי אביו אשה או פתה אותה הרי זה מתרת לו וישאנה שלא נאמר אלא אשת ואין כאן אישות:

When a person has promiscuous relations with a woman and her daughter or a woman and her sister or the like, it is as if he had relations with two unrelated woman. One is considered an *ervah* because of the other only in the instance of marriage, not in an instance of promiscuity. Similarly, if a man's father, son, brother, or father's brother raped a woman or seduced her, she is permitted to him and he may marry her. [The prohibition involving these individuals] mentions "the wife of" and here there is no context of marriage.

אביו או בנו שנשא אשה הרי זה מתר לשא בתה או אמה כמו שבארנו. ומתר לאדם לשא אשת בן אחיו. ונושא אדם אשה ובת אחותה או בת אחיה כאחת. ומצות חכמים שישא אדם בת אחותו והוא הדין לבת אחיו שנאמר (ישעיה נח ז)

When a man's father or son marries a woman, that man may marry her daughter or her mother as we explained.²⁹*Halachah 3.* A person may marry the wife of his brother's son.³⁰*After she was widowed or divorced.* A man may marry a woman and her sister's daughter or her brother's daughter at the same time. It is a mitzvah from the Sages for a man to marry his sister's daughter,³¹*The Maggid Mishneh explains that a person has a natural affection for his close relatives. Those positive feelings provide a fertile ground of support for the marriage relationship to flourish.* as [alluded to by Isaiah 58:7]: "Do not turn away from your own flesh." This law also applies to his brother's daughter.³²*Other Rishonim [Rashi, Rabbeinu Tam (Sanhedrin 76) differ and maintain that the mitzvah applies only with regard to one's sister's daughter.*
