וְעַשִּׂיתִינְהוּ לְזָנֵיהּ. אִי אָמְרַתְּ בִּשְׁלָמָא לָאו דִּינָא – מִשּׁוּם הָכִי עַשִּׂיתִינְהוּ, אֶלָּא אִי אָמְרַתְּ דִּינָא – עַשִּׂיתִינְהוּ בָּעֵי?!

and I forced them to feed him, for which he is grateful. The Gemara interprets this incident in light of the issue at hand: **Granted, if you say** that this was **not** according to the ***halakha,***[H] i.e., the man's sons had the right to refrain from sustaining him, **due to that** reason Rabbi Yonatan had to **force them** to feed their father; **but if you say** this is the ***halakha,*** i.e., the man's sons were required to sustain him, why did he **need to force them**[N] to provide the sustenance of their own accord? The court could have simply requisitioned the necessary amount from the property. This shows that the *halakha* is not in accordance with the opinion of Rabbi Ile'a.

אָמַר רַבִּי אִילְעָא: בְּאוּשָׁא הִתְקִינוּ: הַמְבַזְּבֵז – אַל יְבַזְּבֵז יוֹתֵר מֵחוֹמֶשׁ. תַּנְיָא נַמִּי הָכִי: הַמְבַזְּבֵז – אַל יְבַזְּבֵז יוֹתֵר מֵחוֹמֶשׁ, שֶׁמָּא יִצְטָרֵךְ לַבְּרִיּוֹת. וּמַעֲשֶׂה בְּאֶחָד שֶׁבִּקֵּשׁ לְבַזְּבֵז [יוֹתֵר מֵחוֹמֶשׁ], וְלֹא הִנִּיחַ לוֹ חֲבֵירוֹ, וּמַנּוּ – רַבִּי יְשֵׁבָב. וְאָמְרִי לָהּ: רַבִּי יְשֵׁבָב, וְלֹא הִנִּיחוֹ חֲבֵירוֹ, וּמַנּוּ – רַבִּי עֲקִיבָא.

§ Apropos the ordinances instituted by the Sages in Usha, the Gemara cites another one. **Rabbi Ile'a said: In Usha** the Sages **instituted** that **one who dispenses** his money to charity **should not dispense more than one-fifth.**[HN] **That** opinion **is also taught** in a *baraita*: **One who scatters should not scatter more than one-fifth, lest he** render himself destitute and **need** the help **of** other **people. And an incident** occurred **involving a certain** individual **who sought to dispense more than one-fifth** of his property as charity, **and his friend did not let him** act upon his wishes. **And who** was this friend? **Rabbi Yeshevav. And some say** that **Rabbi Yeshevav** was the one who wanted to give too much charity, **and his friend did not let him** do so, **and who was** the **friend? Rabbi Akiva.**

אָמַר רַב נַחְמָן, וְאִיתֵּימָא רַב אַחָא בַּר יַעֲקֹב: מַאי קְרָא – ״וְכֹל אֲשֶׁר תִּתֶּן לִי עַשֵּׂר אֲעַשְּׂרֶנּוּ לָךְ״.

Rav Naḥman said, and some say it was **Rav Aḥa bar Ya'akov** who said: **What is the verse** that alludes to this maximum amount of charity? **"And of all that You shall give me, I will surely give a tenth of it** [*aser a'asrenu*] **to You"** (Genesis 28:22). The double use of the verb that means to donate one-tenth indicates that Jacob, who issued this statement, was actually referring to two-tenths, i.e., one-fifth.

וְהָא לָא דָּמֵי עִישּׂוּרָא בַּתְרָא לְעִישּׂוּרָא קַמָּא! אֲמַר רַב אַשִׁי: ״אֲעַשְּׂרֶנּוּ״ לְבַתְרָא כִּי קַמָּא.

The Gemara asks: **But the latter tenth is not similar to the first tenth,** as it would be one-tenth of what remained after the first tenth had been removed. Consequently, the two-tenths would not equal one-fifth of the original total. The Gemara answers that **Rav Ashi said:** Since the verse could have said: I will surely give one-tenth [*aser a'aser*], and instead stated: **"I will** surely give **a tenth of it** [*aser a'asrenu*]," it thereby alludes to the fact **that the latter** tenth is **like the first one.**

אָמַר רַב שִׁימִי בַּר אַשִׁי: וּשְׁמוּעוֹת הַלָּלוּ מִתְמַעֲטוֹת וְהוֹלְכוֹת, וְסִימָנֵיךָ: קְטַנִּים כָּתְבוּ וּבִזְבְּזוּ.

With regard to the above statements concerning the Sages' ordinances in Usha, **Rav Shimi bar Ashi said: And these *halakhot* continually decrease.** The first statement was stated by Rabbi Ile'a, quoting a statement by Reish Lakish in the name of Rabbi Yosei bar Ḥanina. The second *halakha* was delivered by Rabbi Ile'a in the name of Reish Lakish, while the third was taught by Rabbi Ile'a without quoting another Sage. **And** this is **your mnemonic** for the order of these *halakhot*: **Minors wrote and dispensed.** This alludes to the ruling requiring a father to support his children while they are minors, the ruling about one who wrote a document granting all of his property to his sons, and the ruling about one who dispenses large sums to charity.

אָמַר רַב יִצְחָק: בְּאוּשָׁא הִתְקִינוּ שֶׁיְּהֵא אָדָם מִתְגַּלְגֵּל עִם בְּנוֹ עַד שִׁתִּים עֶשְׂרֵה שָׁנָה, מִכָּאן וְאֵילָךְ – יוֹרֵד עִמּוֹ לְחַיָּיו. אִינִי?! וְהָא אָמַר לֵיהּ רַב לְרַב שְׁמוּאֵל בַּר שֵׁילַת: בְּצִיר מִבַּר שִׁית – לָא תְקַבֵּיל, בַּר שִׁית – קַבֵּיל, וּסְפֵי לֵיהּ כְּתוֹרָא!

§ **Rav Yitzḥak said: In Usha** the Sages **enacted that a person should treat his son gently,**[N] even if he does not want to study, **until** his son is **twelve years** old. **From this** point **forward he harasses him** in all aspects of **his life** in order to force him to study. The Gemara asks: **Is that so? But didn't Rav say to Rav Shmuel bar Sheilat,** who taught children: With regard to a child **less than six years old, do not accept** him; if he is **six years old, accept** him **and stuff him like an ox,** i.e., just as an ox is force-fed, you should force the students to study Torah.

HALAKHA

This was not according to the *halakha* – לָאו דִּינָא: If one gives all his property to his sons, leaving nothing for himself, according to the letter of the law neither he nor his wife is entitled to sustenance from the property, as the ordinance of Usha is not accepted as *halakha*. As for the story in which the Sages forced sons to provide for their parents, it is possible that this was in accordance with the *halakha* that the court enforces the bestowal of charity. Consequently, the court can compel any man of means to sustain his father (*Tur*, *Ḥoshen Mishpat* 257; *Beit Yosef*).

Should not dispense more than one-fifth – אַל יְבַזְּבֵז יוֹתֵר מֵחוֹמֶשׁ: The Sages enacted that one should not give away more than one-fifth of his property to charity, so that he not become a burden to the public, in accordance with the ordinance of Usha (Rema, citing *Beit Yosef*). See the Rema and the other commentaries with regard to the application of this principle to different people and times (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin* 8:13; *Shulḥan Arukh*, *Yoreh De'a* 249:1, and in the comment of Rema).

NOTES

Why did he need to force them – עַשִּׂיתִינְהוּ בָּעֵי: The commentaries disagree with regard to the level of force that Rabbi Yonatan applied and to the Gemara's inference on the basis of this incident. Rashi explains that Rabbi Yonatan forced the sons to pay and explains the Gemara's comment as a statement rather than a rhetorical question that asks: Since Rabbi Yonatan was required to force them to pay, why did the father have such an exaggerated level of gratitude? *Tosafot* explain that Rabbi Yonatan merely persuaded the sons to support their father. According to this interpretation, the Gemara's comment means: Why was it necessary to convince the sons if the court could simply have issued a ruling requiring them to support their father and, if necessary, forcibly requisitioned the necessary funds? (see Ritva and *Nimmukei Yosef*).

Should not dispense more than one-fifth – אַל יְבַזְּבֵז יוֹתֵר מֵחוֹמֶשׁ: Some commentaries indicate that this prohibition against giving away too much of one's property applies to one who consecrates his possessions to the Sanctuary, whereas one who gives charity may give more than one-fifth as an act of piety (Rivan). It appears that according to the Rambam, it is recommended that one give one-fifth of his money to charity, although this is not obligatory.

Other commentaries, by contrast, accept the opinion of Rashi that the principle stated here, that one should not give away more than one-fifth of his money, includes charity. However, they add that it applies only to one who gives during his lifetime, due to the concern that he might become a burden on others, whereas one who arranges for his property to be distributed after his death may give more (*Halakhot Gedolot*). They further explain that this limitation refers only to the regular bestowal of charity, but in a time of famine, or if the recipient will be in danger if he does not receive more, one may give more. In the Jerusalem Talmud it is explained that giving one-fifth of one's money refers to giving one-fifth of his capital, and then, on an ongoing basis, one-fifth of his earnings.

Treat his son gently – מִתְגַּלְגֵּל עִם בְּנוֹ: The author of the *Arukh* cites an entirely different interpretation. He maintains that until a son is twelve a father can be easy on him and let him study, but afterward he must teach him a profession from which he can earn a livelihood.

אֵין, סְפֵי לֵיהּ כְּתוֹרָא. מֵיהוּ, אֵינוֹ יוֹרֵד עִמּוֹ לְחַיָּיו עַד לְאַחַר שְׁתֵּים עֶשְׂרֵה שָׁנָה. וְאִיבָּעֵית אֵימָא לָא קַשְׁיָא: הָא – לְמִקְרָא, הָא – לְמִשְׁנָה.

The Gemara answers: There is no contradiction here, as **yes,** one must **stuff him like an ox** and teach him intensively; **however,** if the student refuses to learn, one **does not harass him** in all aspects of **his life until after** he is **twelve years** old. **And if you wish, say** that this is **not difficult** for a different reason: **This** *halakha*, which prescribes forcing the students to study from the age of six, is referring **to** the **Bible,** whereas **that** *halakha*, that one should not harass a boy to study until he is twelve, is referring **to** the **Mishna.**

דַּאֲמַר אַבַּיֵי: אָמְרָה לִי אֵם: בַּר שִׁית – לְמִקְרָא, בַּר עֶשֶׂר – לְמִשְׁנָה, בַּר תְּלֵיסַר – לְתַעֲנִיתָא מֵעֵת לְעֵת, וּבְתִינוֹקֶת בַּת תְּרֵיסַר.

This is **as Abaye said:** My foster **mother told me** that **a six-year-old** is ready **for Bible** study and **a ten-year-old** is mature enough **to** study **Mishna.**[H] Additionally, **a thirteen-year-old** is sufficiently developed **to fast for twenty-four hours** like any other adult. **And** as **for a girl,** she must start observing fasts when she is **twelve years old.**

אָמַר אַבַּיֵי: אָמְרָה לִי אֵם: הַאי בַּר שִׁית דְּטָרְקָא לֵיהּ עַקְרַבָּא בְּיוֹמָא דְּמִישְׁלַם שִׁית – לָא חַיֵּי. מַאי אָסוּתֵיהּ – מְרָרְתָּא דְּדַיָּה חִיוָּרְתָּא בְּשִׁיכְרָא, נְשַׁפְיֵיהּ וְנַשְׁקֵיֵיהּ. הַאי בַּר שַׁתָּא דְּטָרֵיק לֵיהּ זִיבּוּרָא בְּיוֹמָא דְּמִישְׁלַם שַׁתָּא – לָא חַיֵּי. מַאי אָסוּתֵיהּ – אֲצִיצָתָא דְּדִיקְלָא בְּמַיָּא, נְשַׁפְיֵיהּ וְנַשְׁקֵיֵיהּ.

The Gemara cites another statement of Abaye in the name of his foster mother. **Abaye said:** My **mother told me** that **a six-year-old** child **who is stung by a scorpion on the day that** he **completes six** years **will not live** without emergency treatment. **What is his cure? The bile of a white vulture in beer. One should rub him** with this mixture **and make him drink** it. She further said to him: A one-**year-old** child **who is stung by a hornet**[B] **on the day that** he **completes a year will not live** without emergency treatment. **What is his cure? Palm-tree fiber in water.** Again, **one should rub him** with it **and make him drink** it.

אָמַר רַב קְטִינָא: כָּל הַמַּכְנִיס אֶת בְּנוֹ פָּחוֹת מִבֶּן שֵׁשׁ – רָץ אַחֲרָיו וְאֵינוֹ מַגִּיעוֹ. אִיכָּא דְּאָמְרִי: חֲבִירָיו רָצִין אַחֲרָיו וְאֵין מַגִּיעִין אוֹתוֹ. וְתַרְוַיְיהוּ אִיתְּנְהוּ: חֲלִישׁ וְגָמִיר. אִיבָּעֵית אֵימָא: הָא – דְּכָחֵישׁ, הָא – דְּבָרִיא.

Rav Ketina said: Anyone who brings his son to school when he is **younger than six years old**[B] will **run after him and not catch him.** In other words, he will worry about his welfare for a long time afterward, as the child will be weakened by his studies. **There are** those **who say** that **his friends** will **run after him** in their studies **and not catch him,** i.e., his early start will enable him to be far more successful. The Gemara comments: **And both are** correct; he will **weaken** physically **and learn** well. **If you wish, say** that these two statements can be reconciled differently: **This** case is dealing **with a weak** child, who should not be brought to school at such a young age, whereas **that** statement is referring **to a healthy** boy, who can go to school at a tender age and succeed in his studies.

אָמַר רַבִּי יוֹסֵי בַּר חֲנִינָא: בְּאוּשָׁא הִתְקִינוּ: הָאִשָּׁה שֶׁמָּכְרָה בִּנְכְסֵי מְלוֹג בְּחַיֵּי בַּעְלָהּ, וּמֵתָה – הַבַּעַל מוֹצִיא מִיַּד הַלָּקוֹחוֹת. אַשְׁכַּחֵיהּ רַב יִצְחָק בַּר יוֹסֵף לְרַבִּי אַבָּהוּ דַּהֲוָה קָאֵי בְּאוּכְלוּסָא דְּאוּשָׁא. אֲמַר לֵיהּ: מַאן מָרֵה דְּשַׁמַּעְתָּא דְּאוּשָׁא? אֲמַר לֵיהּ: רַבִּי יוֹסֵי בַּר חֲנִינָא. תָּנָא מִינֵּיהּ אַרְבְּעִין זִימְנִין, וְדָמֵי לֵיהּ כְּמַאן דְּמַנְחָא לֵיהּ בְּכִיסְתֵּיהּ.

§ **Rabbi Yosei bar Ḥanina said: In Usha** the Sages **instituted** that in the case of **a woman who sold** her **usufruct property,**[H] which is property that belongs to her but whose produce belongs to her husband, **in her husband's lifetime, and** then she **died, the husband** can **repossess** it **from the purchasers.**[N] The Gemara relates: **Rav Yitzḥak bar Yosef found Rabbi Abbahu standing** among the **congregation** [*ukhlusa*][L] **of Usha. He said to him: Who is the Master** who disseminated **the *halakha*** that was instituted in **Usha? He said to him: Rabbi Yosei bar Ḥanina. He learned it from** Rabbi Abbahu **forty times,**[N] **and** from that point onward he remembered it so well that **it seemed to him as though it were placed in his pocket.**

HALAKHA

The start of a boy's education – תְּחִילַּת לִימּוּדוֹ שֶׁל יֶלֶד: Once a child starts talking, his father should teach him to say the phrase: Moses instructed us in the Torah, and to say the first verse of *Shema*. He gradually teaches him more and more until he is six years old, or seven, if he is of weak constitution (*Shakh*). At this stage the father should take his son to a teacher. The custom is to take a child to Bible classes when he is five years old, but no earlier. If he is weak, he starts at the age of six. Admittedly, in many places they used to bring boys as young as three to the study halls, but they would say that they were merely seating them alongside their older friends, and that anything they learned was incidental (Rambam *Sefer HaMadda*, *Hilkhot Talmud Torah* 1:6; *Shulḥan Arukh*, *Yoreh De'a* 245:5, 8).

A woman who sold her usufruct property – הָאִשָּׁה שֶׁמָּכְרָה בִּנְכְסֵי מְלוֹג: If a married woman sold her usufruct property and subsequently died before her husband, he can repossess the property from the purchasers, in accordance with the ordinance of Usha (Rambam *Sefer Nashim*, *Hilkhot Ishut* 22:7; *Shulḥan Arukh*, *Even HaEzer* 90:9).

BACKGROUND

Sting of a scorpion or hornet – עֲקִיצַת עַקְרָב וְצִרְעָה: The sting of a scorpion, especially certain species, e.g., the yellow scorpion in Eretz Yisrael, causes great pain and in some cases can even be life threatening. The sting of a hornet is usually not as severe, unless the victim suffers an allergic reaction. The level of danger typically corresponds to the ratio between the body weight of the victim and the amount of venom injected by the sting: The smaller the person the more dangerous the sting. It is possible that bile, due to its ability to dilute various substances, could reduce the potential damage of this sting.

Hornet stinger and venom about to enter human skin

Younger than six years old – פָּחוֹת מִבֶּן שֵׁשׁ: There are divergent opinions with regard to the most appropriate age to begin regular, concentrated studies. At any event, this is largely dependent on the physical constitution of the child, and more importantly, his emotional maturity. For this reason, there is no clearly established age to commence learning. Nevertheless, it is widely accepted even nowadays that at around the age of six a child achieves the level of maturity necessary for him to begin formal education.

LANGUAGE

Congregation [*ukhlusa*] – אוּכְלוּסָא: From the Greek ὄχλος, *okhlos*, meaning a crowd or group of people.

NOTES

The husband can repossess it from the purchasers – הַבַּעַל מוֹצִיא מִיַּד הַלָּקוֹחוֹת: This statement implies that the purchaser had already taken possession of the property. However, this is not accurate, because the purchaser cannot actually take possession of the field, due to the right of the husband to the field's produce (see *Shulḥan Arukh*, *Even HaEzer* 90:9). Rather, the purchaser has the right to take possession of the field if the husband dies before the wife. The statement that the husband can repossess the field should be taken to mean that his rights supersede the purchaser's right to take possession of the field. Alternatively, it might refer to a case when the husband stipulated with his wife that he has no share in the property or its produce during her lifetime, in which case the purchaser may take possession of the land, and upon the woman's death, the husband repossesses it (Rabbeinu Aharon HaLevi; Meiri).

There is a dispute among the *ge'onim* about whether the husband must reimburse the purchaser for the purchase price of the property once he repossesses it. This is a dispute between the Sages of Sura and Pumbedita. Some early authorities rule that he takes the property without having to pay, but if he has the actual money his wife received for the sale, he must return it (Rabbeinu Ḥananel; Rif).

He learned it from Rabbi Abbahu forty times – תָּנָא מִינֵּיהּ אַרְבְּעִין זִימְנִין: According to Rashi, this means that Rav Yitzḥak bar Yosef learned from Rabbi Abbahu forty times that Rabbi Yosei bar Ḥanina was the Sage who had disseminated the *halakha* instituted in Usha. Some later commentaries explain that this was necessary because he had previously ascribed this to Rabbi Yehuda bar Ḥanina. To rid himself of this entrenched assumption, he had to repeat forty times that it was actually Rabbi Yosei bar Ḥanina who disseminated the *halakha* (*Ḥatam Sofer*). The Maharshal explains that once he heard that it was disseminated by Rabbi Yosei bar Ḥanina, who was a great Sage, he reviewed the *halakha* itself forty times.

״אַשְׁרֵי שׁוֹמְרֵי מִשְׁפָּט עוֹשֵׂה צְדָקָה בְּכָל עֵת״; וְכִי אֶפְשָׁר לַעֲשׂוֹת צְדָקָה בְּכָל עֵת? דָּרְשׁוּ רַבּוֹתֵינוּ שֶׁבְּיַבְנֶה, וְאָמְרִי לָהּ רַבִּי אֱלִיעֶזֶר: זֶה הַזָּן בָּנָיו וּבְנוֹתָיו כְּשֶׁהֵן קְטַנִּים. רַבִּי שְׁמוּאֵל בַּר נַחְמָנִי אָמַר: זֶה הַמְגַדֵּל יָתוֹם וְיָתוֹמָה בְּתוֹךְ בֵּיתוֹ וּמַשִּׂיאָן.

The Gemara discusses a point related to one of the ordinances of Usha. The verse states: **"Happy are they who keep justice, who perform charity at all times"** (Psalms 106:3).[H] **But is it possible to perform charity at all times?** Is one always in the presence of paupers? Therefore, **our Rabbis in Yavne taught, and some say** it was **Rabbi Eliezer: This is** referring to **one who sustains his sons and daughters when they are minors.** As stated above, he is not formally obligated to support them, and therefore when he does so, it is a form of charity that he gives on a constant basis. **Rabbi Shmuel bar Naḥmani said: This is** referring to **one who raises an orphan boy or an orphan girl in his house,** takes care of them, **and marries them off.**

״הוֹן וָעוֹשֶׁר בְּבֵיתוֹ וְצִדְקָתוֹ עוֹמֶדֶת לָעַד״, רַב הוּנָא וְרַב חִסְדָּא; חַד אָמַר: זֶה הַלּוֹמֵד תּוֹרָה וּמְלַמְּדָהּ, וְחַד אָמַר: זֶה הַכּוֹתֵב תּוֹרָה, נְבִיאִים וּכְתוּבִים, וּמַשְׁאִילָן לַאֲחֵרִים.

The Sages likewise expounded the verse: **"Wealth and riches are in his house, and his charity endures forever"** (Psalms 112:3). How can one's wealth and riches remain in his house while his charity endures forever? **Rav Huna and Rav Ḥisda** disputed this issue. **One said: This** is referring to **one who studies Torah and teaches it.** He loses nothing of his own, while his charity toward others will endure. **And one said: This is one who writes** scrolls **of the Torah, the Prophets, and the Writings, and lends them to others.** The books remain in his possession, but others gain from his charity.

״וּרְאֵה בָנִים לְבָנֶיךָ שָׁלוֹם עַל יִשְׂרָאֵל״, אָמַר רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי: ״בֵּינָן שֶׁבָּנִים לְבָנֶיךָ – שָׁלוֹם עַל יִשְׂרָאֵל, דְּלָא אָתֵי לִידֵי חֲלִיצָה וְיִבּוּם. רַבִּי שְׁמוּאֵל בַּר נַחְמָנִי אָמַר: כֵּינָן שֶׁבָּנִים לְבָנֶיךָ – שָׁלוֹם עַל דַּיָּנֵי יִשְׂרָאֵל, דְּלָא אָתֵי לְאִינְצוּיֵי.

With regard to the verse: **"And see your son's sons; peace be upon Israel"** (Psalms 128:6), **Rabbi Yehoshua ben Levi said: Once your children** have **children** of their own, there is **peace upon Israel, as they will not come** to require **the ritual through which the *yavam* frees the *yevama* of her levirate bonds** [***ḥalitza***] **or levirate marriage,** which are necessary only if a man dies childless. **Rabbi Shmuel bar Naḥmani said: Once your sons** have **sons** there will be **peace upon the judges of Israel,**[N] **as** relatives **will not come to quarrel** with the judges over the inheritance.

״זֶה מִדְרָשׁ דָּרַשׁ רַבִּי אֶלְעָזָר לִפְנֵי חֲכָמִים״ כּוּ׳.

§ The Gemara returns to the mishna: **This exposition was expounded** by **Rabbi Elazar** ben Azarya **before the Sages** in the vineyard of Yavne: Just as the sons inherit only after the father's death, so too, the daughters are sustained from his property only after their father's death.

HALAKHA

Perform charity at all times – עוֹשֵׂה צְדָקָה בְּכָל עֵת: If one provides for his older children despite the fact that he is not obligated to do so, so that his sons can study Torah and his daughters can follow the proper path, this is counted toward his obligation of charity (Rambam *Sefer Zera'im*, *Hilkhot Mattenot Aniyyim* 10:16; *Shulḥan Arukh*, *Yoreh De'a* 251:3).

NOTES

Peace upon the judges of Israel – שָׁלוֹם עַל דַּיָּנֵי יִשְׂרָאֵל: Rashi explains that if there are no sons, other relatives will quarrel over who is the closest heir. Some commentaries ask why this necessitates having sons; if one has daughters and no sons, it is clear that they inherit from their father (Ritva, citing *Tosafot*). The Ritva explains, citing the Ri, that if all his sons have sons of their own he will distribute his property equally among them; but if only one of his sons has sons, he will increase the share of that son, which will cause friction among his children. Others explain that the main point is that the sons are old enough to have their own sons, i.e., they are adults. If his children were minors, the court would have appointed a trustee to oversee the affairs of the orphans and their quarrels with others (*Sefer Hafla'a*). Alternatively, if one has a daughter and a son, and the son dies and leaves a daughter, this would lead to a dispute between the judges of Israel and the Sadducees. The latter maintained that in this case, the property of the deceased is divided equally between the daughter and granddaughter, whereas the Sages held that the son's daughter is the sole heir. This dispute will not arise if his sons have sons of their own (Ritva, citing Rabbeinu Yeḥiel).

Perek **IV**
Daf **50** Amud **b**

יָתֵיב רַב יוֹסֵף קַמֵּיהּ דְּרַב הַמְנוּנָא, וְיָתֵיב רַב הַמְנוּנָא וְקָאָמַר: כְּשֵׁם שֶׁאֵין הַבָּנִים יוֹרְשִׁין אֶלָּא מִן הַקַּרְקַע – כָּךְ אֵין הַבָּנוֹת נִיזּוֹנוֹת אֶלָּא מִן הַקַּרְקַע. אַוּוּשׁ עֲלֵיהּ כּוּלֵּי עָלְמָא: דְּשָׁבֵיק אַרְעָא – הוּא דְּיָרְתֵי לֵיהּ בְּנֵיהּ, דְּלָא שָׁבֵיק אַרְעָא – לָא יָרְתֵי לֵיהּ בְּנֵיהּ?!

The Gemara relates: **Rav Yosef sat before Rav Hamnuna**[B] in the study hall, **and Rav Hamnuna sat and said** the following *halakha*: **Just as sons inherit only from land, so too, daughters are sustained only from land.** When Rav Hamnuna taught this *halakha*, **everyone clamored** [***avash***][L] **against him,** i.e., all his listeners whispered their surprise to one another: Is it only one **who leaves** behind **land whose sons inherit** from **him,** whereas in the case of one **who does not leave land, his sons do not inherit** from **him?** Rav Hamnuna's statement indicates that sons inherit only land and nothing else.

LANGUAGE

Clamored [*avash*] – אַוּוּשׁ: This Aramaic term is related to the Middle Persian awāč, meaning voice. In Aramaic it connotes a murmuring or bustling sound, and can indicate clamor, including the clamor of a shocked audience.

BACKGROUND

Rav Yosef sat before Rav Hamnuna, etc. – יָתֵיב רַב יוֹסֵף קַמֵּיהּ דְּרַב הַמְנוּנָא וכו׳: This story exemplifies some of the conventions in the academies in those days. The leading Sage would sit and expound before his audience. The prominent Sages in attendance would typically sit in the front row, with the other scholars seated behind them. If it was not a lecture open to the wider public, e.g., the public lectures on Festivals, the Sages sitting in front would ask questions and challenge the leading Sage, exchanges that were considered an integral part of the discourse.

אֲמַר לֵיהּ רַב יוֹסֵף: וְדִלְמָא בִּתּוּבַּת בְּנִין דִּכְרִין קָאָמַר מָר? אֲמַר לֵיהּ: מָר, דְּגַבְרָא רָבָא הוּא, יָדַע מַאי קָאָמִינָא.

Rav Yosef said to Rav Hamnuna: **Perhaps the Master was speaking** of the **marriage document** ensuring the inheritance rights of a woman's **male children,**[H] i.e., her sons' right to inherit the sum stipulated in her marriage contract in addition to their share of the father's estate alongside any other brothers. Rav Hamnuna **said to him: The Master, who is a great man, knows what I said,** i.e., that was indeed my intention, while the others failed to understand me properly.

אֲמַר רַבִּי חִיָּיא בַּר יוֹסֵף: רַב זָן מְחִישֵׁי דַּעֲלְיָיה. אִיבַּעְיָא לְהוּ: פַּרְנָסָה הָווְיָא, וּמַאי עֲלְיָיה – מְעִילּוּיָיא דְּאָב, וּכְדִשְׁמוּאֵל. דְּאָמַר שְׁמוּאֵל: לְפַרְנָסָה שָׁמִין בְּאָב.

Rabbi Ḥiyya bar Yosef said: Rav would **sustain** orphan girls **with wheat according to the *aliyya*** if their fathers did not leave land for them. **A dilemma was raised before** the scholars: **Was** this sustenance that Rav provided in the form of **livelihood,** i.e., a dowry so that they could marry, **and what is** the meaning of the term ***aliyya*?** It means: In keeping with **the status** [***illuyya***] **of the father,**[N] **and** this is **in accordance with** the opinion **of Shmuel. As Shmuel said: With regard to** the daughters' **livelihood,** i.e., their dowry, the court **assesses** the amount they receive from their father's estate after his death **in accordance with** the temperament and social and financial status of **the father.**[H]

אוֹ דִלְמָא: מְזוֹנֵי מַמָּשׁ הֲווָה, וּמַאי עֲלְיָיה – מִדְּבָרִים טוֹבִים שֶׁנֶּאֶמְרוּ בַּעֲלְיָיה. דְּאָמַר רַב יִצְחָק בַּר יוֹסֵף: בַּעֲלְיָיה הִתְקִינוּ שֶׁיְּהוּ בָּנוֹת נִיזּוֹנוֹת מִן הַמַּטַּלְטְלִין.

Or perhaps it **was actual sustenance,** i.e., provisions so that they would have food, **and what is** the meaning of the term ***aliyya*?** It indicates that this *halakha* is one **of the good statements said in the upper chamber** [***aliyya***]**, as Rav Yitzḥak bar Yosef said:** When the Sages sat **in the upper chamber** to rule on certain *halakhot*, which they could not do in the study hall at that time due to persecution by gentiles, **they instituted that daughters should be sustained from movable property** in addition to land.

תָּא שְׁמַע: בִּידֵיהּ דְּרַבִּי בַּנַאי, אֲחוּהּ דְּרַבִּי חִיָּיא בַּר אַבָּא, הָווּ מַטַּלְטְלִין דְּיָתְמֵי, אֲתוּ לְקַמֵּיהּ דִּשְׁמוּאֵל, אָמַר לֵיהּ: זִיל זוֹן.

The Gemara suggests: **Come** and **hear** a resolution to this dilemma: **In the possession of Rabbi Banai, the brother of Rabbi Ḥiyya bar Abba, there was movable property** belonging **to orphans,** deposited with him by their father. The orphan daughters **came before Shmuel,** who **said to** Rabbi Banai: **Go** and **sustain** the daughters from the property.

מַאי לָאו לְמְזוֹנֵי, וְכִדְרַב יִצְחָק בַּר יוֹסֵף סְבִירָא לֵיהּ? לָא, הָתָם לְפַרְנָסָה הֲווּאי. וּשְׁמוּאֵל לְטַעֲמֵיהּ, דְּאָמַר שְׁמוּאֵל: לְפַרְנָסָה שָׁמִין בְּאָב.

What, is it not correct to say that this means he should provide them **with sustenance, and** this would indicate that Shmuel **holds in accordance with** the opinion of **Rav Yitzḥak bar Yosef,** that the Sages instituted an ordinance in the upper chamber that daughters are entitled to their sustenance even from movable property? The Gemara refutes this claim: **No, there it is** stated in reference **to** their **livelihood, and Shmuel** conforms **to his** standard line of **reasoning, as Shmuel said: With regard to livelihood,** i.e., the dowry granted to daughters from their father's estate, the court **assesses** the amount they receive **in accordance with** the status of **the father.**

הֲווָה עוּבְדָא בִּנְהַרְדְּעָא, וְדִינֵי דַּיָּינֵי דִּנְהַרְדְּעָא, בְּפוּמְבְּדִיתָא וְאַגְבֵי רַב חָנָא בַּר בִּיזְנָא. אֲמַר לְהוּ רַב נַחְמָן: זִילוּ אֲהַדְּרוּ, וְאִי לָא – מַגְבֵּינָא לְכוּ לְאַפַּדְנֵייכוּ מִינַּייכוּ.

The Gemara relates: **There was an incident** of this kind that came before the court **in Neharde'a, and the judges of Neharde'a ruled** that the daughters must be supported from the movable property that their father had left. Likewise, a case occurred **in Pumbedita, and Rav Ḥana bar Bizna collected** the sum from movable property. **Rav Naḥman said to** the judges: **Go reverse** your decisions, **and if not, I will collect your houses** [***appadnaikhu***][L] **from you** in order to compensate those you ruled against.

HALAKHA

The marriage document concerning male children – בִּתּוּבַּת בְּנִין דִּכְרִין: If a woman predeceases her husband, her sons inherit the sum stipulated in her marriage contract in addition to their share of the father's estate alongside any other brothers. However, they may inherit this additional sum only from land. The Rambam maintains that even after the *ge'onim* decreed that a woman may collect the payment of her marriage contract from movable property, an ordinance which applies equally to other stipulations of the marriage contract, the stipulation that sons inherit their mother's marriage settlement remains an exception to this principle. Some authorities rule that nowadays even the sons may inherit the sum stipulated in their mother's marriage contract from movable property, like the other stipulations of the marriage contract (Rivash). Others maintain that the institution of the marriage document concerning male children is not practiced at all nowadays (Rema; Rosh; *Maggid Mishne*, citing *ge'onim*). The reason for this is that it is customary to give a far larger dowry to daughters than was customary when the institution was originally established, and the whole point of this institution was to encourage fathers to give their daughters a generous dowry (Rambam *Sefer Nashim*, *Hilkhot Ishut* 16:7; *Shulḥan Arukh*, *Even HaEzer* 111:14, 16).

With regard to the daughters' livelihood the court assesses in accordance with the temperament of the father – לְפַרְנָסָה שָׁמִין בְּאָב: In the case of one who died and left a daughter, the court estimates how much he would have been willing to give her for her dowry, and she takes that sum from his estate. How do they determine his mind-set? They interview his companions and close friends, and examine his manner of conducting business and his social status. If he had married off a different daughter in his lifetime, they give the remaining daughter the same amount he gave his other daughter, as stated by Shmuel (Rambam *Sefer Nashim*, *Hilkhot Ishut* 20:3; *Shulḥan Arukh*, *Even HaEzer* 113:1).

LANGUAGE

House [*appadna*] – אַפַּדְנָא: From the Old Persian apadana, meaning palace or audience hall. The term was borrowed from Persian into Aramaic in ancient times and appears in the Bible (Daniel 11:45). It can connote a palace, luxurious home, or fortress.

NOTES

The status of the father – מְעִילּוּיָיא דְּאָב: Rabbeinu Ḥananel, cited by *Tosafot*, explains that the maximum amount that would be given to the daughter as a dowry was one-tenth of the estate, and the assessment was conducted in order to determine whether she should receive less than that amount. The ruling authorities discuss whether *Tosafot* accept this opinion, or whether they agree with Rashi, who maintains that one-tenth of the estate was an average amount, and the court would assess whether the father was likely to have given more. Some commentaries contend that a daughter's dowry is basically collected from land alone, and it was collected from movable property only if the court had undertaken to oversee the orphans' assets (see Meiri).

רַבִּי אַמִּי וְרַבִּי אַסִּי סְבוּר לְמֵיזַן מִמַּטַּלְטְלֵי. אֲמַר לְהוּ רַבִּי יַעֲקֹב בַּר אִידִי: מִילְּתָא דְּרַבִּי יוֹחָנָן וְרֵישׁ לָקִישׁ לָא עָבְדוּ בָּהּ עוּבְדָּא, אַתּוּן עָבְדִין בָּהּ עוּבְדָּא?!

The Gemara further relates: **Rabbi Ami and Rabbi Asi thought** to issue a ruling requiring a man's heirs **to sustain** his daughters **from** the man's **movable property. Rabbi Ya'akov bar Idi said to them:** This is **a matter** about **which Rabbi Yoḥanan and Reish Lakish did not take action,** i.e., they did not issue a ruling to this effect; will **you take action in** this regard? If those great Sages were not sure enough of the *halakha* to issue a practical ruling, how can you do so?

רַבִּי אֶלְעָזָר סָבַר לְמֵיזַן מִמַּטַּלְטְלִין, אֲמַר לְפָנָיו רַבִּי שִׁמְעוֹן בֶּן אֶלְיָקִים: רַבִּי, יוֹדֵעַ אֲנִי בְּךָ שֶׁאֵין מִדַּת הַדִּין אַתָּה עוֹשֶׂה אֶלָּא מִדַּת רַחֲמָנוּת, אֶלָּא, שֶׁמָּא יִרְאוּ הַתַּלְמִידִים וְיִקְבְּעוּ הֲלָכָה לְדוֹרוֹת.

The Gemara relates that **Rabbi Elazar thought** to issue a ruling requiring a man's heirs **to sustain** his daughters **from** his **movable property. Rabbi Shimon ben Elyakim said before him: My teacher, I know about you that you are not acting** according to **the letter of the law,** but **rather** out of **pity** for these daughters, who have no other source of support. **However,** you should still not do this, **lest the students observe and** mistakenly **establish** the ***halakha*** accordingly **for** future **generations.**

הַהוּא דַּאֲתָא לְקַמֵּיהּ דְּרַב יוֹסֵף, אֲמַר לְהוּ: הָבוּ לָהּ מִתַּמְרֵי דְּעַל בּוּדְיָא. אֲמַר לֵיהּ אַבַּיֵי: אִילּוּ בַּעַל חוֹב הֲוָה, כִּי הַאי גַּוְונָא מִי הֲוָה יָהֵיב לֵיהּ מָר?

A certain person **came before Rav Yosef** to inquire about this matter. Rav Yosef **said to** the sons of the deceased man: **Give** the daughter her sustenance **from the dates** that are laid out to dry **on the mats** [***budya***].[BL] These fruits are certainly movable property. **Abaye said to** Rav Yosef: **If it was a creditor** who came to collect a debt, **would the Master give him** the right to collect it **in this** manner? Even a creditor, who may collect his claim by repossessing property that the debtor has sold, cannot take movable property from the possession of orphans. A daughter, who cannot collect her sustenance from property that her father sold, should certainly not have the right to collect her sustenance from movable property that belongs to the male orphans.

אֲמַר לֵיהּ: דְּחַזְיֵיא לְבוּדְיָא קָאָמִינָא.

Rav Yosef **said to** Abaye: I did not mean actual dates lying on mats; rather, **I spoke** of ripe dates ready for plucking, **which are fit for mats.** Since they are still attached to the ground, they are not considered movable property.

BACKGROUND

Dates laid out to dry on the mats – תַּמְרֵי דְּעַל בּוּדְיָא: Some varieties of dates must be harvested as soon as they ripen, as otherwise they will spoil. Others do not need to be harvested as quickly. It was common to spread mats underneath trees of this latter type, and to allow the dates to fall on their own, after which the dates would be left to dry on the mats. This is what Rav Yosef was referring to.

LANGUAGE

Mats [*budya*] – בּוּדְיָא: An alternative reading is *burya*. This is the Aramaic form, which is derived from the Akkadian burū, meaning reed mat.

Perek **IV**
Daf **51** Amud **a**

סוֹף סוֹף, כָּל הָעוֹמֵד לִגְזוֹז כִּגְזוּז דָּמֵי! דְּצִרִיכָא לְדִיקְלָא קָאָמִינָא.

Abaye asked him: **Ultimately, anything that is about to be sheared is considered sheared,** and therefore these dates should already be classified as movable property, from which her sustenance cannot be collected. Rav Yosef replied: **I spoke** of a case when the fruit is nearly fully ripe, but **is still in need of the palm tree.** Since they are attached to the ground, they may be used for the daughter's sustenance.

הַהוּא יָתוֹם וִיתוֹמָה דְּאָתוּ לְקַמֵּיהּ דְּרָבָא, אֲמַר לְהוּ רָבָא: הַעֲלוּ לַיָּתוֹם בִּשְׁבִיל יְתוֹמָה. אָמְרִי לֵיהּ רַבָּנַן לְרָבָא: וְהָא מָר הוּא דַּאֲמַר: מְמַקְּרְקְעֵי וְלָא מִמַּטַּלְטְלֵי, בֵּין לְמְזוֹנֵי, בֵּין לִכְתוּבָּה וּבֵין לְפַרְנָסָה!

The Gemara relates: There were **a certain** minor **orphan boy and orphan girl who came before Rava. Rava said to** the trustees of the father's estate: **Increase** the amount you give **to the orphan boy,** so that there should be enough **for the orphan girl** as well. **The Sages said to Rava: But it was the Master who said** that one may collect **from land but not from movable property, whether for sustenance, whether for the marriage contract, or whether for** the daughters' **livelihood.** In this case only movable property was available.

אֲמַר לְהוּ: אִילּוּ רָצָה שִׁפְחָה לְשַׁמְּשׁוֹ – מִי לָא יָהֲבִינַן לֵיהּ? כָּל שֶׁכֵּן הָכָא, דְּאִיכָּא תַּרְתֵּי.

Rava **said to them: If** this orphan **wanted a maidservant to serve him, would we not give him** one? The court would use his father's property to fund this acquisition. **All the more so here, where there are two** factors, as she is his sister and she will serve him as well. It is therefore appropriate to act in this manner, which is to the benefit of both the boy and the girl.