

HALAKHA

A daughter lives with her mother – בת אצל אמה: If parents get divorced, a daughter stays with her mother permanently, even if her mother marries someone else. If her father has money, funds are taken from him in order to support her until she is grown. After he dies, she is supported from his estate in accordance with the conditions of the marriage contract. This is in accordance with the view of Rav Hisda. The Rema writes, based on Maharam Padua, that this is true only if the court sees that it is good for the daughter to be with her mother. If the court determines that it is not in her best interests to be with her mother, the mother cannot force the daughter to live with her, and she lives wherever the court deems it best for her (Rambam Sefer Nashim, Hilkhoh Ishut 21:18; Shulhan Arukh, Even HaEzer 82:7).

NOTES

And they slaughtered him on the eve of Passover – ושחטוהו ערב הפסח: In manuscript editions of the Talmud, in the early commentaries and in some new printings of the Talmud, the text states, as it does here, that he was slaughtered on the eve of Passover. The Ya'avetz explains that this emphasizes that they were so eager to be rid of the child that they were not concerned about killing him on the eve of Passover and thereby becoming ritually impure. Other editions of the Talmud read: The eve of Rosh HaShana. Some explain that according to this version of the text, the point is that the heirs were not concerned that they would soon be standing in judgment before God (Eshel Avraham). It would appear that the original phrase was the eve of Passover, and it was changed due to the fear of blood libels.

אלא, איהי דליתא בתנאי בית דין – מהני לה קנין, בנות דאיתנהו בתנאי בית דין – לא מהני להו קנין.

Rather, the distinction is as follows: She, the wife's daughter, is not included in the stipulation of the court requiring a husband to support his daughters. Consequently, for her the transaction is effective. However, with regard to the husband's own daughters, who are included in the stipulation of the court, for them the transaction is not effective.

מגרע גרעי?! אלא, בנותו היינו טעמא: כיון דאיתנהו בתנאי בית דין, אימר צרי אתפסינהו.

The Gemara wonders about this: Because they are included in the stipulation of the court they are worse off? On the contrary, since the stipulation of the court demands that they be supported, they should wield more power. Rather, this is the reason that his own daughters do not collect from liened property: Since they are included in the stipulation of the court, and it is therefore the norm for fathers to take care to provide their support, say that their father gave them bundles of money while he was still alive. Due to this concern, they cannot repossess liened property. However, in the case of the wife's daughter, who is not included in the stipulation of the court, there is no concern that the husband gave her anything prior to his death.

”לא יאמר הראשון”. אמר רב חסדא: זאת אומרת בת אצל אמה.

§ We learned in the mishna that the first husband may not say that he will provide his wife's daughter with support only when she is with him. Rather, he must bring the sustenance to her in the place where her mother lives. Rav Hisda said: That is to say that in a case of divorce, a daughter lives with her mother.^H

ממאי דבגדולה עסקינן? דלמא בקטנה עסקינן, ומשום מעשה שהיה.

The Gemara asks: From where do we know that we are dealing with a case of an adult woman and there is a general guideline that in cases of divorce, a girl lives with her mother? Perhaps we are dealing with a case of a minor girl, and she lives with her mother because of concern for her safety, due to an incident that occurred.

דתנא: מי שמת והניח בן קטן לאמו, יורשי האב אומרים: יהא גדל אצלנו, ואמו אומרת: יהא בני גדל אצלי – מניחין אותו אצל אמו, ואין מניחין אותו אצל ראו ליוורשו. מעשה היה ושחטוהו ערב הפסח!

As it is taught in a baraita: In the case of one who died and left a minor son to the care of his mother, and the heirs of the father say: The son should grow up with us, and his mother says: My son should grow up with me, the halakha is that one leaves the child with his mother, and one does not leave the child with one who is fit to inherit from him, i.e., the father's heirs. An incident occurred, and the boy lived with his father's heirs, and they slaughtered him on the eve of Passover.^N So too, a minor girl is not left in the care of those who are obligated to sustain her and who have a financial interest in her demise.

אם כן, ליתני למקום שהיא.

The Gemara answers: If that is so, let the mishna teach that the husband must bring the sustenance to the place where she, the daughter, is located.

Perek XII
Daf 103 Amud a

מאי למקום שאמה? שמעת מינה: בת אצל האם, לא שנא גדולה ולא שנא קטנה.

What is the purpose of emphasizing: To the place where her mother lives? Conclude from here that a daughter lives with her mother; it is no different if she is an adult woman, and it is no different if she is a minor girl.^N

NOTES

It is no different if she is an adult woman, and it is no different if she is a minor girl – לא שנא גדולה ולא שנא קטנה: Aside from the concern for the safety of the girl, another reason to leave a minor daughter with her mother is so that her mother can care for her. For this reason, minor boys also reside with their mothers in the event of a divorce or the death of the father.

Two reasons have been suggested for why an adult daughter stays with her mother in the case of her father's death. First, her mother is responsible for her education. Additionally, living with her father's family may very well lead to her transgressing the prohibition of seclusion with a man, whereas living with her mother will prevent such a circumstance (see Rivan).



Relief of a donkey and a millstone from the first century

“לֹא יֵאמְרוּ שְׁנֵיהֶם” וכו'.^S It was taught in the mishna that if two men are obligated to support this girl, **both of them may not** jointly say that they will be partners in her support. Rather, each one fulfills his obligation independently.

הָיוּ גְבֵרָא דְאִגְרָא לִיהָ רִיחֵיָא לְחִבְרִיָּה
לְטַחֲנִיָּה, לְסוּף אֵיעֵתָר, זְבִין רִיחֵיָא
וְחִמְרָא.

The Gemara relates that there was a **certain man who rented out a millstone to another for the price of grinding**, i.e., the one who rented the millstone was to pay the cost of the rental by grinding whatever the owner needed to be ground. **In the end**, the owner of the millstone **became rich**, and **he purchased another millstone and a donkey**,⁸ and he no longer required the services of the renter to grind things for him.

אָמַר לִיהָ: עַד הָאֵידְנָא – הָיָה טַחֲנִיָּנָא
גְבֵר, הִשְׁתָּא – הֵב לִי אֲגָרָא. אָמַר לִיהָ:
מִיטְחֹן טַחֲנִיָּנָא לָךְ.

The owner of the millstone **said to the renter: Until now I would have what I needed ground by you**, and the service that you provided was in place of payment for the rental of the millstone. **Now**, since I no longer require this service, **give me payment for the millstone**. The renter **said back to him: I will grind for you** because that is what I agreed to, but I did not agree to have to pay money.

סָבַר רַבִּינָא לְמִימַר: הֵינֵנוּ מִתְגַּיְתִין,
לֹא יֵאמְרוּ שְׁנֵיהֶם “הָרִי אֲנוּ זְמִן אוֹתָהּ
בְּאֶחָד” אֶלָּא אֶחָד זָנָה וְאֶחָד נֹתֵן לָהּ
דְּמֵי מְזוּנֹת.

Ravina thought to say that **this is the same as the mishna** that states that **both of them may not** jointly say: **We will sustain the girl as one** in a partnership. **Rather, one sustains her**, providing her with food, while **the other gives her the monetary value of the sustenance**. In that case, although the original condition was to provide the girl with support in the form of food, when circumstances changed, the previous husband became obligated to pay her support in the form of money. So too here, due to the change in circumstances, the renter should pay the owner of the millstone with money.

אָמַר לִיהָ רַב עֲוִירָא: מִי דְמִי? הֵתֵם – חַד
בְּרִיקָא אֵית לָהּ, תְּרִיתִי בְּרִיקָתָא לִית לָהּ.
הֵקָא – מְצִי אָמַר לִיהָ: טַחֲוֹן וְזְבִין, טַחֲוֹן
וְאוֹתִיב.

Rav Avira said to Ravina: **Are the two cases comparable? There**, in the case of the girl, **she has only one stomach; she does not have two stomachs**. Therefore, it is impossible for both of them to support her with food. **Here**, in the case of the millstone, the renter is able to say to him: **Grind and sell, grind and store** for later use, i.e., the owner of the millstone can use his new millstone to grind for others at a profit, and at the same time the renter will continue grinding the owner's grain as per their agreement. Therefore, the renter is not obligated to change the terms of the original agreement.

וְלֹא אֲמַרְן אֶלָּא דְלִית לִיהָ טַחֲנִיָּא
לְרִיחֵיָא. אֲבָל אֵית לִיהָ טַחֲנִיָּא לְרִיחֵיָא –
כְּגוֹן זֶה בּוֹפִין אוֹתוֹ עַל מַדַּת סְדוּם.

The Gemara notes: **We said this only** in a case **where** the renter **does not have** any other grinding to do **with the millstone** and without the grinding that the renter does for the owner the mill will remain inoperative. **However, if he has other grinding to do with the millstone**,⁹ i.e., instead of grinding the owner's grain he can grind the grain of others for a fee and thereby pay money for his rental, in a case **such as this one forces him** to cease his conduct characteristic of Sodom^N and to pay his rental fee in the form of money.

HALAKHA

However, if he has other grinding to do with the millstone, etc. – אֲבָל אֵית לִיהָ טַחֲנִיָּא לְרִיחֵיָא וכו'. If one rents out a millstone from another and agrees to grind a certain amount of grain for him as payment for the rental, and after a while the owner of the millstone becomes rich and acquires another millstone for himself, so that he no longer needs the renter to grind grain for him, the *halakha* is as follows: If the renter has grain that he can grind for himself or for others while he would have been

grinding for the owner of the millstone, the renter is required to pay for the rental by giving the owner the monetary value of the service he had agreed to render him. However, if the renter does not have any other grain to grind, he can say to the owner that he does not have money for the rental and will continue grinding grain for him as payment. This is in accordance with Rav Avira and the conclusion of the Gemara (Rambam *Sefer Mishpatim*, *Hilkhot Sekhirut* 7:8; *Shulhan Arukh*, *Hoshen Mishpat* 318:1).

NOTES

One forces him to cease his conduct characteristic of Sodom – כּוֹפִין אוֹתוֹ עַל מַדַּת סְדוּם: If one denies another use of his possessions, even though by doing so he would incur no loss or damage, his conduct is considered characteristic of Sodom. The courts may sometimes, for the sake of equity, compel a person

displaying behavior characteristic of Sodom to waive his legal rights. In the case under discussion, since collecting a fee from customers would allow the renter to benefit the owner and would not cause himself a loss, he is required to grind the grain of others and pay the owner his rental fee in the form of money.

They give her living quarters befitting her dignity – נותנין לה מְדוּר לְפִי כְבוֹדָהּ: The Rashba and the Ritva infer that the widow does not continue to have the whole house at her disposal. Instead, specific rooms are designated for her use. Rabbeinu Crescas Vidal disagrees, based on what is stated in the Gemara that she uses the house in the same way that she did while her husband was alive.

Because she is young – מִפְּנֵי שֶׁהִיא יְלָדָה: Most of the commentaries explain that she is not the mother of these children, and consequently there is a concern that they will engage in licentious behavior or that others will slander them, claiming that they have engaged in such behavior. *Talmidei Rabbeinu Yona* explain that the deceased did not leave behind any children, and the children discussed here that she is left with are his brothers or other heirs.

מתני' אֶלְמָנָה שֶׁאָמְרָה: אֵי אֶפְשִׁי לָוּז מִבֵּית בְּעָלִי – אֵין הַיֹּרְשִׁין יְכוּלִין לֹאמַר לָהּ: לְכִי לְבֵית אָבִיךָ וְאֵנוּ זְמִין אוֹתְךָ. אֶלָּא זְמִין אוֹתָהּ וְנוֹתְנִין לָהּ מְדוּר לְפִי כְבוֹדָהּ.

אָמְרָה: אֵי אֶפְשִׁי לָוּז מִבֵּית אָבָא – יְכוּלִין הַיֹּרְשִׁין לֹאמַר לָהּ: אִם אַתְּ אֹצְלָנוּ – יֵשׁ לִיךְ מְזוּנוֹת, וְאִם אֵין אַתְּ אֹצְלָנוּ – אֵין לִיךְ מְזוּנוֹת.

אִם הִיא טוֹעֵנֶת מִפְּנֵי שֶׁהִיא יְלָדָה וְהֵן יְלָדִים – זְמִין אוֹתָהּ וְהִיא בְּבֵית אָבִיהָ.

גמ' תְּנוּ רַבָּנִין: מִשְׁתַּמְשֵׁת בְּמְדוּר כְּדֶרֶךְ שְׁמִשְׁתַּמְשֵׁת בְּחַי בַּעֲלָהּ, בְּעַבְדִּים וּשְׁפָחוֹת כְּדֶרֶךְ שְׁמִשְׁתַּמְשֵׁת בְּחַי בַּעֲלָהּ, בְּכֵרִים וּכְסוּתוֹת כְּדֶרֶךְ שְׁמִשְׁתַּמְשֵׁת בְּחַי בַּעֲלָהּ, בְּכֵלֵי כֶסֶף וּבְכֵלֵי זָהָב כְּדֶרֶךְ שְׁמִשְׁתַּמְשֵׁת בְּחַי בַּעֲלָהּ, שְׂכָךְ פֶּתַח לָהּ: וְאֵת תְּהָא יִתְבַּת בְּבֵיתָ וּמִיתוּנָא מִנְכֵסֵי כָּל יְמֵי מַגְר אַרְמְלוּתֵיךָ בְּבֵיתֵי.

תֵּי רַב יוֹסֵף: בְּבֵיתִי – וְלֹא בְּבִקְתִי.

אָמַר רַב נַחֲמָן: יְתוּמִים שֶׁמָּכְרוּ מְדוּר אֶלְמָנָה – לֹא עָשׂוּ וְלֹא כָלוּם.

וּמַאי שְׁנָא מְדַרְבֵּי אֲסִי אָמַר רַבִּי יוֹחָנָן? דְּאָמַר רַבִּי אֲסִי אָמַר רַבִּי יוֹחָנָן: יְתוּמִים שֶׁקָּדְמוּ וּמָכְרוּ בְּנִבְכָסִים מוֹעֲטִין, מַה שֶׁמָּכְרוּ – מָכְרוּ.

MISHNA In the case of a widow who said: I do not want to move from my husband's house, but instead I wish to remain there, the heirs are not able to say to her: Go to your father's house and we will sustain you. Rather, they sustain her in her husband's house and they give her living quarters befitting her dignity.^N

However, if she said: I do not want to move from my father's house,^H and you should bring me my support there, the heirs are able to say to her: If you are living with us, you will have sustenance from us, but if you are not living with us, you will not have sustenance from us.

If she argued that she does not wish to live in her deceased husband's house because she is young,^N and they, the heirs, are also young, and it is improper for them to be living in the same house together, then they sustain her and she stays in her father's house.

GEMARA The Sages taught: A widow that remains in her husband's house uses the living quarters^H in the same manner that she would use them in her husband's lifetime. She uses the slaves and the maidservants in the same manner that she would use them in her husband's lifetime, the pillows and the sheets in the same manner that she would use them in her husband's lifetime, and the silver utensils and gold utensils in the same manner that she would use them in her husband's lifetime. She maintains all the rights she had during her husband's lifetime because this is what he wrote to her in the text of the marriage contract: And you will reside in my house and be sustained from my property all the days that you live in my house as a widow.

Rav Yosef taught: The husband stipulated in the marriage contract: You will reside in my house, with the implication: And not in my hut.^H Therefore, if the house is too small, she cannot obligate the heirs to allow her to live in the house with them.

Rav Nahman said: Orphans who sold the living quarters of a widow^H did not do anything, i.e., the sale is invalid.

The Gemara asks: And in what way is this case different from that which Rabbi Asi said that Rabbi Yoḥanan said? As Rabbi Asi said that Rabbi Yoḥanan said: With regard to orphans who preemptively sold^H from the small quantity of property left to them by their father before the court appropriated it for the purpose of providing for female children, who do not inherit, what they sold is sold, even though they acted improperly. Why, then, is the sale of a widow's living quarters invalid?

HALAKHA

I do not want to move from my father's house – אי אפשי לזוז מביית אבא If a widow says that she does not wish to remain in her husband's house but would rather go and stay in her father's house, her husband's heirs can say to her that if she does not remain in their house, they will provide her only with the monetary value of the support she would have needed in their house, even if she requires more in her current location. However, if she argues that she is unable to stay with them because she is young and so are they, the heirs must provide her with her full level of support in her father's house. This ruling is in accordance with the mishna and the conclusion of the Gemara. The Rema writes that there are some who rule that this argument is legitimate only in a case where the woman is not their mother (Rambam *Sefer Nashim, Hilkhot Ishut* 18:4; *Shulḥan Arukh, Even HaEzer* 94:6).

Uses the living quarters, etc. – משתמשת במדור וכו' A widow is supported from her husband's property. She is provided with

clothing, utensils, and a place to live, or she may continue living in the same house she occupied during her husband's lifetime. The Rema writes that if she is in the same house as his heirs then she does not make use of the entire house but is provided with a place to use as her exclusive residence within the home (Rashba; Ran). Some say that they may provide her with appropriate living arrangements in another home (Mordekhai). She is not allowed to rent out her living quarters to others (Rashba). She may make use of the servants and the utensils of her husband's home in the same manner as she did during his lifetime when he was away overseas (Jerusalem Talmud). This ruling is in accordance with the *baraita* here (Rambam *Sefer Nashim, Hilkhot Ishut* 18:2; *Shulḥan Arukh, Even HaEzer* 94:1).

In my house and not in my hut – בביתי ולא בבקתי If the house collapsed, or if the husband did not have his own home but rented his house from others, the heirs provide the widow with living quarters befitting her dignity. If the house that the

husband had was too small, she cannot force the heirs to allow her to live there. Instead they provide her with another place to live (*Be'er HaGola*; Rambam *Sefer Nashim, Hilkhot Ishut* 18:3; *Shulḥan Arukh, Even HaEzer* 94:5).

Orphans who sold a widow's living quarters – יתומים שמכרו מדור אלמנה Orphans who sold the home of a widow have not accomplished anything, and the sale is void. This is in accordance with the view of Rav Nahman (Rambam *Sefer Nashim, Hilkhot Ishut* 18:2; *Shulḥan Arukh, Even HaEzer* 94:4).

Orphans who preemptively sold – יתומים שקדמו ומכרו If a man left behind a small quantity of property that is sufficient only to provide for the support of his daughters, and the sons went ahead and sold it, the sale is upheld. This is in accordance with the view of Rabbi Yoḥanan (Rambam *Sefer Nashim, Hilkhot Ishut* 19:19; *Shulḥan Arukh, Even HaEzer* 112:14).

מדור אלמנה – שָׁנַפְלִי
A widow's living quarters that collapsed – **שָׁנַפְלִי**: Under discussion here is a case in which the widow was provided with separate living quarters of her own. According to most authorities, if the house in which she was living collapses, although her rights to that home are annulled, the heirs are responsible to find her another place to live. Others disagree and argue that since only this residence was designated for her, if it collapses, she loses all rights to any kind of living arrangements (see Meiri).

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מדור אלמנה – שָׁנַפְלִי
A widow's living quarters that collapsed – **שָׁנַפְלִי**: If a widow's living quarters collapsed, the heirs are not obligated to rebuild them for her. Even if she says that she is willing to rebuild them at her own expense, they are not obliged to allow her to do so. Also, she is not to reinforce the structure or to plaster it but must live there as is or move out, in accordance with the *baraita*. However, if she does make these renovations, she is not removed from the home (Rambam *Sefer Nashim, Hilkhot Ishut* 18:2; *Shulhan Arukh, Even HaEzer* 94:2; *Beit Shmuel*).

אם היה פקח שוכר את מקומו – שיפצה מאי תיקו.
If he was perspicacious, he would rent the place where the produce was located – **אם היה פקח שוכר את מקומו** – Merchandise is acquired when it is lifted or pulled by the purchaser. Consequently, if the seller measured out a quantity of merchandise for the buyer, no sale has been transacted until the buyer pulls the merchandise. However, if the buyer rented the place in which the movable property is located using any one of the standard means of renting, then the buyer acquires the movable property located in that area provided that either he is standing there or the area is secured (Rambam *Sefer Kinyan, Hilkhot Mekhira* 3:6–7; *Shulhan Arukh, Hoshen Mishpat* 198:5).

התם לא משתעבדי לה מחיים, הכא – משתעבדי לה מחיים!

The Gemara answers: **There**, in the case of orphans selling property that according to *halakha* should be retained in order to support the orphaned daughters, the property is **not mortgaged** to the orphaned daughters from the **lifetime** of their father, since the lien on the property arising from the obligation to provide support for the daughters occurs only after the father's death. **Here**, in the case of the widow's living quarters, the property is **mortgaged to her from the lifetime** of her husband, who was obligated even while he was alive to provide her with a place to live.

אמר אביי: נקיטינן, מדור אלמנה שִׁנְפַל – אין הירשין חייבין לבנותו.

Abaye said: We hold on the authority of tradition that in the case of a **widow's living quarters that collapsed**,ⁿ the heirs are **not obligated to rebuild it**, since they are obligated to maintain her in the residence that was mortgaged to her and are not required to provide her with a place to live.

תניא נמי הכי: מדור אלמנה שִׁנְפַל – אין הירשין חייבין לבנותו. ולא עוד אלא, אפילו היא אומרת: "הניחוני ואבגנו משלי" – אין שומעין לה.

This is also taught in a *baraita*: In the case of a **widow's living quarters that collapsed**,^m the heirs are **not obligated to rebuild it**. And not only this, but even if she says: **Leave me be and I will rebuild it from my own funds, one does not listen to her**, and the heirs do not have to let her rebuild it.

בעי אביי: שיפצה מאי תיקו.

Abaye raised a dilemma: If she repaired the house, what is the *halakha*? Is it as though the house collapsed and was rebuilt, in which case she no longer has rights to it, or may she stay in the house as long as it remains standing? The Gemara concludes: The dilemma shall stand unresolved.

"אמרה: אי אפשי".

We learned in the mishna: If she said: I do not want to move from my father's house and you should bring me my support there, the heirs are not obligated to support her.

וליתבו לה כי יתבה התם! מסייע ליה לרב הונא, דאמר רב הונא: ברבית הבית ברובה.

The Gemara asks: **And why is this so? They should give her support just as they would if she were living there**, i.e., in her husband's house. The Gemara answers: This supports the view of Rav Huna, as **Rav Huna said: The blessing of the house is in its abundance** of residents. This means that the amount of blessing in a home is proportionate to the number of people who live there. When there are many people living together in one home, the expenses per capita are decreased. The heirs can say to her that if she stays with them in the house, the expense of her upkeep will be less than if she lives on her own.

וליתבו לה לפי ברבית הבית! הכי נמי.

The Gemara asks: **And they should give her the support in her father's house according to the blessing of the house**, i.e., according to the amount they would be required to pay if she lived with them. The Gemara answers: **Indeed**, the intent of the mishna is that they may pay her this amount, not that they may entirely avoid supporting her.

אמר רב הונא: לשון חכמים ברכה, לשון חכמים עושר, לשון חכמים מרפא. ברכה – הא דאמרן.

Rav Huna said: The language of the Sages teaches blessing, the language of the Sages teaches wealth, and the language of the Sages teaches healing. One can learn important lessons about these matters from the manner in which the Sages formulated their halakhic rulings. How is this so? With regard to **blessing**, it is **that which we said** above about the blessings of the home.

עושר – דתנן: המוכר פירות לחבירו, משך ולא מדד – קנה, מדד ולא משך – לא קנה, ואם היה פקח – שוכר את מקומו.

The language of the Sages teaches about **wealth**, as we learned in a mishna (*Bava Batra* 84b): **One who sells produce to another**, if the buyer **pulled** the produce as an act of acquisition **but did not measure it, he has acquired the produce**. If he **measured the produce but did not pull it, he has not acquired it**. And if the buyer was **perspicacious** and wanted to ensure that the seller would not back out of the deal, he would **rent the place** where the produce was located,ⁿ and he would thereby acquire the produce immediately from the time he measures it. This mishna teaches good counsel in money-related matters.

HALAKHA

לא ילעוס אדם – A person should not chew wheat, etc. – חטין ויניח על גבי מפתו בפסח, מפני שמחמיצות.

Your father; this teaches that you must honor your father's wife, etc. – את אביך, זו אשת אביך וכו' – One is obligated to honor his father's wife even if she is not his mother, as long as his father is still alive. Similarly, one is obligated to honor his mother's husband as long as his mother is still alive. However, it is proper to continue to honor stepparents even after the death of one's own parent. This ruling is in accordance with the baraita and the instructions of Rabbi Yehuda HaNasi to his children (Rambam Sefer Shofetim, Hilkhot Mamrim 6:15; Shulhan Arukh, Yoreh De'a 240:21).

To include your older brother – לרבות את אחיך הגדול – One is obligated to honor his older brother, whether paternal or maternal. The Rema writes, based on the Rosh and Sefer Mitzvot Gadol, that this is true even if the younger brother is greater in Torah than the older brother (Rambam Sefer Shofetim, Hilkhot Mamrim 6:15; Shulhan Arukh, Yoreh De'a 240:22).

NOTES

To add your older brother – לרבות את אחיך הגדול – The Rambam's formulation of these halakhot indicates that it is an obligation by Torah law to honor a father's wife and a mother's husband, while honoring an older brother is an obligation by rabbinic law. The Meiri disagrees and is of the opinion that the obligation to honor all three is by rabbinic law. Some commentaries write that honoring an older brother is a mitzva that is independent of the obligation to honor one's parents and therefore applies even after one's parents have passed away (Shita Mekubbetz). The later authorities discuss whether one is obligated to honor only the oldest of all the brothers or any older brother, and whether this obligation includes honoring an older sister.

Every Shabbat eve, Rabbi Yehuda HaNasi would come, etc. – כל בני שמשו יהוה אתי וכו' – This story, as well as similar ones related about other righteous individuals, is quite enigmatic. The Maharsha writes that since Rabbi Yehuda HaNasi was known as Rabbeinu HaKadosh, our holy rabbi, it was fitting for him to appear at a holy time. The Zohar explains at length in several places (e.g., Bereshit 7a and Vayeira 115b) that the righteous have a spiritual likeness similar to their physical form and at times appear to others in these spiritual forms. This entire passage is explained metaphorically in Pardes Rimonim: The command that Rabbi Yehuda HaNasi's lamp was to remain lit alludes to his Torah teachings, which would continue to burn brightly; that his table should be set is referring to his students, who would continue to study his Torah teachings and be supported from his estate (see there for the interpretation of the rest of the passage).

מִרְפָּא – דַּתְנָן: לֹא יִלְעוּס אָדָם חֲטִין וַיְנַיֵחַ עַל גְּבֵי מִפְתּוֹ בַּפֶּסַח, מִפְּנֵי שְׂמֵחֵי מִיִּצּוֹת.

תָּנוּ רַבָּנָן: בְּשָׁעַת פְּטִירְתּוֹ שֶׁל רַבִּי, אָמַר: לְבָנֵי אֲנִי צְרִיךְ. וּבְנָסוּ בְנָיו אֶצְלוֹ, אָמַר לָהֶם: הִזְהָרוּ בְּכַבּוֹד אִמְכֶם, נַר יְהִי דְלוּק בְּמִקְוֹמוֹ, שׁוּלְחָן יְהִי עֶרְוֶךְ בְּמִקְוֹמוֹ, מִטָּה תְּהִי מוֹצְעֵת בְּמִקְוָמָהּ. יוֹסֵף הֵפְנִי, שְׂמַעוֹן אֶפְרָתִי – הֵם שְׂמָשׁוּנֵי בְּחַיֵּי, וְהֵם יִשְׂמָשׁוּנֵי בְּמוֹתֵי.

”הִזְהָרוּ בְּכַבּוֹד אִמְכֶם.” דְּאוֹרֵייתָא הִיא, דְּכָתִיב ”כְּבֹד אֶת אִמְךָ וְאֶת אָבִיךָ וְאֶת אִשְׁתְּ אָבִיךָ.”

אִשְׁתְּ אָבִי נְמִי דְּאוֹרֵייתָא הִיא, דְּתַנְיָא: ”כְּבֹד אֶת אִבִּיךָ וְאֶת אִמְךָ,” ”אֶת אִבִּיךָ” – זוֹ אִשְׁתְּ אִבִּיךָ: ”וְאֶת אִמְךָ” – זוֹ בַעַל אִמְךָ! וְ”וְאֶת אִשְׁתְּ אָבִיךָ” – לְרִבּוּת אֶת אַחִיךָ הַגָּדוֹל,

הֵנִי מִיְלִי – מִחַיִּים, אֲבָל לְאַחַר מִיתָה – לֹא.

”נַר יְהִי דְלוּק בְּמִקְוֹמוֹ, שׁוּלְחָן יְהִי עֶרְוֶךְ בְּמִקְוֹמוֹ, מִטָּה תְּהִי מוֹצְעֵת בְּמִקְוָמָהּ.” מֵאֵי טַעְמָא? כָּל בְּנֵי שְׂמָשׁוּי הָיָה אֲתֵי לְבֵיתֵיהּ.

The language of the Sages teaches about healing, as we learned in a mishna (Pesahim 39b): A person should not chew wheat^H and then place it on his wound during Passover because the wheat will become leavened as a result. This comment of the Sages indicates that chewed wheat is beneficial for treating a wound.

S The Sages taught: At the time of the passing of Rabbi Yehuda HaNasi,^P he said: I need my sons. His sons entered his room. He said to them as a last will and testament: Be careful with the honor of your mother. He said further: My lamp should be lit in its usual place, my table should be set in its usual place, and the bed should be arranged in its usual place. Yosef Heifani and Shimon Efrati;^P they served me during my lifetime and they will serve me in my death.

The Gemara clarifies the various requests that he made of his sons: Be careful with the honor of your mother. The Gemara asks: Why would he need to say this? After all, this is required by Torah law, as it is written: “Honor your father and your mother” (Exodus 20:11)? The Gemara answers: She was their father's wife. She was not their mother, but their stepmother, and he therefore needed to caution them concerning her honor.

The Gemara asks: Honoring a father's wife is also required by Torah law, as it is taught in a baraita: Honor your father [et avikha] and your mother [ve'et immekha]. The preposition et in the phrase: Your father; this teaches that you must honor your father's wife.^H Similarly, the preposition et in the phrase: And your mother; this teaches that you must honor your mother's husband. And the extra letter vav, which is appended as a prefix in the phrase “ve'et immekha” is included in order to add your older brother^{HN} to those who must be honored.

The Gemara answers: This halakha, that one is obligated by Torah law to respect his father's wife, applies only during his father's lifetime. While the father is alive, out of respect for him, his wife must also be treated with respect. However, following his death, no, there is no longer any obligation to honor a stepmother. It was for this reason that Rabbi Yehuda HaNasi had to caution his sons in this matter.

Rabbi Yehuda HaNasi commanded his sons: My lamp should be lit in its usual place, my table should be set in its usual place, and the bed should be arranged in its usual place. The Gemara asks: What is the reason he made these requests? The Gemara explains: Every Shabbat eve, even after his passing, Rabbi Yehuda HaNasi would come^N to his house as he had done during his lifetime, and he therefore wished for everything to be set up as usual.

PERSONALITIES

Rabbi Yehuda HaNasi – רַבִּי: Rabbi Yehuda HaNasi closed the period of the tanna'im with his redaction of the Mishna. The son of Rabbi Shimon ben Gamliel II, Rabbi Yehuda HaNasi lived from 135–220 CE. When he was thirty years old he was appointed as Nasi, and his great scholarship led him to be referred to in the Talmud simply as Rabbi. Rabbi Yehuda HaNasi spoke Greek, which was the language spoken by the elite in Eretz Yisrael, and he was friendly with the Roman emperor Antoninus. His knowledge of Hebrew was legendary, to the extent that the Sages learned the meaning of difficult words from servants who were employed in his household.

According to the Gemara (Gittin 59a), from Moses until Rabbi Yehuda HaNasi, there was no one who matched Rabbi Yehuda

HaNasi's combination of prominence in both Torah scholarship and worldly affairs. Rabbi Yehuda HaNasi's lifework was the collection of oral traditions and opinions that he wove into the Mishna, which serves as the basis for the Talmud that is studied to this day.

His students were the Sages of the first generation of amora'im, including Rabbi Yoḥanan, Rabbi Hiyya, bar Kappara, and Rav.

יוֹסֵף הֵפְנִי וְשְׂמַעוֹן אֶפְרָתִי – Little is known about these attendants of Rabbi Yehuda HaNasi, who are nicknamed for their places of origin. Yosef Heifani, or Yosef of Haifa, is apparently Rabbi Yosef the Tall, mentioned in Shemot Rabba, of whom it was said that wherever he would arrive, Rabbi Yehuda HaNasi was sure to come shortly thereafter.

ההוא בי שמשא אתאי שבבתא, קא קריה אבבא. אמרה אמתיה: שתיקו, דרבי יתיב. פיון דשמע – שוב לא אתא, שלא להוציא לעז על צדיקים הראשונים.

The Gemara relates the following incident: It happened on a certain Shabbat eve that a neighbor came by and called and knocked at the door. His maidservant said to her: Be quiet, for Rabbi Yehuda HaNasi is sitting. When he heard his maidservant reveal his presence to the neighbor, he did not come again, so as not to cast aspersions on earlier righteous individuals who did not appear to their families following their death.

”יוסף חפני שמעון אפרתי הם שמשוני בחיי והם ישמשוני במותי.” סבור מינה – בהדין עלמא הוא דקאמר. פיון דחזו דקדיים ערסייהו לערסיה – אמרי: שמע מינה – לההוא עלמא הוא דקאמר.

The Gemara elaborates on Rabbi Yehuda HaNasi’s statement: Yosef Heifani and Shimon Efrati, they served me during my lifetime and they will serve me in my death. It was understood from this statement that Rabbi Yehuda HaNasi was speaking of this world, but they thought that he meant to say that these two should serve him in his death and administer his burial. However, when they saw that their biers preceded his bier, i.e., they died before him, they said: Conclude from here that he was speaking of that world. They will attend to him in the World-to-Come.

והאי דאמר הכי – דלא לימרו: מילתא הוואי להו, ועד האידינא נמי זכותו דרבי הוא דאהניא להו.

And the reason he said this was so that people should not say: There was something wrong with them, and until now, too, it was the merit of Rabbi Yehuda HaNasi that benefited them and prevented them from dying due to their sins. Now that Rabbi Yehuda HaNasi is dying, his merit no longer protects them. Rabbi Yehuda HaNasi therefore clarified that the reason for their deaths was in order to enable them to escort him in death as in life.

אמר להן: לחכמי ישראל אני צריך. נכנסו אצלו חכמי ישראל. אמר להן: אל תספדוני בעיירות.

§ Rabbi Yehuda HaNasi said further to his attendants: I need the Sages of Israel. The Sages of Israel entered his room. He said to them: Do not eulogize me in the small towns

Perek XII

Daf 103 Amud b

והושיבו ישיבה לאחר שלשים יום. שמעון בני חכם, גמליאל בני נשיא, חנינא בר חמא ישב בראש.

and reconvene the study sessions at the yeshiva after thirty days of mourning. My son Shimon is a Sage. My son Gamliel should be the Nasi. Hanina bar Hama^p will sit at the head of the yeshiva.

”אל תספדוני בעיירות.” סבור מינה משום טרחא הוא דקאמר, פיון דחזו דקספדי בכרבים וקאתו כולי עלמא. אמרו: שמע מינה משום יקרא הוא דקאמר.

The Gemara explains the requests of Rabbi Yehuda HaNasi: Do not eulogize me in the small towns. They understood from this statement that he said this due to the trouble that would be caused for many if he were eulogized in every town, since they would have to travel from the outlying villages to take part in the eulogies. However, when they saw that they were eulogizing him in the cities and everyone came despite the trouble, they said: Conclude from here that he said this due to considerations of honor. Had they eulogized him in the towns, the gatherings would have been small and unfitting for a man of his stature. He therefore requested that they arrange things in a way that large crowds would gather.

PERSONALITIES

Hanina bar Hama – חנינא בר חמא: Rabbi Hanina bar Hama lived during the transitional generation between the *tanna'im* and the *amora'im*. He was considered to be among the sharpest minds of his generation and was also known for his righteousness and piety. Born in Babylonia, he came to Eretz Yisrael at a very young age and studied under Rabbi Yehuda HaNasi. Rabbi Yehuda HaNasi was very fond of Rabbi Hanina and said of him: This is not a man, but an angel. Rabbi Hanina also received Torah traditions from the great students of Rabbi Yehuda HaNasi, specifically from Rabbi Hiyya, although he was also considered a colleague of Rabbi Hiyya’s, as demonstrated by their dispute here in the Gemara.

Rabbi Hanina lived in the town of Tzippori and made his living selling honey. His business thrived, and he used his wealth to build a large study hall.

Statements of Rabbi Hanina in the areas of *halakha* and *aggada* are found throughout both the Babylonian and the Jerusalem Talmuds. Due to the fact that he lived a long life with continued health through his advanced age, he taught multiple generations of disciples. Rabbi Yehoshua ben Levi was a disciple-colleague of Rabbi Hanina, and Rabbi Yoḥanan was another of Rabbi Hanina’s prominent disciples.

It is possible that the *amora* Rabbi Hama, son of Rabbi Hanina, was his son.

Weeping and eulogizing – בכִּיָּה וּמִקְדָּו – One does not cry over a death for more than three days, and one does not eulogize the deceased for more than seven days. This applies with regard to the passing of an ordinary person. However, a Torah scholar is mourned for longer, as befits his honor. Nevertheless, even with regard to Torah scholars, one does not cry for more than thirty days and one does not eulogize them for more than twelve months, as there were no scholars greater than Moses and Rabbi Yehuda HaNasi, and even they were not mourned for longer than that (Rambam *Sefer Shofetim, Hilkhot Evel*, 13:10, *Shulhan Arukh, Yoreh De'a* 394:1–2).

Filled the place of his fathers – מְמַלֵּא מְקוֹם אֲבוֹתָיו – All positions of authority among the Jewish people are bequeathed from father to son indefinitely, provided that the son is equal to his father in wisdom and in fear of sin. If a son is equal to his father in fear of sin but not in wisdom, he is appointed to take his father's place anyway, and he then receives instruction in order to increase his wisdom (Rambam *Sefer Avoda, Hilkhot Kelei HaMikdash* 4:20 and *Sefer Shofetim, Hilkhot Melakhim* 1:7; *Shulhan Arukh, Yoreh De'a* 245:22, and in the comment of Rema).

NOTES

Ascended to the roof – סָלַק לְאֵיגָרָא – This is a puzzling incident, since it is taught that a person who commits suicide does not merit a share in the World-to-Come, and here a Divine Voice proclaimed that this launderer was destined for the World-to-Come. The Ya'avetz resolves this difficulty by explaining that the launderer did not willfully commit suicide; rather, due to his great grief he lost his mind and killed himself. Others explain that committing suicide is forbidden only when it is for personal reasons, but when one commits suicide in order to sanctify the name of God, it is permitted (*Eshel Avraham*). This understanding is also apparent from remarks made by the Sages in connection with Saul's suicide. During the Crusades there were many great Jewish leaders who committed suicide in order to sanctify the name of God.

It is necessary for you and for your limp – צְרִיכָא לְךָ – At first glance, it seems that Rabbi Shimon was mocking Levi, who was lame. See *Hatam Sofer* and *Sefer Hafla'a*, where it is explained how this statement was an allusion to the fact that Rabban Gamliel was appointed *Nasi* because of his fear of sin and not merely because he was the older son.

“הוֹשִׁיבוּ וְשִׁיבָה לְאַחַר שְׁלֹשִׁים יוֹם” – דְּלֹא עָדִיפָנָא מִמּוֹשֶׁה רַבֵּינוּ, דְּכַתִּיב “וַיִּבְכּוּ בְּנֵי יִשְׂרָאֵל אֶת מֹשֶׁה בְּעֶרְבוֹת מוֹאָב שְׁלֹשִׁים יוֹם”, תְּלַתִּין יוֹמִין סְפָרִין בַּיּוֹמָא, וְלֵילָא. מִכָּאֵן וְאֵילָךְ – סְפָדוּ בַּיּוֹמָא, וְגָרְסוּ בַּלַּיְלָא אוֹ סְפָדוּ בַּלַּיְלָא וְגָרְסוּ בַּיּוֹמָא, עַד דְּסָפְדֵי תְרִיסֵי יָרְחֵי שְׁתָּא.

הֵהוּא יוֹמָא דְאִשְׁכַּבְתִּיהָ דְרַבִּי נִפְקָא בַּת קָלָא וְאָמְרָהּ: כָּל דְּהוּהוּ בְּאִשְׁכַּבְתִּיהָ דְרַבִּי – מְזוּמָן הוּא לְחַיֵּי הָעוֹלָם הַבָּא. הֵהוּא כּוּבֵס, כָּל יוֹמָא הוּהוּ אֶתִּי קִמְיָה, הֵהוּא יוֹמָא לֹא אֶתָּא. בֵּינָן דְּשָׁמַע הָכִי – סָלַק לְאֵיגָרָא וְנָפַל לְאַרְעָא יָמִית, יָצְתָה בַּת קוֹל וְאָמְרָהּ: אֵף הֵהוּא כּוּבֵס מְזוּמָן הוּא לְחַיֵּי הָעוֹלָם הַבָּא.

“שָׁמַעוֹן בְּנֵי חָכָם.” מַאי קָאָמְרִי הָכִי קָאָמְרִי: אֵף עַל פִּי שְׁשָׁמַעוֹן בְּנֵי חָכָם – גְּמַלְיָאֵל בְּנֵי נָשִׂיא.

אָמְרֵי לְוִי: צְרִיכָא לְמִימְרֵי אָמְרֵי רַבִּי שְׁמַעוֹן בְּרַבִּי: צְרִיכָא לְךָ וְלִמְטַלְעָתְךָ. מַאי קָשְׁיָא לִיהוּ? הֵא קָרָא קָאָמְרִי “וְאֵת הַמְּמַלְכָה נָתַן לַיהוֹרָם כִּי הוּא הַבְּכוֹר!”

הֵהוּא מְמַלֵּא מְקוֹם אֲבוֹתָיו הוּהוּ, וְרַבִּי גְמַלְיָאֵל אֵינוֹ מְמַלֵּא מְקוֹם אֲבוֹתָיו הוּהוּ.

וְרַבִּי מַאי טַעְמָא עֲבַד הָכִי? נְהִי דְאֵינוֹ מְמַלֵּא מְקוֹם אֲבוֹתָיו בְּחֻכְמָה, בִּירְאָתָא חֻטָּא – מְמַלֵּא מְקוֹם אֲבוֹתָיו הוּהוּ.

Rabbi Yehuda HaNasi further instructed: **Reconvener** the study sessions at the yeshiva after thirty days of mourning. This is because I am not better than Moses, our teacher, as it is written: “And the children of Israel wept for Moses in the plains of Moab thirty days” (Deuteronomy 34:8), which means that for thirty days they eulogized him by day and night. From this point forward they eulogized him by day and they studied by night, or they eulogized him by night and studied by day, until they eulogized him for twelve months of the year.^h

The Gemara relates that **on the day of the funeral of Rabbi Yehuda HaNasi, a Divine Voice emerged and said: Whoever was present at the funeral of Rabbi Yehuda HaNasi is destined for life in the World-to-Come.** There was a certain launderer who would come before Rabbi Yehuda HaNasi every day. On that particular day, he did not come and was therefore not present at the funeral. **When he heard this, that Rabbi Yehuda HaNasi had died, he was so full of grief that he ascended to the roofⁿ and fell to the ground and died. A Divine Voice emerged and said: That launderer too is destined for life in the World-to-Come.**

S Rabbi Yehuda HaNasi said: **My son Shimon is a Sage; my son Gamliel should be the *Nasi*.** What was he saying, i.e., what did he mean by these remarks? The Gemara explains: **This is what he was saying: Although my son Shimon is a greater Sage, my son Gamliel should be the *Nasi*.**

Levi^p said: **Need this be said?** After all, Gamliel was the firstborn. **Rabbi Shimon, son of Rabbi Yehuda HaNasi, said: It is necessary for you and for your limp.ⁿ** The Gemara asks: **What did Rabbi Shimon find difficult with Levi's question that caused him to scoff? Doesn't the verse state: “But the kingdom he gave to Jehoram because he was the firstborn”** (II Chronicles 21:3)? This indicates that the firstborn is the one who inherits his father's appointment, and so Levi legitimately asked why Rabbi Yehuda HaNasi had to leave specific instructions about this.

The Gemara explains: **He, Jehoram, filled the place of his fathers,^h** i.e., he was their equal in his personal attributes and leadership capabilities. However, **Rabban Gamliel did not fill the place of his fathers,** and for this reason Rabbi Yehuda HaNasi had to specifically command that he nevertheless be appointed as the *Nasi*.

The Gemara asks: **And if that is so, what is the reason that Rabbi Yehuda HaNasi did this?** Why did he choose this son to be his successor if he was unfit for the position? The Gemara answers: **Although he did not fill the place of his fathers with regard to wisdom, as he was not as great a Torah scholar as his father, he did fill the place of his fathers with regard to fear of sin and was therefore fit to be appointed as the *Nasi*.**

PERSONALITIES

Levi – לְוִי: This is Levi ben Sisi, one of the Sages of Eretz Yisrael who lived during the transitional generation between the *tanna'im* and the *amora'im*. Levi was a preeminent student of Rabbi Yehuda HaNasi and sat before him constantly, engaging in the study of the *halakha* together with Rabbi Yehuda HaNasi's other great disciples. Rabbi Yehuda HaNasi held Levi in great esteem, and he sent him to be the judge and preacher in the town of Simonias, even saying of Levi: He is a man like me. Several sources relate that Levi became lame after demonstrating for Rabbi Yehuda HaNasi how the High Priest would prostrate himself on Yom Kippur (see *Ta'anit* 25a). It is also explained that this came about as a punishment for speaking impertinently toward God in his prayers.

As a consequence of the uncomfortable personal relation-

ships described here, Levi traveled to Babylonia in his later years. There he renewed his relationship with Rav, with whom he had studied together under Rabbi Yehuda HaNasi, and also became a close friend of Abba bar Abba, the father of Shmuel. Shmuel himself was a disciple-colleague of Levi.

Levi edited anthologies of *baraitot*. They are introduced with the phrase: They taught in the school of Levi.

The Rambam rules in accordance with the opinion of Levi even when his ruling disputes those of Rav and Shmuel, as, in his opinion, Levi was greater than they were. It is not clear whether Levi had any children. Some say that a Sage known in the Talmud as bar Livai is his son. Others say that the famous *amora* Rabbi Yehoshua ben Levi was his son.

Rabbi Afes – רַבִּי אָפֶס: Apparently from the Latin name Appius, with a slightly altered pronunciation.

It is permitted for a woman who is wearing a *kelila* to go out into the public domain on Shabbat – כְּלִילָא שְׂרִי: Although the Sages prohibited wearing certain types of accessories in the public domain on Shabbat due to a concern that one would remove them and carry them in the public domain, it is permitted for a woman who is wearing a *kelila* to go out into the public domain. Since only a distinguished woman wears this type of jewelry and she does not ordinarily remove it to show it to her friends, the Sages were not concerned that she would carry it in the public domain and therefore did not render it prohibited to wear it. This is in accordance with the opinion of Levi (Rambam *Sefer Zemanim, Hilkhot Shabbat* 19:10; *Shulhan Arukh, Orah Hayyim* 303:5).

“חַנִּינָא בַר חַמָּא יֵשֵׁב בְּרֵאשׁ” לֹא קִיבֵל רַבִּי חַנִּינָא, שְׁהֵי רַבִּי אָפֶס גָּדוֹל מִמֶּנּוּ שְׁתֵּי שָׁנִים וּמֵחֻצָּה. וַיֵּתִב רַבִּי אָפֶס בְּרֵישָׁא, וַיֵּתִב רַבִּי חַנִּינָא אַבְרָא, וְאֵתָא לְוִי וַיֵּתִב גְּבִיָּהּ.

§ Rabbi Yehuda HaNasi instructed: **Hanina bar Hama will sit at the head of the yeshiva.** The Gemara relates: **Rabbi Hanina did not accept this appointment, because Rabbi Afes^{LP} was older than him by two and a half years and he did not want to precede him in accepting this position. Consequently, Rabbi Afes sat at the head of the yeshiva, and Rabbi Hanina sat outside, as it was unbecoming for him to sit as a student before Rabbi Afes. And Levi came and sat and studied with him outside.**

נַח נִפְשִׁיהּ דְּרַבִּי אָפֶס, וַיֵּתִב רַבִּי חַנִּינָא בְּרֵישָׁא, וְלֹא הָוָה לֵיהּ לְלוֹי אֵינִישׁ לְמִיתָב גְּבִיָּהּ, וְקָאָתָא לְבָבֵל. וְהֵיִינוּ דְקָמְרִי לֵיהּ לְרַב: גְּבָרָא רַבָּה אֶקְלַע לְנַהַרְדְּעָא וּמִטְלַע, וְדָרִישׁ: כְּלִילָא שְׂרִי. אָמַר: שְׂמַע מִינָהּ נַח נִפְשִׁיהּ דְּרַבִּי אָפֶס, וַיֵּתִב רַבִּי חַנִּינָא בְּרֵישָׁא, וְלֹא הָוָה לֵיהּ לְלוֹי אֵינִישׁ לְמִיתָב גְּבִיָּהּ, וְקָאָתָא.

Rabbi Afes died, and Rabbi Hanina, taking his place, sat at the head of the yeshiva. And Levi did not have anyone to sit and study with, and so he came to Babylonia. And this is the background to the incident in which they said to Rav: A great man came to Neharde’a, and he limps, and he taught: It is permitted for a woman who is wearing a *kelila*, a tiara-like ornament, to go out into the public domain on Shabbat.^H Rav then said: Conclude from this that Rabbi Afes died and Rabbi Hanina, taking his place, sat at the head of the yeshiva, and Levi did not have anyone to sit and study with, and so he came to Babylonia.

וְאֵימָא רַבִּי חַנִּינָא נַח נִפְשִׁיהּ, וְרַבִּי אָפֶס בְּדִיתָב יֵתִיב, וְלֹא הָוָה לֵיהּ לְלוֹי אֵינִישׁ לְמִיתָב גְּבִיָּהּ, וְקָאָתָא? אֵיבְעִית אֵימָא: לְוִי לְרַבִּי אָפֶס מִיכַף הָוָה בְּיָיָהּ לֵיהּ.

The Gemara asks: How did Rav know that it was Rabbi Afes who died? Say that Rabbi Hanina was the one who died, and Rabbi Afes sat as he had sat, i.e., he continued to sit at the head of the yeshiva, and Levi did not have anyone to sit with, and so he came to Babylonia. The Gemara answers: **If you wish, say that Levi was subordinate to Rabbi Afes** and would have sat before him as a student had Rabbi Afes still been alive, and the only reason why he sat outside in the first place was in deference to Rabbi Hanina, who sat outside because he did not consider himself subordinate to Rabbi Afes.

וְאֵיבְעִית אֵימָא: כִּיֵּן דְקָמְרִי רַבִּי חַנִּינָא בַר חַמָּא יֵשֵׁב בְּרֵאשׁ” – לֹא סָגִי דְלֹא מְלִיךְ, דְכָתִיב בְּהוּ בְּצַדִּיקִים “וְתִגְדָּר אֹמֶר וַיִּקָּם לָךְ”.

And if you wish, say instead that since Rabbi Yehuda HaNasi had said: Hanina bar Hama will sit at the head of the yeshiva, it is not possible that he will not one day rule the yeshiva. Therefore, it must have been Rabbi Afes who died and Rabbi Hanina who took his place, as it is written about the righteous: **“You shall also decree a thing, and it shall be established unto you”** (Job 22:28).

וְהָא הָוָה רַבִּי חֵיָא! נַח נִפְשִׁיהּ. וְהָאֵמֶר רַבִּי חֵיָא: אֲנִי רְאִיתִי קְבֻרוֹ שֶׁל רַבִּי וְהוֹרַדְתִּי עָלָיו דְּמַעוֹת! אֵיפּוֹךְ.

The Gemara asks: **But wasn’t Rabbi Hiyya^P there? Why didn’t Rabbi Yehuda HaNasi appoint him as head of the yeshiva?** The Gemara answers: **He died before Rabbi Yehuda HaNasi.** The Gemara asks: **But didn’t Rabbi Hiyya say: I saw the grave site of Rabbi Yehuda HaNasi and I shed tears over it?** The Gemara answers: **Reverse the names.** It was Rabbi Yehuda HaNasi who said that he saw the grave site of Rabbi Hiyya.

PERSONALITIES

Rabbi Afes – רַבִּי אָפֶס: Rabbi Afes was Rabbi Yehuda HaNasi’s scribe and, as described here, replaced him as head of the academy. Apparently his life overlapped with the lives of Rabbi Yohanan and Reish Lakish. Only a few of his halakhic teachings are cited in the Talmud, apparently because he and his colleagues were occupied principally with compiling collections of *baraitot* and the final editing of the Mishna, and their opinions are collectively referred to as the opinions of our Sages.

Rabbi Hiyya – רַבִּי חֵיָא: Rabbi Hiyya ben Abba of the town of Kafri in Babylonia was one of the last of the *tanna’im* and was a disciple-colleague of Rabbi Yehuda HaNasi.

Rabbi Hiyya came from an illustrious family that traced its lineage back to King David and produced many great Torah scholars. He was a renowned scholar in Babylonia, and when he and his family moved to Eretz Yisrael it was said of him, hyperbolically, that the Torah might have been forgotten had he not come and reestablished it. Once in Eretz Yisrael he became a disciple and a colleague of Rabbi Yehuda HaNasi, with whom he was on very close terms. He was likewise close with Rabbi

Yehuda HaNasi’s son, Rabbi Shimon, who was also Rabbi Hiyya’s business partner.

Rabbi Hiyya was one of the great Sages of his generation. Even Rabbi Yehuda HaNasi, the preeminent teacher of the Jewish people, received traditions in Torah from Rabbi Hiyya. As great as Rabbi Hiyya was in Torah, he was just as renowned for his righteousness, as related in this passage and many other places in the Talmud.

Rabbi Hiyya’s great work was the collection and editing of *baraitot* as a supplement to the Mishna redacted by Rabbi Yehuda HaNasi. These collections, which he apparently labored on together with his friend and colleague, Rabbi Oshaya, were considered so authoritative that it was declared that any *baraita* not taught by Rabbi Hiyya and Rabbi Oshaya would not be considered authoritative. Some claim that Rabbi Hiyya was the redactor of the version of the *Tosefta* extant today.

It seems that upon arriving in Eretz Yisrael Rabbi Hiyya received some financial assistance from the family of the *Nasi*, but his main source of income was international commerce, particularly in the silk trade.

He had twin daughters, Pazi and Tavi, who established families that produced important Sages. He also had twin sons: Yehuda, the son-in-law of Rabbi Yannai, and Hizkiyya. Both of them were among the great Sages of the transitional generation between the *tanna’im* and the *amora’im* and apparently succeeded him at the head of his own yeshiva that he maintained in Tiberias, his town of residence.

All of the students of Rabbi Yehuda HaNasi were Rabbi Hiyya’s friends, and he even made the acquaintance of the *tanna* Rabbi Shimon ben Halaftha. Rabbi Yehuda HaNasi’s younger disciples, e.g., Rabbi Hanina, Rabbi Oshaya, and Rabbi Yannai, all received traditions in Torah from Rabbi Hiyya as well and were considered, to a certain extent, his students too. Rabbi Hiyya’s nephews, Rabba bar Hana and Rav, were his outstanding disciples. He also appears as one of the central figures in the *Zohar*.

Rabbi Hiyya was buried in Tiberias, and later his sons were laid to rest alongside him.

והאמר רבי חייא: אותו היום שמת רבי בטלה קדושה! איפוך.

The Gemara asks: **But didn't Rabbi Ḥiyya say: On that day that Rabbi Yehuda HaNasi died, sanctity ceased?**^N The Gemara answers: **Reverse** the names. It was Rabbi Yehuda HaNasi who made this statement about Rabbi Ḥiyya.

והתניא, בשחלה רבי נכנס רבי חייא אצלו ומצאו שהוא בוכה, אמר לו: רבי מפני מה אתה בוכה? והתניא: מת מתוך השחוק – סימן יפה לו, מתוך הבכי – סימן רע לו, פניו למעלה – סימן יפה לו, פניו למטה – סימן רע לו, פניו כלפי העם – סימן יפה לו, כלפי הבותל – סימן רע לו, פניו ירוקין – סימן רע לו, פניו צהובין ואדומים – סימן יפה לו, מת בערב שבת – סימן יפה לו, במוצאי שבת – סימן רע לו, מת בערב יום הכפורים – סימן רע לו, במוצאי יום הכפורים – סימן יפה לו, מת מחולי מעיים – סימן יפה לו, מפני שרובם של צדיקים מיתתן בחולי מעיים.

The Gemara asks: **But isn't it taught in a *baraita*: When Rabbi Yehuda HaNasi fell ill, Rabbi Ḥiyya entered to be with him and found him crying. He said to him: My teacher, for what reason are you crying? Isn't it taught in a *baraita*:**
If one dies while laughing, it is a good sign for him; while crying, it is a bad sign for him.
If one dies with his face upward, it is a good sign for him; with his face downward, it is a bad sign for him.
If one dies with his face facing the people standing around him, it is a good sign for him; with his face facing the wall, it is a bad sign for him.
If one's face is sallow, it is a bad sign for him; if his face is yellow or ruddy, it is a good sign for him.
If one dies on the Shabbat eve it is a good sign for him, because he is heading straight into the Shabbat rest; if one dies at the conclusion of Shabbat it is a bad sign for him.
If one dies on the eve of Yom Kippur, it is a bad sign for him, as his sins have not yet been forgiven; if one dies at the conclusion of Yom Kippur it is a good sign for him, because he died after his sins have been forgiven.
If one dies due to an intestinal disease, it is a good sign for him, because most of the righteous die due to intestinal disease.^N

אמר ליה: אנא אתורה ומצות קא בכינא.

Rabbi Yehuda HaNasi said to him: **I am crying for the Torah and the mitzvot** that I will be unable to fulfill after I die. This indicates that Rabbi Ḥiyya was present at the time of Rabbi Yehuda HaNasi's death.

איבעית אימא: איפוך, ואיבעית אימא: לעולם לא תיפוך, רבי חייא עסוק במצות הוה, ורבי סבר: לא אפגריה.

The Gemara answers: **If you wish, say that one must reverse the names and that it was Rabbi Yehuda HaNasi who came to visit Rabbi Ḥiyya prior to his death. And if you wish, say instead that actually we do not need to reverse the names in all of the above statements, but rather explain that Rabbi Ḥiyya was occupied with the performance of mitzvot and Rabbi Yehuda HaNasi thought: I will not hold him back from his performance of mitzvot by appointing him head of the yeshiva.**

והיינו דכי הווי מינצו רבי חנינא ורבי חייא: אמר ליה רבי חנינא לרבי חייא בהדי דידי מינצת, דאם חס ושלום נשתבחה תורה מישראל – מהדרנא ליה מפלפול!

And this is the background to an exchange that took place when Rabbi Ḥanina and Rabbi Ḥiyya argued. Rabbi Ḥanina said to Rabbi Ḥiyya: You are arguing with me? If, Heaven forbid, the Torah would be forgotten from the Jewish people, I would restore it through my analyses, i.e., using my abilities of analysis I would be able to rediscover all that had been lost.

NOTES

Sanctity ceased – בטלה קדושה: *Tosafot* explain, in accordance with the Rivan, that this is referring to the fact that Rabbi Yehuda HaNasi was called Rabbeinu HaKadosh, our sacred rabbi. However, the Ran, Ra'avad, and others explain in accordance with the Jerusalem Talmud, that on the day of Rabbi Yehuda HaNasi's passing, the sanctity of the priesthood ceased, since the priests were required to take part in the funeral and became ritually impure as a consequence. They argue that a *Nasi* is comparable to a corpse with no one to bury it, because the *Nasi* would not be given the honor due him without each individual participating in his funeral. Consequently, even priests were to participate (see *Tosafot*).

Die due to intestinal disease – מיתתן בחולי מעיים: Commentaries explain, based upon the Jerusalem Talmud, that intestinal diseases cleanse the body of contaminating elements. Additionally, one who dies due to an intestinal disease retains his cognitive faculties until the end. Consequently, his personality is not affected and he is able to continue to study Torah.

אמר ליה רבי חייא: אנא עבדי דלא משתבחה תורה מישראל, דאייתינא כיתנא ושדיינא, ומגדלנא נישבי, וצדינא טביא, ומאכילנא בישרא ליחמי, ואריכנא מגילתא ממשכי דטביא, וסליקנא למתא דלית בה מקרי דרדקי, וכתיבנא חמשא חומשי לחמשא ינוקי, ומתננא שיתא סידרי לשיתא ינוקי, לכל חד וחד אמרי ליה: אתני סידרך לחברך.

Rabbi Ḥiyya said to Rabbi Ḥanina: I am working to ensure that the Torah will not be forgotten from the Jewish people. For I bring flax and I plant it, and I then weave nets from the flax fibers. I then go out and trap deer, and I feed the meat to orphans, and I form scrolls from the skins of the deer. And I go to a town that has no teachers of children in it and I write the five books of the Torah for five children. And I teach the six orders of the Mishna to six children. To each and every one of these children I say: Teach your order to your friends. In this way all of the children will learn the whole of the Torah and the Mishna.

והיינו דאמר רבי: כמה גדולים מעשה חייא! אמר ליה רבי שמעון ברבי: אפילו ממך? אמר ליה: אין. אמר ליה רבי ישמעאל ברבי יוסי: אפילו מאבא? אמר ליה: חס ושלום! לא תהא פואת בישראל.

And this is what Rabbi Yehuda HaNasi referred to when he said: How great are the actions of Ḥiyya. Rabbi Shimon, son of Rabbi Yehuda HaNasi, said to his father: Even greater than your works? He said to him: Yes. Rabbi Yishmael, son of Rabbi Yosei, said to Rabbi Yehuda HaNasi: Even greater than the work of Rabbi Yosei, my father? Rabbi Yehuda HaNasi said to him: Heaven forbid. Such comments should not be made among the Jewish people.

אמר להן: לבני קטן אני צריך. נכנס רבי שמעון אצל, מסר לו סדרי חכמה.

§ The Gemara returns to the narrative of the impending death of Rabbi Yehuda HaNasi: He said to them: I need my younger son. Rabbi Shimon entered his presence. He transmitted to him the orders of wisdom, including how he should conduct himself and the essential principles of the Torah.

אמר להן: לבני גדול אני צריך. נכנס רבן גמליאל אצל, ומסר לו סדרי נשיאות. אמר לו: בני, נהוג נשיאותך ברמים, וזוק מרה בתלמידים.

He said to them: I need my older son. Rabban Gamliel entered his presence, and Rabbi Yehuda HaNasi transmitted to him the procedures of the office of the *Nasi*. Rabbi Yehuda HaNasi said to Rabban Gamliel: My son, conduct your term as *Nasi* with assertiveness and cast fear upon your students,^h i.e., treat them in a firm manner so that they will fear you.

איני? והא פתיב "ואת יראי ה' יכבד", ואמר מר: זה יהושפט מלך יהודה, כשהיה רואה תלמיד חכם היה עומד מפסאו, ומחבקו ומנשקו, וקורא לו: רבי רבי, מרי מרי!

The Gemara asks: Is that so that it is correct to behave in such a manner? But isn't it written: "But he honors those that fear the Lord" (Psalms 15:4), and the Master said: This is referring to Jehoshaphat, king of Judea. When he would see a Torah scholar he would rise from his throne and hug him and kiss him and call to him: My teacher, my teacher, my master, my master. This demonstrates that it is appropriate even for a king to behave with affection toward Torah scholars.

לא קשיא, הא – בצניעה, הא – בפרהסיא.

The Gemara answers: This is not difficult. This display of affection should be applied in private, when only the teacher and student are present, and that stern demeanor should be applied in public,^h in order to ensure the teacher's authority.

HALAKHA

Cast fear upon your students – וזוק מרה בתלמידים: Although the Sages stated that one who is strict cannot teach, that is only where the students do not understand the material due to its complexity or ambiguity. If, however, the teacher sees that the students are being lazy in their Torah studies, he must express anger and rebuke them in order to motivate them, as per the instructions of Rabbi Yehuda HaNasi to his son (Rambam *Sefer HaMadda, Hilkhoh Talmud Torah* 4:5; *Shulhan Arukh, Yoreh De'a* 246:11).

This display of affection should be applied in private and that stern demeanor should be applied in public – הא בצניעה הא – בפרהסיא: It is incumbent upon the king to honor those who study the Torah, and when Torah scholars come before him he must stand up for them and seat them at his side. However, this applies only in the palace of the king and in private. In public, outside of the palace, the king does not rise for anyone, nor does he give anyone honor, so that everyone will fear him (Rambam *Sefer Shofetim, Hilkhoh Melakhim* 2:5).

תניא, רבי מוטל בצִיפורי, ומקום מוכן לו בבית שְׁעָרִים. והתניא: "צדק צדק תִּרְדֹּף" – הלך אחר רבי לבית שְׁעָרִים:

It is taught in a *baraita*: Rabbi Yehuda HaNasi was lying ill in Tzippori^B and a burial site was ready for him in Beit She'arim.^B The Gemara asks: **But isn't it taught in a *baraita*: "Justice, justice shall you follow" (Deuteronomy 16:20); follow Rabbi Yehuda HaNasi to Beit She'arim, i.e., one should seek to have his case adjudicated by Rabbi Yehuda HaNasi's court in Beit She'arim.** This indicates that Beit She'arim, not Tzippori, was Rabbi Yehuda HaNasi's place of residence, and therefore he must have been lying ill in Beit She'arim.

רבי בבית שְׁעָרִים הוּא, אֶלָּא בֵּין דְּחַלֵּשׁ – אִמְטוּהֵי לְצִיפּוֹרִי,

The Gemara answers: **Rabbi Yehuda HaNasi was in Beit She'arim, but when he became ill they transferred him to Tzippori,**

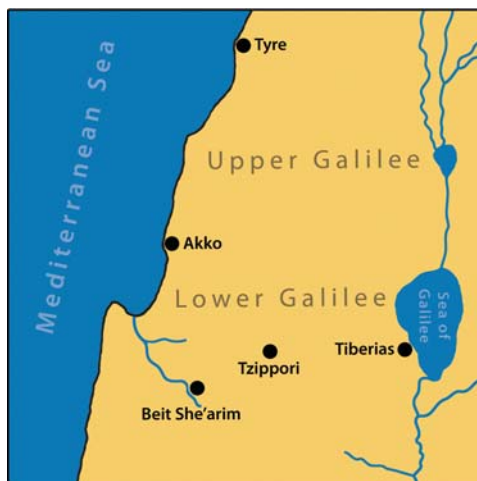
Perek XII
Daf 104 Amud a

דמדליא, ובסיס אורא. which is situated at a high altitude and whose air is scented.

BACKGROUND

Tzippori – צִיפּוֹרִי: Tzippori was a large town in the Upper Galilee and the perennial rival of Tiberias for recognition as the religious capital of the Galilee. During the Second Temple period it enjoyed special status among the towns of the Galilee due to its large and learned Jewish community. Among the *tanna'im* who lived there were Rabbi Yohanan ben Nuri, Rabbi Halafta, and the latter's famous son, Rabbi Yosei. Rabbi Yehuda HaNasi relocated to Tzippori toward the end of his life, and it became the seat of the Sanhedrin for approximately one generation. Some of Rabbi Yehuda HaNasi's disciples lived in Tzippori, including Rabbi Yishmael, son of Rabbi Yosei; Rabban Gamliel, son of Rabbi Yehuda HaNasi, who succeeded his father as *Nasi*; Rabban Gamliel's brother, Rabbi Shimon; Rabbi Hanina bar Hama, who eventually headed the yeshiva in Tzippori; and Rabbi Yannai. Even after the Sanhedrin relocated to Tiberias, Torah scholars continued to reside in Tzippori, including Rabbi Hanina of Tzippori and Rabbi Mana, who were prominent *amora'im*.

It was the seat of the Sanhedrin in the days of Rabbi Yehuda HaNasi. Although Rabbi Yehuda HaNasi moved to Tzippori toward the end of his life for health reasons, he was nevertheless buried in Beit She'arim. Apparently for this reason the burial grounds at Beit She'arim gained importance, and for hundreds of years distinguished families in Eretz Yisrael and the Diaspora would bring their dead to be buried there. In recent times this large cemetery has been unearthed, with many of the ossuaries and epitaphs on the tombstones remaining intact.



Map of the Galilee showing the location of Tzippori and Beit She'arim

Beit She'arim – בֵּית שְׁעָרִים: Beit She'arim was a small village in the Jezreel Valley known in modern times as Sheikh Abreik.



Rabbi Yehuda HaNasi's burial site in Beit She'arim



Remains of ancient synagogue in Beit She'arim