YESHIVAT HAR ETZION

KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**PARASHAT HASHAVUA**

**Rav Meir Shpiegelman**

**PARASHAT ACHAREI MOT**

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Dedicated in memory of Rav Hanoch ben Aaron Eliyahu Singer z"l
whose yahrzeit is 12 Iyar, by his granddaughter Vivian Singer

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**Incestuous Relations (*Arayot*)**

Our *parasha* covers a wide range of topics, concluding with a list of *arayot* (forbidden sexual [incestuous] relationships). Although the list is long, it does not include all the forbidden sexual unions between relatives. In this *shiur*, we will focus on the list of *arayot* in our *parasha* and analyze which categories are explicitly mentioned and which are not.[[1]](#footnote-1)

**The women with whom a man is forbidden to have relations**

The list of female relatives who are forbidden to a man as sexual partners gives rise to several questions, regarding both content and structure. In terms of content, the list seems to be missing a number of relationships that are certainly forbidden – including a man with his daughter,[[2]](#footnote-2) niece, or mother-in-law.[[3]](#footnote-3) In terms of structure, attention should be paid to the fact that the relationships are not reversible: the relationship between a father and his son is not the same as the relationship between a son and his father.[[4]](#footnote-4) This fact creates difficulties when we try to apply the unit on forbidden relations to women. Firstly, when the Torah says it is forbidden for a man to engage in relations with his mother – is his mother also forbidden from engaging in relations with him?[[5]](#footnote-5) Secondly, we have a general principal that all the negative commandments in the Torah apply to women to the same degree as they do to men. But in the unit on *arayot*, there are sometimes distinctions in the law as it applies to a man or to a woman. For example, a man may not marry the wife of his father’s brother, but he may marry the wife of his mother’s brother. Similarly, if a man is widowed, he may marry his late wife’s sister, but he may not marry his brother’s wife – even after his brother’s death.[[6]](#footnote-6)

**Introduction to the unit on *arayot***

In order to try to resolve these questions, let us take a careful look at the introduction to the unit on *arayot*:

Each one of you, to any that is near of kin to him (*she’er besaro*) – you shall not approach, to uncover [their] nakedness (*erva*); I am the Lord. (*Vayikra* 18:6)

There are two expressions in this verse that are difficult to understand, and require some explanation:

1. “Each one of you” (*ish ish* – meaning “each man,” or, literally, “man, man”) – is the word *ish* meant to include women as well?

There are several places in the Torah where ***ish*** does include women (for example, in the plague of darkness in Egypt: “They could not see each other” (*Shemot* 10:23); literally, “a man – his brother”), but there are other places where *ish* means “man” specifically (as in the unit on *tzara’at*, where the woman is specified separately: “And if a man **or woman** has bright spots in the skin of their flesh” – *Vayikra* 13:38).[[7]](#footnote-7) On the basis of various verses, *Chazal*, too, sometimes regard men and women as equivalent with regard to a certain law, and sometimes draw a distinction between them.

The expression ***ish ish*** is usually interpreted as applying to women as well (as in the unit on covering the blood of an animal that has been slaughtered: “and each one of you (*ish ish*) of Bnei Yisrael…” – *Vayikra* 17:13), but sometimes it applies only to men (as in the law of Pesach Sheni: “Each one of you (*ish ish*), if he is *tamei* by reason of a dead body…” – *Bamidbar* 9:10). Since we find that the expression does sometimes include women, we must consider the possibility that the verse introducing the *arayot* intends to apply this unit to both men and women.

1. “Near of kin” (*she’er besaro*) – who is considered “*near* of kin”?

In *Parashat* *Emor* [21:2], the term *she’er* includes all first-degree relatives. In our *parasha*, the word is used to indicate the relationship between brothers (*she’er avikha* – 18:12) and between a woman and her daughter (*sha’ara hena* – 18:17).

In addition, we need to understand who is considered a person’s “kin” (literally, “flesh” – *besaro*). Most simply, the term would seem to apply to the person himself, but sometimes relatives are also referred to as *basar* (“and not to hide yourself from your own flesh” – *Yeshayahu* 58:7). When the Torah forbids a man from engaging in relations with his father’s sister, the reason given is that she is *she’er avikha* (your father’s near kin). It seems we might conclude on this basis that a person’s father is also considered his *basar*, and therefore whoever is *she’er* (kin) of one’s father is forbidden to him (the son) as well.[[8]](#footnote-8)

Below, we shall proceed from two assumptions: firstly, that just as a man is forbidden to engage in relations with his mother, so a mother is forbidden to engage in relations with her son. And secondly, that all the prohibitions of *arayot* apply to women in the same way that they apply to men.[[9]](#footnote-9)

**What are the prohibited *arayot*?**

Let us simplify the parasha of *arayot* by presenting the prohibitions that appear in the parasha in the form of a table. The four columns show:

1. The relationship defined in the Torah as forbidden to a man (i.e., how the forbidden woman is related to him);

2. The converse relationship (i.e., how the man is related to the woman who is forbidden to him);

3. The same relationship viewed in relation to a woman (i.e., how the forbidden man is related to her), and

4. The converse relationship to column 3 (i.e., how the woman is related to the man who is forbidden to her).

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Forbidden relationship** | **Converse** | **Forbidden relationship as applied to the woman** | **Converse** |
| 1 | Mother | Son | Father | Daughter |
| 2 | Father’s wife | Stepson | Mother’s husband | Stepdaughter |
| 3 | Sister | Brother | Brother | Sister |
| 4 | Granddaughter | Grandfather | Grandson | Grandmother |
| 5 | Daughter of father’s wife | Son of mother’s husband | Son of father’s wife | Daughter of mother’s husband |
| 6 | Father’s sister | Brother’s son | Father’s brother | Brother’s daughter |
| 7 | Mother’s sister | Sister’s son | Mother’s brother | Sister’s daughter |
| 8 | Wife of Father’s brother | Son of Husband’s brother | Father’s brother[[10]](#footnote-10) | Brother’s daughter |
| 9 | Son’s wife | Husband’s father  | Daughter’s husband | Wife’s mother |
| 10 | Brother’s wife | Husband’s brother | Sister’s husband | Wife’s sister |
| 11 | Wife’s daughter | Mother’s husband | Husband’s son | Father’s wife |
| 12 | Wife’s granddaughter | Grandmother’s husband | Husband’s grandson | Grandfather’s wife |
| 13 | Wife’s sister | Sister’s husband | Husband’s brother | Brother’s wife |

A cursory glance at the table already clarifies a number of questions. Firstly, it is clear that there is no need to specify the prohibition of relations with one’s daughter, mother-in-law, or brother’s son, since these are entailed by other prohibitions which appear explicitly. Also, we see that the prohibitions that appear are essential; they could not be deduced from each other. The only prohibition that appears explicitly even though it could be deduced is that of a brother’s wife (lines 10 and 13), but here too it is essential: the brother’s wife is prohibited even after the brother’s death, while the wife’s sister is prohibited only during the wife’s lifetime.[[11]](#footnote-11) We may therefore sum up by saying that the list presented in the Torah is carefully chosen so as to include all possible variations of *arayot*.

**Two types of *arayot***

The prohibitions of *arayot* may be divided into two types: some prohibitions arise from a close family relationship, and others arise from formally belonging to the same family.[[12]](#footnote-12) We can see this distinction clearly in the reasons the Torah gives for each prohibition: in some cases, the reason given is that the woman is in the category of *erva* (nakedness) with regard to the man, while in other cases, the reason is that she is *she’er* to him. It seems that the word *she’er* indicates a prohibition arising from close family relations, while *erva* indicates a prohibition arising from family ties formed by marriage.

The family framework is established by the husband, rather than by the wife. This is apparent in various areas of *halakha*: for instance, a woman who marries a *kohen* is permitted to eat from the *Teruma*, and a *kohen* is obligated to enter the state of ritual impurity entailed by attending to burial arrangements for his sister *only* if she was not yet married. The prohibitions of relations with one’s father’s sister, or one’s mother’s sister, relate to the family setting, and the Torah gives as their reason the fact that these women are the *she’er* of the father, or mother, respectively.[[13]](#footnote-13) As explained above, a person’s father, mother, and sister are considered his *basar* (flesh), and therefore the Torah does not refer to them as *she’er*. The distinction between the prohibitions based on familial closeness and prohibitions of formal family relations (i.e., those entailed by marriage) comes into sharper focus in the prohibition regarding the wife of one’s father’s brother: she is certainly not *she’er*, and therefore she is prohibited solely because she belongs (formally) to the same family. On the other hand, the wife of the mother’s brother is permitted – since she is not considered part of the same family.[[14]](#footnote-14)

**The order of the list of prohibitions**

The prohibitions of *arayot* seem to be arranged in order of family closeness: first, the relatives prohibited because of family closeness, followed by the women who are prohibited to a particular man because of his marriage. There is also a clear difference in the formulations of these two groups: the Torah does not refer to relations with the daughter or sister of one’s wife as *arayot*; it simply forbids marrying “a woman and her daughter” or “a woman together with her sister”:

You shall not uncover the nakedness (*erva*) of a woman and her daughter; you shall not marry her son’s daughter, nor her daughter’s daughter, to uncover her nakedness; they are *she’er*; it is lewdness. And you shall not marry a woman along with her sister, to be a rival to her, to uncover her nakedness, in addition to the other, in her lifetime. (*Vayikra* 18:17-18)

We may conclude from this that Torah’s attitude towards these *arayot* is different from the attitude towards other prohibitions of *arayot*. In a certain sense, the connection between a husband and wife is less than the connection between a man and his mother, sister, or daughter.[[15]](#footnote-15) Hence, the problem here lies not in marrying the woman’s daughter (as would be the case in marrying one’s own sister), but in marrying “a woman and her daughter,” or “a woman and her sister,” together.

The first group (lines 1-10) likewise follows the order of closeness: the first five lines contain first-degree relatives; the three lines that follow mention second-degree relatives.

Of course, this order gives rise to an obvious question: Why do the son’s wife and the brother’s wife appear at the end of the first group (lines 9-10), rather than in lines 1-5, where they seem to belong? It seems that these two relationships are not absolute *erva* – for there are instances where they are permitted. This is easily demonstrated in the case of a brother’s wife: a man is permitted to marry his (deceased) brother’s wife in a situation of *yibbum* (levirate marriage). It stands to reason that in principle, there should have been a *yibbum*-like arrangement regarding a son’s wife as well (like Yehuda, who entered into *yibbum* with Tamar, his daughter-in-law), except that the Torah prohibits it. For this reason, these two relationships appear as appendices to the unit on *arayot*, rather than each being located in what would seem to be its proper place.

(Translated by Kaeren Fish; edited by Sarah Rudolph)

1. Obviously, this is a very broad subject – a full discussion would require a complementary study of *Parashat* *Kedoshim* – and we will not be able to cover even a small part of it within a single *shiur*. [↑](#footnote-ref-1)
2. We might have deduced this prohibition via “*kal va-chomer*” from the prohibition of a granddaughter, but this would be a difficult position to argue since the Torah includes an explicit prohibition against marrying a woman and her daughter even though we might have deduced it via “*kal va-chomer*” from the prohibition against marrying a woman and her granddaughter (his daughter’s daughter). Alternatively, we might argue that the prohibition of the daughter can be deduced from the prohibition against marrying a woman (his wife) and her daughter, but again, this is difficult to argue; furthermore, halakhically speaking, the two prohibitions do not seem to be identical (since there is a difference in the halakhic severity of the act of having relations with the daughter while her mother is still alive and having relations with her after the wife’s death). [↑](#footnote-ref-2)
3. The prohibition against relations with one’s mother-in-law does appear explicitly in *Sefer Devarim* (27:23). [↑](#footnote-ref-3)
4. Unlike the relationship between brothers. There is no difference between the terms for an older “brother” and a younger “brother”; if A is B’s “brother,” then B is A’s “brother”. [↑](#footnote-ref-4)
5. If a man engages in relations with his mother, both are subject to the death penalty, but we cannot conclude on this basis alone that the prohibition applies to them equally. (After all, if a man lies with a female animal, both he and the animal are put to death.) In general, this question has no halakhic relevance (except, perhaps, in the case of a minor who has relations with his mother), but as we shall see below, it is significant. [↑](#footnote-ref-5)
6. We will discuss below the reason for distinguishing between the man and the woman with regard to *arayot*. It turns out that some of the prohibitions arise from the definition of family – which is determined in relation to the man, and not the relationship between the man and the woman who is forbidden to him. [↑](#footnote-ref-6)
7. There are places where the distinction between men and women goes as far as a difference in the *halakha* depending on whether it is a man or a woman involved (for example, the prohibition of bestiality). [↑](#footnote-ref-7)
8. In other words, the expression *she’er basar* may convey one single idea, rather than “*she’er*” and “*basar*” having two distinct meanings (in the same way that *beit sefer* means “school”, rather than “house” and “book” together). [↑](#footnote-ref-8)
9. We might cite the text itself as support for both assumptions. In *Parashat Kedoshim*, the Torah formulates the prohibition concerning a sister using unusual language: “And if a man marries his sister, [whether] his father’s daughter or his mother’s daughter, *and sees her nakedness*, *and she sees his nakedness*...” (*Vayikra* 20:17). Similarly, in our *parasha*, the prohibition concerning a mother is also unusual: “*The nakedness of your father and the nakedness of your mother* you shall not uncover…” (*Vayikra* 18:7). Perhaps the Torah is hinting that the brother and sister are equal with regard to the prohibition and also that just as the mother is forbidden to her son, so the father is forbidden to his daughter. [↑](#footnote-ref-9)
10. Or perhaps: father’s sister’s husband. [↑](#footnote-ref-10)
11. The prohibition of the father’s wife appears explicitly (line 5) even though it could be deduced from the prohibition of having relations with both a woman and her daughter (line 11). However, as noted above (n. 2), the prohibition of relations with a woman and her daughter bears a halakhic distinction from all the other prohibitions of *arayot*. In addition, it is possible that the prohibition regarding a woman and her daughter applies only to marriage, and not to relations outside of marriage. [↑](#footnote-ref-11)
12. A) This distinction finds support in another context, namely, the laws of redeeming someone from a situation of indenture: “Or his uncle, or his uncle’s son, may redeem him, or anyone who is a close relative (*mi-she’er besaro*), of his family, may redeem him…” (*Vayikra* 25:49).

B) Ibn Ezra cites the opinion of the Sadducees that there can be a prohibition for family reasons even where there is no closeness: the prohibition of relations with the daughter of a stepmother. This interpretation seems plausible as a *peshat* reading of the verse, but it was not accepted, for various reasons. [↑](#footnote-ref-12)
13. The principles of the prohibition are different in *Parashat Kedoshim*, and there the reason given for the prohibition on one’s father’s sister is that she is *she’er* (*Vayikra* 20:19) in relation to oneself, rather than that she is *she’er* of the father. [↑](#footnote-ref-13)
14. In practice, *halakha* adds prohibitions against relations with certain relatives not listed in the Torah, but the scope of this *shiur* does not allow for discussion of each such instance. [↑](#footnote-ref-14)
15. For this reason, the wife of a *kohen* cannot eat *teruma* after her husband passes away – unless she has sons from him and they give her some of their portion. [↑](#footnote-ref-15)