כִּי קָא נִיחָא נַפְשֵׁיהּ אָמַר: אַיְיתוּ לִי חוּשְׁבָּנַאי דִּצְדָקָה. אַשְׁכַּח דַּהֲוָה כְּתִיב בֵּיהּ שִׁבְעַת אַלְפֵי דִּינָרֵי סְיַאנְקֵי. אָמַר: זְוָודַאי קַלִּילִי, וְאוֹרְחָא רְחִיקָתָא. קָם בַּזְבֵּזֵיהּ לְפַלְגֵּיהּ מָמוֹנֵיהּ. הֵיכִי עָבֵד הָכִי? וְהָאָמַר רַבִּי אֶילְעַאי, בְּאוּשָׁא הִתְקִינוּ: הַמְבַזְבֵּז – אַל יְבַזְבֵּז יוֹתֵר מֵחוֹמֶשׁ! הָנֵי מִילֵּי – מֵחַיִּים, שֶׁמָּא יֵרֵד מִנְכָסָיו, אֲבָל לְאַחַר מִיתָה – לֵית לָן בָּהּ.

When Mar Ukva **was dying, he said: Bring me my charity records. He found that it was written there** that he had given **seven thousand** fine, ***siankei,***[L] i.e., gold, **dinars,** to charity. **He said: My provisions are light, and the way is far.** This meager sum is insufficient for me to merit the World-to-Come. **He got up** and **spent half** of **his** remaining **money** on charity. The Gemara asks: **How did he do this? But didn't Rabbi Ilai say: In Usha they instituted: One who spends** money on charity, **he should not spend more than one-fifth**[H] of his money for this purpose. The Gemara answers: **This** restriction on giving too much charity **applies** only **while he is alive,** because **perhaps he will descend from his holdings** and become destitute. Therefore, for his own financial security, he should never distribute more than one-fifth. **But after death, we have no** problem **with it.** One need not save money in his estate anymore.

רַבִּי אַבָּא הֲוָה צָיֵיר זוּזֵי בְּסוּדָרֵיהּ וּשְׁדֵי לֵיהּ לַאֲחוֹרֵיהּ, וּמַמְצֵי נַפְשֵׁיהּ לְבֵי עֲנָיֵי, וּמְצַלֵּי עֵינֵיהּ מֵרַמָּאֵי.

The Gemara recounts more stories related to charity. **Rabbi Abba would wrap coins in his scarf and toss** the money **behind him**[H] over his shoulder. **And** he **would place himself at the homes of the poor** without being seen, so the poor could receive the aid without being embarrassed. **And he would incline his eyes** just enough so he could safeguard the handouts **from swindlers** who might take the money dishonestly.

רַבִּי חֲנִינָא הֲוָה הָהוּא עֲנְיָא דַּהֲוָה רָגִיל לְשַׁדּוּרֵי לֵיהּ אַרְבָּעָה זוּזֵי כָּל מַעֲלֵי שַׁבְּתָא. יוֹמָא חַד שָׁדַרְינְהוּ נִיהֲלֵיהּ בְּיַד דְּבֵיתְהוּ. אֲתַאי אָמְרָה לֵיהּ: לָא צָרִיךְ. מַאי חָזֵית? שְׁמָעִי דַּהֲוָה קָאָמְרִי לֵיהּ: בַּמֶּה אַתָּה סוֹעֵד,

Rabbi Ḥanina knew **a certain pauper** and **was accustomed to send to him four dinars** on **every Shabbat eve. One day he sent it in the hand of his wife. She came** back home and **said to him:** The man **does not need** charity. Rabbi Ḥanina asked her: **What did you see** that prompted you to say this? She said to him: **I heard them saying to him** inside the house: **With what do you** normally **dine:**

בִּטְלֵי כֶּסֶף אוֹ בִּטְלֵי זָהָב? אָמַר: הַיְינוּ דַּאֲמַר רַבִּי אֶלְעָזָר: בּוֹאוּ וְנַחֲזִיק טוֹבָה לָרַמָּאִין, שֶׁאִלְמָלֵא הֵן הָיִינוּ חוֹטְאִין בְּכָל יוֹם, שֶׁנֶּאֱמַר "וְקָרָא עָלֶיךָ אֶל ה' וְהָיָה בְךָ חֵטְא".

Silver, i.e., white, **tablecloths** [*telei*][NL] **or gold,** i.e., colored, **tablecloths?** Clearly, then, they are not entitled to charity. Rabbi Ḥanina **said: This is what Rabbi Elazar said: Come and let us appreciate the swindlers** who ask for charity that they do not need, **because were it not** for **them,** who command our attention and receive our charity, **we would be sinning every day** in failing to properly support the truly poor, **as it is stated:** "Beware that there be not a base thought in your heart, saying: The seventh year, the year of release, is at hand; and your eye be evil against your needy brother, and you will not give him; **and he cry to the Lord against you, and it be sin in you"** (Deuteronomy 15:9). Because the swindlers take our money in the name of charity, we have an excuse of sorts for failing to fully meet the needs of the truly poor.

LANGUAGE

Siankei – **סְיַאנְקֵי:** The meaning of this word is unclear. Some say that it is a weight or coin equaling half a drachma, or 2.9 g of silver. Gold coins of this type are mentioned in other sources.

HALAKHA

He should not spend more than one-fifth – **אַל יְבַזְבֵּז יוֹתֵר מֵחוֹמֶשׁ:** A person should not give away more than one-fifth of his property to charity, so that he not ultimately require the assistance of others as well. This principle is true while the donor is living. At the time of his death, he may donate as much charity as he desires, as the Gemara learns this from Mar Ukva's example (*Shulḥan Arukh*, *Yoreh De'a* 249:1, and in the comment of Rema).

He would wrap coins…and toss the money behind him – **הֲוָה צָיֵיר זוּזֵי...וּשְׁדֵי לֵיהּ לַאֲחוֹרֵיהּ:** One of the higher levels of charity is giving in a way that the benefactor does not know the identity of the recipient, similar to the method employed by Rabbi Abba. However, this method is not as meritorious as giving anonymously, as it is better for the identity of the donor to remain unknown (Rambam *Sefer Zera'im*, *Hilkhot Mattenot Aniyyim* 10:10; *Shulḥan Arukh*, *Yoreh De'a* 249:9).

Perek **VI**
Daf **68** Amud **a**

LANGUAGE

Tablecloths [*telei*] – **טְלֵי:** The source of this word and its precise meaning are not clear. Some say that it is derived from the Greek τύλη, *tulē*, meaning bedding, couch, cushion, or mattress. However, in this context it seems to be a kind of utensil or tablecloth used for a meal.

NOTES

Silver tablecloths, etc. – **בִּטְלֵי כֶּסֶף וכו':** Rabbeinu Ḥananel writes that the Gemara is referring to bowls of silver and gold, respectively. However, Rashi and *Tosafot* explain that the Gemara is describing tablecloths of a silvery white or a golden hue, based on a discussion elsewhere (*Bava Metzia* 78b). Others say that these articles are tablecloths embroidered with silver or gold threads.

In any case, a number of commentaries explored why Rabbi Ḥanina understood that his opulent beneficiaries were actually unworthy of charity, in contrast to Mar Ukva, who in a similar situation doubled his support. *Tosafot* indicate that under these circumstances, the poor should be required to sell their expensive items, because these items do not directly serve a person's body. This complements their opinion that the items in question are tablecloths and not bowls, because bowls and other eating utensils serve the body more directly and need not be sold. According to others, they should have sold these utensils simply because they had a large quantity of them, allowing them to choose which ones they would use at a given meal. With such wealth, it is illegitimate to collect charity (*Shita Mekubbetzet*; *Ayelet Ahavim*).

The Meiri offers two additional explanations. One possibility is that this family was collecting from the charity fund, of which Rabbi Ḥanina was the administrator. Although an individual donor has an obligation to help a pauper maintain his previous standard, the communal fund does not need to provide extra support. Consequently, Rabbi Ḥanina understood that they should not be receiving public funds. Alternatively, the Meiri suggests that the family in question was not wealthy originally and was using the support of the charity to amass great wealth.

וְתָנֵי רַבִּי חִיָּיא בַּר רַב מִדִּיפְתִּי, רַבִּי יְהוֹשֻׁעַ בֶּן קָרְחָה אוֹמֵר: כָּל הַמַּעֲלִים עֵינָיו מִן הַצְּדָקָה – כְּאִילּוּ עוֹבֵד עֲבוֹדָה זָרָה. כְּתִיב הָכָא ״הִשָּׁמֶר לְךָ פֶּן יִהְיֶה דָּבָר עִם לְבָבְךָ בְּלִיַּעַל״ וגו׳ וּכְתִיב הָתָם ״יָצְאוּ אֲנָשִׁים בְּנֵי בְלִיַּעַל״, מַה לְּהַלָּן עֲבוֹדָה זָרָה – אַף כָּאן עֲבוֹדָה זָרָה.

And Rabbi Ḥiyya bar Rav of Difti taught: Rabbi Yehoshua ben Korḥa says: With regard to **anyone who averts his eyes from the** obligation to give **charity,**[H] it **is as if he engages in idol worship.**[N] It is **written here** concerning charity: **"Beware that there be not a base** [***beliya'al***] **thought in your heart…** and you will not give him" (Deuteronomy 15:9), **and** it is **written there** concerning idolatry: **"Certain base** [***beliya'al***] **fellows** have **gone out"** (Deuteronomy 13:14). **Just as there,** in the latter verse, the word "base [*beliya'al*]" is referring to **idol worship, so too here,** this expression indicates a sin on the scale of **idol worship.**

תָּנוּ רַבָּנַן: הַמְסַמֵּא אֶת עֵינוֹ, וְהַמַּצְבֶּה אֶת בִּטְנוֹ, וְהַמְקַפֵּחַ אֶת שׁוֹקוֹ – אֵינוֹ נִפְטָר מִן הָעוֹלָם עַד שֶׁיָּבֹא לִידֵי כָּךְ. הַמְקַבֵּל צְדָקָה וְאֵין צָרִיךְ לְכָךְ – סוֹפוֹ אֵינוֹ נִפְטָר מִן הָעוֹלָם עַד שֶׁיָּבֹא לִידֵי כָּךְ.

The Gemara cites a *baraita* relating to swindlers who collect charity. **The Sages taught: One who** falsely **blinds his eye,**[H] **and one who bloats his stomach** as if he were sick, **and one who** falsely **crushes** [***mekape'aḥ***] **his leg,**[N] in order to benefit dishonestly from charity, **will not depart from the world before he comes to this** same plight, and he will truly suffer from the ailment that he feigned. More generally, **one who receives charity and does not need it, his end** will be that **he will not depart from the world before he comes to this** state of actually needing charity.

תְּנַן הָתָם: אֵין מְחַיְּבִין אוֹתוֹ לִמְכּוֹר אֶת בֵּיתוֹ וְאֶת כְּלֵי תַּשְׁמִישׁוֹ. וְלָא? וְהָתַנְיָא: הָיָה מִשְׁתַּמֵּשׁ בִּכְלֵי זָהָב – יִשְׁתַּמֵּשׁ בִּכְלֵי כֶּסֶף, בִּכְלֵי כֶּסֶף – יִשְׁתַּמֵּשׁ בִּכְלֵי נְחוֹשֶׁת!

§ **We learned in a mishna elsewhere** (*Pe'a* 8:8): Who is entitled to receive charity? Whoever has less than two hundred dinars. However, the administrators of the charities **do not require him to sell his house and his accessories**[H] to reach the threshold of two hundred dinars. For the purposes of charity, his wealth is calculated based on cash alone. The Gemara asks: **And** do we **not** insist that he sell property? **But isn't it taught** in a *baraita*: If **he was** accustomed to **use gold wares, he should** now **use silver wares.** If he was accustomed to use **silver wares,** he should now use **copper wares.** This indicates that he is required to sell at least some of his possessions.

אֲמַר רַב זְבִיד: לָא קַשְׁיָא; הָא – בְּמִטָּה וְשׁוּלְחָן, הָא – בְּכוֹסוֹת וּקְעָרוֹת. מַאי שְׁנָא כּוֹסוֹת וּקְעָרוֹת דְּלָא – דְּאָמַר: מְאִיסִי לִי, מִטָּה וְשׁוּלְחָן נַמִּי אָמַר: לָא מְקַבַּל עִילָּוַאי! אֲמַר רָבָא בְּרֵיהּ דְּרַבָּה: בְּמַחֲרִישָׁה דְּכַסְפָּא.

Rav Zevid said: This is **not difficult. This** source, which requires him to sell wares and lower his standard of living, speaks **of a bed and a table,** and **that** source, which does not require him to sell his accessories, speaks **of** his **cups and plates.** The Gemara asks: **What is different** about **cups and plates, that** he is **not** required to sell them? It is **because he says:** The cheaper ones are **disgusting to me,** and I cannot eat with them. The Gemara asks further: If so, with regard to **a bed and a table** he may **also say: I do not accept** these lesser wares **upon myself,** as they are uncomfortable for me. What is the difference between the furnishings and the dishes? **Rava, son of Rabba, said:** There is no difference; he need not sell furnishings either. The *baraita* requiring him to sell his property speaks **of a silver comb** on his table or another comparable novelty or decorative item. Such articles must be sold, but necessities, even luxurious or high quality ones, need not be sold.

NOTES

It is as if he engages in idol worship – כְּאִילּוּ עוֹבֵד עֲבוֹדָה זָרָה: When one acknowledges that his wealth is given to him by God, he more readily gives of that wealth to charity. One who does not share his wealth demonstrates that he believes that his own strength and might are the source of everything he has. This negates God as the ultimate source and consequently is a kind of idolatry.

One who falsely crushes [*mekape'aḥ*] his leg – הַמְקַפֵּחַ אֶת שׁוֹקוֹ: *Talmidei Rabbeinu Yona* explain that this case is referring to someone who feigns a broken leg. This interpretation corresponds to the Gemara text here, which reads: *Mekape'aḥ*, meaning crushes or breaks.

By contrast, Rashi suggests that the person makes it appear as though he has a shortened leg. This explanation fits better with a version of the text that reads *mekapeh*, meaning that the individual raises his leg. Accordingly, he pretends that he cannot lower his leg to the ground. Others, citing the *ge'onim*, take the word *mekapeh* to denote thickening, as the person purports to have a swollen leg (*Shita Mekubbetzet*).

Finally, another version of the Gemara text reads *mekaveh*, indicating that the person uses a crutch or wooden leg to demonstrate disability (*Arukh*).

HALAKHA

One who averts his eyes from the obligation to give charity – הַמַּעֲלִים עֵינָיו מִן הַצְּדָקָה: Anyone who averts his eyes from charity is called *beliya'al*, base, and he is likened to someone who worships idols. One should be extremely careful to give charity, for the pauper may die if one does not give him something immediately, and this form of neglect is tantamount to murder (Rambam *Sefer Zera'im*, *Hilkhot Mattenot Aniyyim* 10:3; *Shulḥan Arukh*, *Yoreh De'a* 247:1).

One who falsely blinds his eye – הַמְסַמֵּא אֶת עֵינוֹ: One who does not need charity and deceives people in order to benefit from charity will actually require community assistance in his lifetime (Rambam *Sefer Zera'im*, *Hilkhot Mattenot Aniyyim* 10:19; *Shulḥan Arukh*, *Yoreh De'a* 255:2).

He is not required to sell his accessories – אֵינוֹ חַיָּיב לִמְכּוֹר כְּלֵי תַּשְׁמִישׁוֹ: One who has a house and many furnishings but does not have two hundred dinars is permitted to receive assistance from charity. He is not required to sell his furnishings, even if they are made out of gold or silver. This is said with respect to eating utensils as well as clothing, linens, and similar items. But if one has other expensive utensils, he must sell them and not take charity. This ruling follows the opinion of Rava, son of Rabba.

Permission to retain one's expensive utensils applies only to one who receives charity from individuals. If he wishes to take from the community fund, he may not do so until he sells these items, in accordance with the opinions of Rav Pappa and Rava, son of Rabba, who do not appear to disagree with each other (Rif; Rambam *Sefer Zera'im*, *Hilkhot Mattenot Aniyyim* 9:14 and *Kesef Mishne* there; *Shulḥan Arukh*, *Yoreh De'a* 253:1).

רַב פַּפָּא אָמַר: לָא קַשְׁיָא; כָּאן – קוֹדֶם שֶׁיָּבֹא לִידֵי גִּיבּוּי, כָּאן – לְאַחַר שֶׁיָּבֹא לִידֵי גִּיבּוּי.

The Gemara offers an alternative resolution to the contradiction concerning the requirement to sell property. **Rav Pappa said: This is not difficult. Here,** the source that does not require him to sell property describes circumstances **before he comes to** the point of **collecting**[N] charity. **There,** the source that requires him to sell property addresses a case that may arise **after he comes to** the point of **collecting** charity. If he has more than two hundred dinars and nevertheless collects charity, the court will reclaim from him the charity he has collected. In the event that he does not have enough cash to pay, he is required to sell his property of any type and downgrade to lesser items.

מתני׳ יְתוֹמָה שֶׁהִשִּׂיאָתָהּ אִמָּהּ אוֹ אֲחֶיהָ מִדַּעְתָּהּ, וְכָתְבוּ לָהּ בְּמֵאָה אוֹ בַּחֲמִשִּׁים זוּז – יְכוֹלָה הִיא מְשֻׁתַּגְּדִיל לְהוֹצִיא מִיָּדָן מַה שֶּׁרָאוּי לְהִנָּתֵן לָהּ.

MISHNA With regard to a minor **orphan girl whose mother or brothers married her off,**[HB] even **with her consent** to a small dowry, she retains her rights to a proper dowry. **And** thus, if they **wrote for her** a dowry **of one hundred or of fifty dinars, she may, upon reaching majority, exact from** her mother, or brothers, or their respective estates the sum of money **that is fit to be given to her** as a dowry, which is one-tenth of the family's estate. Even if she agreed to forgo part of this sum as a minor, she may collect it as an adult.

רַבִּי יְהוּדָה אוֹמֵר: אִם הִשִּׂיא אֶת הַבַּת הָרִאשׁוֹנָה – יִנָּתֵן לַשְּׁנִיָּה כְּדֶרֶךְ שֶׁנָּתַן לָרִאשׁוֹנָה. וַחֲכָמִים אוֹמְרִים – פְּעָמִים שֶׁאָדָם עָנִי וְהֶעֱשִׁיר, אוֹ עָשִׁיר וְהֶעֱנִי, אֶלָּא: שָׁמִין אֶת הַנְּכָסִים וְנוֹתְנִין לָהּ.

Rabbi Yehuda says: If the father **married off the first daughter** before he died, a dowry **should be given to the second** daughter **in the same manner that he gave** one **to the first** daughter. **And the Rabbis say:** There is no ready standard, since **sometimes a person** is **poor and** then **becomes wealthy, or** a person is **wealthy** and then **becomes poor,** so a family's allowance for dowries is subject to change. **Rather,** the court **appraises the property and gives her** the appropriate sum.

גמ׳ אָמַר שְׁמוּאֵל: לְפַרְנָסָה – שָׁמִין בָּאָב. מֵתִיבִי: הַבָּנוֹת נִיזּוֹנוֹת וּמִתְפַּרְנְסוֹת מִנִּכְסֵי אֲבִיהֶן. כֵּיצַד? אֵין אוֹמְרִים: אִילּוּ אֲבִיהָ קַיָּים כָּךְ וְכָךְ הָיָה נוֹתֵן לָהּ, אֶלָּא שָׁמִין אֶת הַנְּכָסִים וְנוֹתְנִין לָהּ. מַאי לָאו – פַּרְנָסַת הַבַּעַל? אָמַר רַב נַחְמָן בַּר יִצְחָק: לָא, בְּפַרְנָסַת עַצְמָהּ.

GEMARA **Shmuel said:** With respect **to** her **support** in the form of the dowry, the court **evaluates** what she should be given **based on** the circumstances of **the father** and gives her the amount that he would have given.[H] The Gemara **raises an objection:** We have learned: **The daughters are sustained and supported from the property of their father. How so? We do not** speculate on the basis of his social standing and his previous experience and **say: If her father were** still **alive, he would give her such and such** amount. **Rather,** the court **appraises the** total worth of the **property and gives her** a portion of it, without a subjective estimate based on the father. The Gemara analyzes this *baraita*: **What, is it not** that the word support is referring to **support** for **the husband,** which is the dowry? The Gemara responds: **Rav Naḥman bar Yitzḥak said: No,** it is referring **to her own support**[H] and the food she receives. That allowance is calculated without considering the father's practices, but the question of the dowry is still unresolved.

NOTES

The point of collecting – גִּיבּוּי: There are several possible explanations for this phrase, which marks a point in time that differentiates between one who must sell his property and one who need not do so. According to Rashi, the phrase: Before he comes to the point of collecting, is referring to a pauper who has not yet collected the gleanings, forgotten sheaves, and corner produce, all of which are allocated to the poor. By sharp contrast, the term: After he comes to the point of collecting, describes a case in which someone above the poverty line partook of the aforementioned gifts for the poor without permission. The court collects payment from him and compels him to sell expensive items and accessories, if necessary, in order to replace the sums he took inappropriately.

Most commentaries reject Rashi's understanding and offer alternative explanations. The Rashba cites Rabbeinu Tam, who understands the distinction to be between being qualified to receive aid from the various gleanings declared ownerless for the poor, for which one is not required to sell his utensils, and being qualified to receive aid from charity funds, which are actively solicited by the charity administrators. He is ineligible for the latter category of aid until he sells his expensive wares. According to this, the Gemara's term: Collecting, is referring to the collections done by the charity administrator on behalf of the poor. A variation on this approach explains that the phrase: Before he comes to the point of collecting, is referring to a stage at which the person is not widely known to need aid, and he is receiving financial help only from certain private benefactors rather than from the communal funds (Rabbeinu Ḥananel; Rif; Rid).

According to the Ritva, the difference between the two categories pertains only to when one received his expensive utensils. If he owned them before the charities began to collect for him he need not sell them, since he has become accustomed to using them. But if he acquired these utensils after he began to receive charity funds, he must sell them (see Rabbeinu Crescas Vidal and Rabbi Aharon HaLevi). The Rosh, citing Rabbeinu Tam, presents precisely the opposite opinion: One must sell his lavish items before collecting charity. However, once he has begun to collect charity, if he happens to come into possession of such articles, he need not sell them.

HALAKHA

An orphan girl whose mother or brothers married her off – יְתוֹמָה שֶׁהִשִּׂיאָתָהּ אִמָּהּ אוֹ אֲחֶיהָ: In the case of a minor orphan whose mother or brothers married her off, even if she consented to a small dowry, she is not limited to a reduced dowry given her at the time of her marriage. If they gave her a small sum of money for her dowry, she may collect the full amount from her father's estate when she reaches majority. Even if she was silent for a long period of time after becoming eligible, she may still subsequently claim the amount owed to her (*Tur*; *Maggid Mishne*, citing Rashba; Rambam *Sefer Nashim*, *Hilkhot Ishut* 20:12; *Shulḥan Arukh*, *Even HaEzer* 113:7).

How much is given for a dowry to an orphan – כַּמָּה נְדוּנְיָא נוֹתְנִים לְיִתוֹמָה: If a minor girl is orphaned, the court assigns her a dowry from her father's estate based on its estimate of how much he would have given her. This is determined by considering a variety of factors: What is done among the late father's peers, the father's personal spending habits, and the father's social standing. This approach in in accordance with Shmuel's opinion. Similarly, if her father had married off a daughter during his lifetime, the amount of that dowry is considered in the court's assessment, in accordance with Rabbi Yehuda, whose opinion was accepted by the Gemara.

The Rema, citing the *Tur*, writes that if the father had been wealthy and then became poor, or if he changed his spending habits, the amount is assessed based on his most recent disposition, in accordance with the opinion of the Rabbis in the mishna. If the court cannot assess his intentions, they appraise the property and give her one-tenth as a dowry. This follows the opinion of Rabbi Yehuda HaNasi, as Rava ruled that this is the accepted *halakha* (Rambam *Sefer Nashim*, *Hilkhot Ishut* 20:3; *Shulḥan Arukh*, *Even HaEzer* 113:1).

Her own support – פַּרְנָסַת עַצְמָהּ: The court designates sustenance, clothing, and housing for an orphaned daughter in the same way that it does for a widow. Similarly, the court sells property for the daughters' sustenance and clothing without making a public announcement, just as the court would do to provide sustenance and clothing for a widow (see 100b). The difference is that, for a widow, the sums are determined according to her stature and that of her late husband, whereas support for daughters is determined based only on what they need (Rambam *Sefer Nashim*, *Hilkhot Ishut* 19:11; *Shulḥan Arukh*, *Even HaEzer* 112:6).

BACKGROUND

An orphan girl whose mother or brothers married her off – יְתוֹמָה שֶׁהִשִּׂיאָתָהּ אִמָּהּ אוֹ אֲחֶיהָ: A girl under the age of twelve can be married off by her father. If, however, her father is no longer alive, then by Torah law she may not be married while still a minor. Nevertheless, the Sages established that her mother or brothers may marry her off with her consent. The girl may annul this marriage before she reaches the age of twelve by performing an act of refusal, i.e., declaring that she does not want the marriage. In such cases, no bill of divorce is necessary. When a girl performs the act of refusal, the marriage is nullified retroactively, and she is considered never to have been married at all. Most of the *halakhot* of refusal are discussed in tractate *Yevamot*.

הָא נְיזוֹנוֹת וּמְתְפַּרְנְסוֹת קָתָנֵי, מַאי לָאו: אַחַת פַּרְנָסַת הַבַּעַל וְאַחַת פַּרְנָסַת עַצְמָהּ?! לָא, אִידִי וְאִידִי בְּפַרְנָסַת עַצְמָהּ, וְלָא קַשְׁיָא: הָא – בַּאֲכִילָה וּבִשְׁתִיָּה, וְהָא – בִּלְבוּשָׁא וְכִיסּוּיָא.

The Gemara asks: **But** the cited source **teaches:** They are **sustained and supported,** which indicates two separate allowances. **What, is it not** that **one** term is referring to **support** for **the husband** in the form of the dowry **and one** term is referring to **her own support?** The Gemara answers: **No, this one and that one** both refer **to her own support** for her personal needs. **And** the use of two terms is **not difficult,** because **this** term, sustained, is referring **to** allowance for **eating and drinking, and that** term, supported, is referring **to clothing and** other **covering.**

תְּנַן, וַחֲכָמִים אוֹמְרִים: פְּעָמִים שֶׁאָדָם עָנִי וְהֶעֱשִׁיר אוֹ עָשִׁיר וְהֶעֱנִי, אֶלָּא שָׁמִין הַנְּכָסִים וְנוֹתְנִין לָהּ. מַאי עָנִי וּמַאי עָשִׁיר? אִי נֵימָא עָנִי – עָנִי בִּנְכָסִים, עָשִׁיר – עָשִׁיר בִּנְכָסִים. מִכְּלָל דְּתַנָּא קַמָּא סָבַר אֲפִילּוּ עָשִׁיר וְהֶעֱנִי כִּדְמֵעִיקָּרָא יְהַבִינַן לָהּ, הָא לֵית לֵיהּ!

We learned in the mishna: **And the Rabbis say: Sometimes a person** is **poor and becomes wealthy, or** a person **is wealthy** and **becomes poor,** and a family's allowance for dowries is subject to change. **Rather,** the court **appraises the property and gives her** the appropriate sum. The Gemara analyzes this opinion: **What** is meant by the term **poor, and what** is meant by the term **wealthy? If we say** that **poor** is referring to one who is **poor in property,** and **wealthy** is referring to one who is **wealthy in property,** if so, **by inference** it seems **that the first *tanna* holds** that **even** if the father was **wealthy and** then **became poor, we give** the second daughter a dowry that is **like** the dowry that he provided **originally** to the first daughter. **But** how could we assign such a sum when **he does not have** enough in the estate?

אֶלָּא לָאו עָנִי – עָנִי בְּדַעַת, עָשִׁיר – עָשִׁיר בְּדַעַת, וְקָתָנֵי שָׁמִין אֶת הַנְּכָסִים וְנוֹתְנִין לָהּ אַלְמָא לָא אָזְלִינַן בָּתַר אוּמְדָּנָא, וּתְיוּבְתָּא דִּשְׁמוּאֵל! הוּא דַּאֲמַר כְּרַבִּי יְהוּדָה. דְּתְנַן, רַבִּי יְהוּדָה אוֹמֵר: אִם הִשִּׂיא בַּת הָרִאשׁוֹנָה יִנָּתֵן לַשְּׁנִיָּה כְּדֶרֶךְ שֶׁנָּתַן לָרִאשׁוֹנָה.

Rather, is it not that **poor** means **poor in mindset,** i.e., he spends his money thriftily as though he were poor, and that **wealthy** means **wealthy in mindset,** i.e., he spends money liberally as though he were wealthy? **And** nevertheless the mishna **teaches** that even if the father changes his approach to spending, the court **appraises the property and gives** the dowry to **her. Apparently,** then, **we do not follow** the **assessment** of the father's intentions but rather give a fixed sum, **and** this is **a conclusive refutation of** the opinion of **Shmuel.** The Gemara dismisses the refutation: Shmuel **has said** his opinion **in accordance with** the opinion of **Rabbi Yehuda, as we learned** in the mishna: **Rabbi Yehuda says: If** the father **married off the first daughter,** a dowry **should be given to the second in the same manner that he gave to the first.** According to this opinion, the court does assess the father's tendencies in determining the dowry for the second daughter.

וְנֵימָא הֲלָכָה כְּרַבִּי יְהוּדָה! אִי אָמַר הֲלָכָה כְּרַבִּי יְהוּדָה הָוֵה אָמִינָא דַּוְקָא הִשִּׂיאָהּ, דְּגַלֵּי דַּעְתֵּיהּ, אֲבָל לֹא הִשִּׂיאָהּ לָא, קָא מַשְׁמַע לָן טַעֲמָא דְּרַבִּי יְהוּדָה דְּאָזְלִינַן בָּתַר אוּמְדָּנָא, לָא שְׁנָא הִשִּׂיאָהּ וְלָא שְׁנָא לֹא הִשִּׂיאָהּ,

The Gemara asks: **And let** Shmuel **say** explicitly that **the *halakha*** is **in accordance with** the opinion of **Rabbi Yehuda.** Why did he not do so? The Gemara responds: **If he** had **said** that **the *halakha* is in accordance with** the opinion of **Rabbi Yehuda, I would have said** that this is **specifically** when **he marries off** the first daughter, **as he revealed his mind** concerning the proper sum of a dowry, **but** if **he did not marry her off** before he died, then the court does **not** assess his disposition to determine the proper amount. Since, however, Shmuel did not merely say that he accepts the opinion of Rabbi Yehuda, he **teaches us** that the **reason behind Rabbi Yehuda's** opinion is **that we follow** the **assessment** of what the father would have done. It **is no different** if **he married** a daughter off, **and** it **is no different if he did not marry** one off.

וְהַאי דְּקָתָנֵי הִשִּׂיאָהּ לְהוֹדִיעֲךָ כֹּחָן דְּרַבָּנַן, דְּאַף עַל גַּב דְּהִשִּׂיאָהּ וְגַלֵּי דַּעְתֵּיהּ, לָא אָזְלִינַן בָּתַר אוּמְדָּנָא.

And that which the mishna **teaches** in Rabbi Yehuda's opinion: **He married off** the first daughter, this is **to convey to you the far-reaching nature** of the dissenting opinion **of the Rabbis,** who hold **that although** the father **married** the first daughter **off and revealed his mind** with respect to dowries, **we** still **do not follow an assessment** of how much the father would have given to the second daughter.

אֲמַר לֵיהּ רָבָא לְרַב חִסְדָּא: דְּרִשִׁינַן מִשְׁמָךְ הֲלָכָה כְּרַבִּי יְהוּדָה. אֲמַר לֵיהּ: יְהֵא רַעֲוָא כָּל כִּי הָנֵי מִילֵּי מַעֲלֵיתָא תִּדְרְשׁוּ מִשְׁמַאי.

Rava said to Rav Ḥisda: We teach in your name that the ***halakha*** is in accordance **with** the opinion of **Rabbi Yehuda** in this matter. **He said to him: May it be** God's **will** that **you will teach in my name all proper statements such as this.** Rav Ḥisda agreed with the quote attributed to him.

וּמִי אֲמַר רָבָא הָכִי? וְהָתַנְיָא, רַבִּי אוֹמֵר בַּת הַנִּיזּוֹנֶת מִן הָאַחִין נוֹטֶלֶת עִישּׂוּר נְכָסִים, וַאֲמַר רָבָא: הִלְכְתָא כְּרַבִּי! לָא קַשְׁיָא; הָא – דַּאֲמִידְנֵיהּ, הָא – דְּלָא אֲמִידְנֵיהּ.

The Gemara asks: **And did Rava** actually **say this,** that the *halakha* follows Rabbi Yehuda? **But isn't it taught** in a *baraita*: **Rabbi** Yehuda HaNasi **says:** With regard to an orphan **daughter who is sustained from the** inheritance held by her **brothers,** she **takes one-tenth of** the **estate** for her dowry. **And Rava said** with regard to that *baraita*: **The *halakha* is in accordance with** the opinion of **Rabbi** Yehuda HaNasi. Evidently, Rava rejects Rabbi Yehuda's opinion concerning approximating the father's intent. The Gemara answers: **This** is **not difficult.** In **this** instance, Rava adopts Rabbi Yehuda's opinion **because we assessed** the father and understood his mindset. In **that** instance, Rava rules that she should be given one-tenth **because we did not assess** the father and his mindset could not be determined.

הָכִי נַמִּי מִסְתַּבְּרָא דַּאֲמַר רַב אַדָּא בַּר אַהֲבָה מַעֲשֶׂה וְנָתַן לָהּ רַבִּי אֶחָד מִשְּׁנֵים עָשָׂר בַּנְּכָסִים, קַשְׁיָין אַהֲדָדֵי, אֶלָּא לָאו שְׁמַע מִינָּהּ הָא דַּאֲמִידְנֵיהּ הָא דְּלָא אֲמִידְנֵיהּ, שְׁמַע מִינָּהּ.

The Gemara notes: **So too, it is reasonable, as Rav Adda bar Ahava said:** There was **an incident, and Rabbi** Yehuda HaNasi **gave** an orphan **one-twelfth of** her late father's **property** for her dowry. Ostensibly, these amoraic statements **are difficult,** as they contradict **each other.** Which portion of the estate did Rabbi Yehuda HaNasi determine should be given for a dowry, one-tenth or one-twelfth? **Rather, isn't it** correct to **conclude from** the discrepancy that the respective circumstances were different? In **this** ruling, in which Rabbi Yehuda HaNasi gave one-twelfth, it was **because we assessed** the father, and we knew that to be his intention. In **that** ruling, he ruled that she should receive the standard one-tenth **because we didn't assess** the father and could not determine his intentions. The Gemara accepts the proof: **Conclude from this** that the matter does depend on the ability to properly assess the father's intent.

גּוּפָא אָמַר רַבִּי: בַּת הַנִּיזּוֹנֶת מִן הָאַחִין נוֹטֶלֶת עִישּׂוּר נְכָסִים. אָמְרוּ לוֹ לְרַבִּי: לְדִבְרֶיךָ, מִי שֶׁיֵּשׁ לוֹ עֶשֶׂר בָּנוֹת וּבֵן, אֵין לוֹ לַבֵּן בִּמְקוֹם בָּנוֹת כְּלוּם!

§ The Gemara returns to discuss **the** matter **itself. Rabbi** Yehuda HaNasi said: With regard to an orphan **daughter who is sustained from the** inheritance held by her **brothers,** she **takes one-tenth** of the **estate** for her dowry. **They said to Rabbi** Yehuda HaNasi: **According to your opinion,** in the case of **one who has ten daughters and a son, the son does not have anything where** there are **daughters,** as each daughter receives one-tenth of the estate. What becomes of the son's biblically mandated inheritance?

אָמַר לָהֶן: כָּךְ אֲנִי אוֹמֵר: רִאשׁוֹנָה נוֹטֶלֶת עִישּׂוּר נְכָסִים, שְׁנִיָּה בְּמַה שֶּׁשִּׁיְּירָה, וּשְׁלִישִׁית בְּמַה שֶּׁשִּׁיְּירָה, וְחוֹזְרוֹת וְחוֹלְקוֹת בְּשָׁוֶה.

Rabbi Yehuda HaNasi **said to them: This is what I say:** The **first** daughter to marry **takes one-tenth of the estate;** the **second** takes one-tenth **of what** the first **left,** rather than one-tenth of the original estate; **and** the **third** takes one-tenth **of what** the second **left; and then they** later **redistribute** the portions **equally,** so that each daughter receives the same amount. In this way, the son retains a portion of the inheritance.[H]

HALAKHA

בְּעִישּׂוּר נְכָסִים כֵּיצַד נוֹהֲגִים: The convention for calculating one-tenth of the estate – If a man dies and leaves several daughters, the first to marry receives one-tenth of the estate, the second receives one-tenth of the remaining property, and so forth. If they all get married during the same period, they take their dowries in the delineated manner, following the sequence of their weddings. However, in the latter case, after the initial distribution, they redistribute the property in such a way that each daughter receives the same amount, in accordance with the conclusion of the Gemara (Rambam *Sefer Nashim*, *Hilkhot Ishut* 20:4; *Shulḥan Arukh*, *Even HaEzer* 113:4).

Perek **VI**
Daf **68** Amud **b**

כָּל חֲדָא וַחֲדָא דְּנַפְשָׁהּ שָׁקְלָה! הָכִי קָאָמַר: אִם בָּאוּ כּוּלָּם לְהִנָּשֵׂא כְּאַחַת – חוֹלְקוֹת בְּשָׁוֶה.

The Gemara asks: Why should they divide the portions equally? Since **each and every** daughter, in turn, **takes her own** dowry, each one receives that which she rightfully deserves. It is unreasonable to demand of them to redivide the dowries later. The Gemara answers: **This is what** Rabbi Yehuda HaNasi **said,** i.e., meant: **If they all come to be married at the same time,** then **they divide** the portions **equally.** If, however, they marry at different times, then each daughter receives the appropriate percentage of the estate at the time of her marriage.

מְסַיֵּיעַ לֵיהּ לְרַב מַתָּנָה, דְּאָמַר רַב מַתָּנָה: אִם בָּאוּ לְהִנָּשֵׂא כּוּלָּם כְּאַחַת – נוֹטְלוֹת עִישּׂוּר אֶחָד. עִישּׂוּר אֶחָד סָלְקָא דַּעְתָּךְ?! אֶלָּא: נוֹטְלוֹת עִישּׂוּר כְּאֶחָד.

This conclusion **supports** the opinion **of Rav Mattana, as Rav Mattana said: If they all come to be married at one** time, **they take one-tenth.** The Gemara clarifies: Does it **enter your mind** that all the daughters should share just **one-tenth** of the property? **Rather,** Rav Mattana means that **they** each **take one-tenth in one** uniform measure, as in normal circumstances each one successively takes one-tenth of whatever property remains. However, because all the weddings take place within a short time span, the dowries are redistributed immediately after the weddings, so that they are all of equal value.

תָּנוּ רַבָּנַן: הַבָּנוֹת, בֵּין בָּגְרוּ עַד שֶׁלֹּא נִישְׂאוּ וּבֵין נִישְׂאוּ עַד שֶׁלֹּא בָּגְרוּ – אִיבְּדוּ מְזוֹנוֹתֵיהֶן, וְלֹא אִיבְּדוּ פַּרְנָסָתָן, דִּבְרֵי רַבִּי. רַבִּי שִׁמְעוֹן בֶּן אֶלְעָזָר אוֹמֵר: אַף אִיבְּדוּ פַּרְנָסָתָן. כֵּיצַד הֵן עוֹשׂוֹת? שׂוֹכְרוֹת לָהֶן בְּעָלִים וּמוֹצִיאִין לָהֶן פַּרְנָסָתָן.

§ **The Sages taught** in a *baraita*: With regard to **the daughters, whether they matured before they were married**[N] **or were married before they matured, they lost their sustenance.** Sustenance is provided from the inheritance only for single daughters who have not yet matured. **However, they** did **not lose their support,**[H] i.e., their allotted provisions for a dowry, upon maturing. This is **the statement of Rabbi** Yehuda HaNasi. **Rabbi Shimon ben Elazar says:** They **lost even their support.** If they matured before marrying, they lost their chance to collect their dowries from the estate. **What do they do** to avoid losing the dowries? They have no alternative other than to marry before maturing. **They hire themselves husbands,** i.e., they take pains to be sure that they are married, **and** then they **appropriate their support,** i.e., dowries, **for themselves.**

אָמַר רַב נַחְמָן: אֲמַר לִי הוּנָא: הִלְכְתָא כְּרַבִּי. אֵיתִיבֵיהּ רָבָא לְרַב נַחְמָן: יְתוֹמָה שֶׁהִשִּׂיאָתָהּ אִמָּהּ אוֹ אַחֶיהָ מִדַּעְתָּהּ, וְכָתְבוּ לָהּ בְּמֵאָה אוֹ בַּחֲמִשִּׁים זוּז – יְכוֹלָה הִיא מְשֻׁתַּגְּדִיל לְהוֹצִיא מְיָדָם מַה שֶּׁרָאוּי לְהִנָּתֵן לָהּ. טַעֲמָא – דְּקָטַנָּה, הָא גְּדוֹלָה – וִיתְרָה!

Rav Naḥman said: Rav **Huna told me** that **the *halakha* is in accordance with** the opinion of **Rabbi** Yehuda HaNasi, and orphans may collect their dowries from the estate even when they marry after maturing. **Rava raised an objection to Rav Naḥman** from the mishna: With regard to **an orphan girl whose mother or brothers married her off with her consent and wrote for her** a dowry **of one hundred or of fifty dinars, she may, upon reaching majority, exact from them that which is fit to be given to her** for her dowry. The Gemara infers: **The reason** that she may collect the balance of the dowry is **that** she married as **a minor girl, but** if she married as **an adult woman,** evidently **she forgoes** the balance. This would appear to follow the opinion of Rabbi Shimon ben Elazar, who says that her rights to inherit the dowry are terminated when she matures, against the statement of Rav Naḥman.

לָא קַשְׁיָא, הָא – דְּמִחַאי, הָא – דְּלָא מִחַאי.

The Gemara answers: **This** is **not difficult;** Rabbi Yehuda HaNasi distinguishes between two instances of mature brides. In **this** case, **because she protests,** she may still collect the rest of her dowry. In **that** case, **because she does not protest,** she implicitly waives the balance of the dowry.[H]

הָכִי נַמִּי מִסְתַּבְּרָא, דְּאִם כֵּן קַשְׁיָא דְּרַבִּי אַדְּרַבִּי. דְּתַנְיָא, רַבִּי אוֹמֵר: בַּת הַמְזוֹנָת מִן הָאַחִין – נוֹטֶלֶת עִישּׂוּר נְכָסִים. מְזוֹנָת – אִין, שֶׁאֵינָהּ מְזוֹנָת – לָא!

The Gemara notes: **This, too, stands to reason, since if indeed** Rabbi Yehuda HaNasi fails to differentiate between when she does and does not protest, it is **difficult:** One statement **of Rabbi** Yehuda HaNasi contradicts another statement **of Rabbi** Yehuda HaNasi, **as it is taught** in a *baraita*: **Rabbi** Yehuda HaNasi **says:** An orphan **daughter who is sustained by the brothers takes one-tenth of the estate** for her dowry. The Gemara infers: If she **is sustained** when she is a minor, then **yes,** she receives inheritance for a dowry; **if she is not sustained** because she has reached majority, then **no,** she does not receive a dowry from the estate. Ostensibly, Rabbi Yehuda HaNasi teaches that once she matures, she may not take one-tenth of the estate, which directly contradicts the first statement cited in his name.

אֶלָּא לָאו שְׁמַע מִינָּהּ: הָא – דְּמִחַאי, הָא – דְּלָא מִחַאי, שְׁמַע מִינָּהּ.

The Gemara proposes a resolution to the contradiction: **Rather, is it not** correct to **conclude from this** that **this** ruling applies **when she protests** and **that** ruling applies **when she does not protest?** The Gemara confirms: **Conclude from this** that this is the resolution. If she matures before marrying, she collects the full dowry only if she insists upon it.

NOTES

Before they were married – עַד שֶׁלֹּא נִישְׂאוּ: A number of authorities understood from here that the *halakha* does not follow Rav, who is later cited in the Gemara as ruling that each daughter is sustained only until she is betrothed. Rather, the *halakha* follows the *baraita* cited here, and each daughter is sustained until she is actually married (see Rivash and Rabbeinu Crescas Vidal).

HALAKHA

They did not lose their support – לֹא אִיבְּדוּ פַּרְנָסָתָן: Daughters who marry do not lose their support, even if they mature before they are married. This follows the opinion of Rabbi Yehuda HaNasi. His opinion is accepted as authoritative in the Gemara (Rambam *Sefer Nashim*, *Hilkhot Ishut* 20:13; *Shulḥan Arukh*, *Even HaEzer* 113:7).

A mature daughter who did not protest – גְּדוֹלָה שֶׁלֹּא מִיחֲתָה: With regard to a daughter who gets married when she reaches majority, whether she is a young woman or has matured, if she did not protest and claim her support, she has effectively waived and lost her support. This ruling is in accordance with the Gemara's conclusion (Rambam *Sefer Nashim*, *Hilkhot Ishut* 20:13; *Shulḥan Arukh*, *Even HaEzer* 113:7).

אֲמַר לֵיהּ רָבִינָא לְרָבָא: אֲמַר לָן רַב אַדָּא בַּר אַהֲבָה מִשְּׁמָךְ: בָּגְרָה אֵינָהּ צְרִיכָה לְמִחּוֹת. נִישֵּׂאת אֵינָהּ צְרִיכָה לְמִחּוֹת. בָּגְרָה וְנִישֵּׂאת צְרִיכָה לְמִחּוֹת.

Ravina said to Rava: Rav Adda bar Ahava said to us in your name: If she **matured, she does not need to** actively **protest** in order to receive her one-tenth of the estate. Similarly, if **she became married, she does not need to protest.** If **she** both **matured and became married,** then **she needs to protest** in order to receive her one-tenth.

מִי אֲמַר רָבָא הָכִי? וְהָא אֵיתִיבֵיהּ רָבָא לְרַב נַחְמָן יְתוֹמָה, וְשַׁנֵּי לֵיהּ: הָא דְּמָחֵי הָא דְּלָא מָחֵי! לָא קַשְׁיָא; הָא דְּקָא מִיתְּזְנָא מִינַּיְיהוּ, הָא דְּלָא קָא מִיתְּזְנָא מִינַּיְיהוּ.

The Gemara asks: **Did Rava** actually **say this? But Rava raised an objection to Rav Naḥman** earlier concerning **an orphan** who was married, **and** Rav Naḥman **answered him** that **this** ruling applies **when she protested, and that** other ruling applies **when she did not protest.** Evidently, then, she forfeits her share if she does not protest. The Gemara answers: It is **not difficult. This** ruling applies **when** she **is sustained by them** even after marriage,[H] and consequently she is embarrassed to protest. In this case, silence does not indicate that she forgoes the dowry. **That** ruling, insisting that she voice a claim, applies **when she is not sustained by them,** and she has no reason not to protest.

אָמַר רַב הוּנָא אָמַר רַבִּי: פִּרְנָסָה אֵינָהּ כִּתְנַאי כְּתוּבָּה. מַאי אֵינָהּ כִּתְנַאי כְּתוּבָּה? אִי נֵימָא דְּאִילּוּ פַּרְנָסָה טָרְפָא מִמְּשַׁעְבְּדֵי, וּתְנַאי כְּתוּבָּה לָא טָרְפָא מִמְּשַׁעְבְּדֵי – מַאי קָא מַשְׁמַע לָן? הָא מַעֲשִׂים בְּכָל יוֹם מוֹצִיאִין לְפִרְנָסָה וְאֵין מוֹצִיאִין לִמְזוֹנוֹת!

§ **Rav Huna said** that **Rabbi** Yehuda HaNasi **said: Support is not** treated **like a stipulation in the marriage contract.** The Gemara asks: **What** is meant by: **Is not like a stipulation in the marriage contract? If we say that** he is teaching: **Whereas,** with regard to **support,** she may **seize** her debt even **from liened** property that has been sold, **and** with regard to **a stipulation in the marriage contract,** she may **not seize** her debt **from liened** property that has been sold, **what is he teaching us? But incidents** that occur **daily** are proof enough that the court does **appropriate** money from liened property **for** paying **support but does not appropriate for sustenance.** He does not need to teach us that distinction.

וְאֶלָּא, דְּאִילּוּ פַּרְנָסָה גָּבְיָא נַמִּי מִמְּטַלְטְלֵי, וּתְנַאי כְּתוּבָּה מִמְּקַרְקְעֵי גָּבְיָא מִמְּטַלְטְלֵי לָא גָּבְיָא.

But rather, there may be another explanation of Rav Huna's statement: **Whereas** with regard to **support,** she may **also collect** it **from movable property** of the estate, with regard to **a stipulation in the marriage contract,** she may collect for it only **from real estate,** but **from movable property** she may **not collect** for it.

לְרַבִּי אִידִּי וְאִידִּי מִיגְבָּא גָּבְיָא, דְּתַנְיָא: אֶחָד נְכָסִים שֶׁיֵּשׁ לָהֶן אַחֲרָיוּת – וְאֶחָד נְכָסִים שֶׁאֵין לָהֶן אַחֲרָיוּת מוֹצִיאִין לְמָזוֹן הָאִשָּׁה וְלַבָּנוֹת, דִּבְרֵי רַבִּי.

The Gemara objects that this explanation is untenable: **According to Rabbi** Yehuda HaNasi, from both **this and that** type of property, she may certainly **collect** for it, **as it is taught** in a *baraita*: **Whether** with respect to **property that has a guarantee** behind it, assuring that the seller will compensate the buyer if the property is repossessed, i.e., real estate, **or whether** with respect to **property that does not have a guarantee,** i.e., movable objects, the court **appropriates** the funds necessary **for the sustenance of the wife and the daughters.** This is **the statement of Rabbi** Yehuda HaNasi. Since sustenance is a stipulation in the marriage contract, this approach does not explain how a stipulation is unlike support.

אֶלָּא מַאי פַּרְנָסָה אֵינָהּ כִּתְנַאי כְּתוּבָּה – לְכִדְתַנְיָא, הָאוֹמֵר: אַל יְזוּנוּ בָּנוֹתַיי מִנְּכָסַיי – אֵין שׁוֹמְעִין לוֹ. אַל יְתְפַּרְנְסוּ בָּנוֹתַיי מִנְּכָסַיי – שׁוֹמְעִין לוֹ. שֶׁהַפַּרְנָסָה אֵינָהּ כִּתְנַאי כְּתוּבָּה.

Rather, what is the meaning of the statement: **Support is not** treated **like a stipulation in the marriage contract?** This statement has implications with regard **to that which is taught** in a *baraita*: In the case of **one who says** in his will that **his daughters should not be sustained**[N] **from his estate,**[H] **one does not listen to him,** as it is not his prerogative to abrogate this obligation. But if he says that **his daughters should not be supported from his estate,**[H] one **does listen to him, as the legal status of the dowry is not like that of a stipulation in the marriage contract.** The responsibility to provide support is an ordinance that falls upon the father or his inheritors, and they may choose to reject the responsibility.

HALAKHA

If she is sustained – אִי מִיתְּזְנָא: With regard to a daughter who matures and the brothers subsequently cease giving her sustenance, which they are no longer obligated to provide, if she does not protest and appeal for continued support, she loses her support. But if the brothers continue to sustain her even as a mature woman, she retains her support even if she does not protest. This follows the conclusion of the Gemara (Rambam *Sefer Nashim*, *Hilkhot Ishut* 20:13; *Shulḥan Arukh*, *Even HaEzer* 113:7).

His daughters should not be sustained from his estate – אַל יְזוּנוּ בָּנוֹתַיי מִנְּכָסַיי: If one declares upon his deathbed that his daughters should not be sustained by his estate, his instructions are not followed. However, if one makes such a stipulation when he becomes married, this is honored in the same manner as all other financial arrangements (Rambam *Sefer Nashim*, *Hilkhot Ishut* 19:13; *Shulḥan Arukh*, *Even HaEzer* 112:10).

His daughters should not be supported from his estate – אַל יִתְפַּרְנְסוּ בָּנוֹתַיי מִנְּכָסַיי: If one declares upon his deathbed that his daughters should not receive the support of the dowry from his estate, his instructions are followed, since this right is not among the guaranteed stipulations of the marriage contract. The *Tur*, citing Rav Hai Gaon, writes that if he stipulates this condition when he gets married, his instructions are not followed, as it is presumed that were he to have seen his daughters come of marriageable age, he would have compassion for them (Rambam *Sefer Nashim*, *Hilkhot Ishut* 20:10; *Shulḥan Arukh*, *Even HaEzer* 113:10).

NOTES

One who says his daughters should not be sustained – הָאוֹמֵר אַל יְזוּנוּ בָּנוֹתַיי: Rashi emphasizes that this is the correct version of the Gemara, and this text is corroborated by most manuscripts.

However, a number of early commentaries defend an opposite formulation: One who says they should not be sustained, one does listen to him; they should not be supported, one does not listen to him. This is the text found in the commentary of Rabbeinu Ḥananel. In addition, Rav Hai Gaon declared that this text is the most reliable and correct one, despite its apparent conceptual difficulties. He explains that since continued food provisions are given her by virtue of a stipulation in her parents' marriage contract, it is within her father's rights to refuse this stipulation at the time that the parties are writing the marriage contract. Just like any other monetary condition, his terms are valid. This is certainly true after he passes away, when no personal obligations can apply to him. By contrast, his responsibility to provide a dowry has nothing to do with the marriage contract per se; it is a special rabbinic obligation instituted in the daughter's interests. He has no license to excuse himself from this responsibility, just as he may make no stipulations contrary to any of the mitzvot.

Although most early commentaries address this alternative text (see Rif), most reject it in favor of Rashi's version. Nevertheless, an aspect of this text is adopted in the *halakha* (see HALAKHA).