אִיתְּמַר, רַב יְהוּדָה אָמַר שְׁמוּאֵל: הֲלָכָה כְּרַבִּי יוֹסֵי. רָבָא אָמַר רַב נַחְמָן: הֲלָכָה כְּרַבִּי מֵאִיר.

It was stated that the matter was debated by *amora'im*: **Rav Yehuda** said that **Shmuel said: The *halakha* is in accordance with** the opinion of **Rabbi Yosei. Rava** said that **Rav Naḥman said: The *halakha* is in accordance with** the opinion of **Rabbi Meir.**

אִילְפָא תְּלָא נַפְשֵׁיהּ בְּאִיסְקַרְיָא דְּמָכוּתָא. אֲמַר: אִיכָּא דְּאָתֵי דְּאָמַר לִי מִילְּתָא דִּבֵי רַבִּי חִיָּיא וְרַבִּי אוֹשַׁעְיָא וְלָא פָּשֵׁיטְנָא לֵיהּ מִמַּתְנִיתִין – נְפִילָא מֵאִסְקַרְיָא, וְטָבְעֵנָא.

§ Once, it was decided to appoint Rabbi Yoḥanan to be head of the yeshiva over another candidate, the Sage Ilfa, because the latter was not in the vicinity. Suspecting that some would interpret this appointment as a sign that he was less qualified than Rabbi Yoḥanan, **Ilfa**[P] **suspended himself from the mast** [*iskarya*][L] **of a ship** [*makhuta*].[L] **He said: If there is** someone **who comes, who tells me a matter** taught in a *baraita* **of the school of Rabbi Ḥiyya and Rabbi Oshaya, and I do not resolve it** and demonstrate that the same teaching can be derived **from a mishna, I will fall from the mast and drown.**

אֲתָא הַהוּא סָבָא, תָּנָא לֵיהּ: הָאוֹמֵר ״תְּנוּ שֶׁקֶל לִבְנֵי בְּשַׁבָּת״ וּרְאוּיִן לִיתֵּן לָהֶם סֶלַע – נוֹתְנִין לָהֶם סֶלַע. וְאִם אָמַר ״אַל תִּתְּנוּ לָהֶם אֶלָּא שֶׁקֶל״ – אֵין נוֹתְנִין לָהֶם אֶלָּא שֶׁקֶל. וְאִם אָמַר ״אִם מֵתוּ יִירְשׁוּ אֲחֵרִים תַּחְתֵּיהֶם״ – בֵּין שֶׁאָמַר ״תְּנוּ״, בֵּין שֶׁאָמַר ״אַל תִּתְּנוּ״ – אֵין נוֹתְנִים לָהֶם אֶלָּא שֶׁקֶל.

A certain older man came and **taught** before **him** (*Tosefta* 6:10): With regard to **one who says** upon his deathbed: **Give a shekel to my sons**[H] **for** each **week,** the court assesses the sons' needs. **And** if it is **appropriate** that the court **gives them a *sela,*** which is worth two shekels, the court **gives them a *sela.*** Had the father known they would need the additional money, he would not have begrudged them. **But if he said: Give them only a shekel,** the court **gives them only a shekel.** Because their father spoke explicitly, there is no room to question his intentions. If they need more, they should take charitable aid. **And if he said: If they die** without inheritors, **others should inherit in their stead,** then **whether he said: Give** a shekel **or whether he said: Don't give** more than a shekel, the court **gives them only a shekel,** since it is clear that he wants the inheritance to be doled out in such a way that it will remain intact for whoever will receive it. The older man asked Ilfa where this *halakha* is indicated in the Mishna.

אֲמַר לֵיהּ: הָא מַנִּי

Ilfa **said to him:** In accordance with **whose** opinion **is this** *baraita*?

Perek **VI**
Daf **70** Amud **a**

רַבִּי מֵאִיר הִיא, דְּאָמַר: מִצְוָה לְקַיֵּים דִּבְרֵי הַמֵּת.

It is in accordance with the opinion of **Rabbi Meir, who says it is a mitzva to fulfill the instructions of the dead,**[N] as the mishna states that the third party must fulfill the instructions of the deceased, although the daughter is likely to do as she pleases after the third party fulfills his part. In this manner, Ilfa successfully answered the man's challenge.

PERSONALITIES

Ilfa – אִילְפָא: Ilfa, who is called Ḥilfa or Ḥilfai in the Jerusalem Talmud, was a first- and second-generation *amora* in Eretz Yisrael. In his youth, he was a student of Rabbi Yehuda HaNasi, and afterward he studied together with his own younger contemporary, Rabbi Yoḥanan.

In the face of financial challenges, both Ilfa and Rabbi Yoḥanan decided to pursue trade. However, Rabbi Yoḥanan changed his mind and continued to engage in the study of Torah amidst hardship. Meanwhile, Ilfa left to pursue commercial opportunities, evidently overseas.

During this period, the position of the head of the Yeshiva became vacant, and Rabbi Yoḥanan was elected to fill the office. When Ilfa returned, some claimed that he did not gain the appointment because he was not sufficiently accomplished in Torah study. As a result, Ilfa sought to demonstrate his prowess in Torah study.

His teachings, as well as records of his personal notes, are found both in the Babylonian and the Jerusalem Talmud. In addition, his colleague Rabbi Yoḥanan occasionally cites opinions in his name.

LANGUAGE

Mast [*iskarya*] – אִסְקַרְיָא: From the Greek ἱστοκεραία, *istokeraya*, meaning mast.

Ship [*makhuta*] – מָכוּתָא: Like other words relating to seafaring, this word has traveled widely. It appears in numerous languages, both Semitic and Indo-European. Its precise etymology is unknown, although possibilities include a relation to the Persian makok, meaning ship or boat, or the Akkadian makkūtu, meaning boat.

HALAKHA

One who says: Give a shekel to my sons – הָאוֹמֵר תְּנוּ שֶׁקֶל לִבְנֵי: If one leaves the instruction that after his death his sons should receive one shekel for their needs each week, and he says that others should inherit in their place in the event that his sons die, the court should give the sons only one shekel. This is so even if their needs are greater than one shekel, and even if the father says: Give them one shekel, rather than saying: Give them no more than one shekel. This ruling follows the opinion of Rabbi Meir (Rambam *Sefer Kinyan*, *Hilkhot Zekhiya UMattana* 12:6; *Shulḥan Arukh*, *Ḥoshen Mishpat* 253:17).

NOTES

It is a mitzva to fulfill the instructions of the dead – מִצְוָה לְקַיֵּים דִּבְרֵי הַמֵּת: A number of questions are raised with respect to this dictate, which is accepted as *halakha*. *Tosafot* ask: If there is always a mitzva to carry out the directives of the deceased, including those pronounced by the deceased even before he fell ill, then why is there a separate *halakha* that insists separately: The pronouncements of someone on his deathbed have the status of statements written and delivered?

One possible answer is that the Gemara is describing merely a kind of moral imperative to carry out the wishes of the deceased, and this imperative is not legally binding. However, this answer is not valid, as it is clear from the Talmud that the court may even coerce someone to execute the agency of the deceased.

A number of alternative explanations are offered. One opinion maintains that the obligation to fulfill the statement of the deceased applies only to those statements that the person said as a command but that the words of someone on his death bed have heightened gravity however the person expresses them (*Tosafot* on *Bava Batra* 149a, citing Rivam; Rash). Another opinion claims that one who was directly addressed by the deceased has a mitzva to carry out his wishes, but others do not have this obligation (Rash, citing Ri). A variation on this opinion asserts that the mitzva applies only if the dead has either set aside the money necessary to fulfill his directive or entrusted the task to one in a position to carry it out (*Tosafot*, citing Rabbeinu Tam).

Finally, another explanation maintains that when a certain task is designated a mitzva, minors have no obligation to perform the task, as minors are categorically exempt from performing mitzvot (Ran on *Gittin*). Later authorities discuss this approach at some length (see *Maḥane Efrayim*).

אֲמַר רַב חִסְדָּא אֲמַר מָר עוּקְבָא: הִלְכְתָא: בֵּין שֶׁאָמַר "תְּנוּ", וּבֵין שֶׁאָמַר "אַל תִּתְּנוּ" – נוֹתְנִין לָהֶם כָּל צוֹרְכָם. הָא קָיְימָא לָן הֲלָכָה כְּרַבִּי מֵאִיר דְּאָמַר מִצְוָה לְקַיֵּים דִּבְרֵי הַמֵּת – הָנֵי מִילֵּי בְּמִילֵּי אַחֲרִינֵיתָא, אֲבָל בְּהָא – מֵינָח נֵיחָא לֵיהּ, וְהָא דַּאֲמַר הָכִי – לְזָרוּזֵינְהוּ הוּא דַּאֲתָא.

Rav Ḥisda said that **Mar Ukva said:** The ***halakha*** is that **whether** he **says: Give** a shekel[H] **or whether** he **says: Do not give** more than a shekel, the court **gives** the sons enough for **all of their needs.** The Gemara asks: **But** how could we disregard the father's words and give more, when the father said to give only a shekel? **We maintain** that the ***halakha*** is **in accordance with** the opinion of **Rabbi Meir, who says** that **it is a mitzva to fulfill the statements of the dead.** How, then, may the father's instructions be ignored? The Gemara answers: **This** principle **applies** only **in other matters,** in which there is a mitzva to fulfill his wishes, **but in this** instance **it is** certainly **preferable to him** that his children be appropriately provided for. **And** the reason **that he said this** statement limiting the allowance is that **he came to encourage them** to adopt thrifty spending habits.

תְּנַן הָתָם: הַפָּעוֹטוֹת מְקָחָן מְקָח, וּמִמְכָּרָן מָכָר בְּמִטַּלְטְלִים.

We learned in a mishna **there** (*Gittin* 59a): With regard to **children,** their **acquisitions** are considered **acquisitions**[NH] **and their sales** are considered **sales.** This is the case **with** respect to **movable properties,** but not with respect to real estate.

אָמַר רַפְרָם: לֹא שָׁנוּ אֶלָּא שֶׁאֵין שָׁם אַפּוֹטְרוֹפּוֹס – אֲבָל יֵשׁ שָׁם אַפּוֹטְרוֹפּוֹס – אֵין מְקָחָן מְקָח, וְאֵין מִמְכָּרָן מָכָר.

Rafram said: They taught this **only if there is no steward** [***apotropos***][HL] overseeing the children's affairs. **However, if there is a steward, the** children's **acquisitions are not** considered **acquisitions and their sales are not** considered **sales,** even for movable property.

מַאי – מִדְּקָתָנֵי: אֵין מַעֲשֵׂה קְטַנָּה כְּלוּם. וְדִלְמָא הֵיכָא דְּאִיכָּא שָׁלִישׁ שָׁאנֵי? אִם כֵּן לֵיתְנֵי: אֲבָל בִּקְטַנָּה – יַעֲשֶׂה שָׁלִישׁ מַה שֶּׁהוּשְׁלַשׁ בְּיָדוֹ, מַאי "אֵין מַעֲשֵׂה קְטַנָּה כְּלוּם" – שְׁמַע מִינָּהּ: אֲפִילּוּ בְּעָלְמָא.

From where does he know this? **From** the fact **that it teaches** in the mishna here that even when there is a third party who functions as a steward, any **action of a minor girl is nothing.** The Gemara asks: **And perhaps where there is a third party** the *halakha* **is different?** It is possible that the act of a minor is discounted only when it clashes with the actions of an appointee who is past majority. The Gemara answers: **If so, let it teach: But with** regard to **a minor girl,** the **third party should execute** the agency **that was entrusted in his power. What** is the implication of the clause: Any **action of a minor girl is nothing? Conclude from this** that **even generally,** without a specific steward, a minor may not conduct transactions involving real estate.

הדרן עלך מציאת האשה

HALAKHA

Whether he says: Give a shekel – בֵּין שֶׁאָמַר תְּנוּ: Whether the deceased had said: Give my son a shekel each week or he had said: Do not give him more than a shekel, if it is determined that this amount does not meet the needs of the son, the court gives him all he needs from the inheritance. This is in accordance with Mar Ukva's ruling (Rambam *Sefer Kinyan*, *Hilkhot Zekhiya UMattana* 11:23; *Shulḥan Arukh*, *Ḥoshen Mishpat* 253:17).

Children, their acquisitions are considered acquisitions – הַפָּעוֹטוֹת מְקָחָן מְקָח: Transfers of property from minors under the age of six to others are wholly ineffective. From the age of six until one reaches majority, if he understands the nature of transactions, his sales, acquisitions, and gifts of movable property, not real estate, are all valid. This understanding must be verified for children below the age of ten; it is presumed for children past this age, unless they are found to be imbeciles (*Tur*). This is true for transactions of all amounts, and it applies equally to the transactions of healthy people and those upon their death beds.

There is a further limit to the commercial abilities of minors. Since their ability to conduct any commerce is merely a rabbinic institution, the Rema rules that improper transactions conducted by minors are fundamentally invalidated (see Responsa of the Ran). These rulings are in accordance with the mishna cited here (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 29:6; *Shulḥan Arukh*, *Ḥoshen Mishpat* 235:1).

When there is a steward – כְּשֶׁיֵּשׁ אַפּוֹטְרוֹפּוֹס: Children were given license to sell and give movable property only if they do not have a steward. If the children do have a formal steward, or if they are under the care of a comparable guardian (Rema), the children do not have authority to conduct financial dealings independently. The transactions are therefore valid only if the steward wishes to uphold their wishes, in accordance with the opinion of Rafram (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 29:7; *Shulḥan Arukh*, *Ḥoshen Mishpat* 235:2).

NOTES

Children [*pa'otot*], their acquisitions are considered acquisitions – הַפָּעוֹטוֹת מְקָחָן מְקָח: This *halakha* is cited here only peripherally, and it is treated more fully in tractate *Gittin* (59a, 65a). According to the Gemara there, *pa'otot* refers to children between the ages of six and thirteen. Between the ages of six and ten, their transactions are considered meaningful only if their financial competence has been checked. After they have reached the age of ten, they are presumed financially competent, unless they are proven otherwise.

LANGUAGE

Steward [*apotropos*] – אַפּוֹטְרוֹפּוֹס: From the Greek ἐπίτροπος, *epitropos*, meaning a trustee or one with the power of attorney. It refers generally to anyone who has the authority to handle the properties or affairs of another.

מתני׳ הַמַּדִּיר אֶת אִשְׁתּוֹ מֵלֵיהָנוֹת לוֹ, עַד שְׁלֹשִׁים יוֹם – יַעֲמִיד פַּרְנָס, יָתֵר מִיכָּן – יוֹצִיא וְיִתֵּן כְּתוּבָּה.

MISHNA With regard to **one who vows**[B] and obligates **his wife,** prohibiting her **from benefiting from him**[H] or his property, if his vow will remain in effect for **up to thirty days, he must appoint a trustee** [*parnas*][L] to support her. But if the vow will remain in effect for **more than this** amount of time, **he must divorce** her **and give** her the payment of her **marriage contract.**

רַבִּי יְהוּדָה אוֹמֵר: בְּיִשְׂרָאֵל, חֹדֶשׁ אֶחָד – יְקַיֵּים, וּשְׁנַיִם – יוֹצִיא וְיִתֵּן כְּתוּבָּה. בְּכֹהֵן, שְׁנַיִם – יְקַיֵּים, וּשְׁלֹשָׁה – יוֹצִיא וְיִתֵּן כְּתוּבָּה.

Rabbi Yehuda says: If the husband is an **Israelite,** then if his vow will remain in effect for up to **one month, he may maintain** her as his wife; **and** if it will be **two** months, **he must divorce** her **and give** her the payment of her **marriage contract.** But **if** he is **a priest,** then he is given extra time: If the vow will remain in effect for up to **two** months, **he may maintain** her, **and** if it will be **three** months, **he must divorce** her **and give** her the payment of her **marriage contract.** The reason for this is that it is prohibited for a priest to marry a divorcée, including his own ex-wife, and therefore if he divorces her and later regrets his decision he will not be able to take her back.

הַמַּדִּיר אֶת אִשְׁתּוֹ שֶׁלֹּא תִּטְעֹם אֶחָד מִכָּל הַפֵּירוֹת – יוֹצִיא וְיִתֵּן כְּתוּבָּה. רַבִּי יְהוּדָה אוֹמֵר: בְּיִשְׂרָאֵל, יוֹם אֶחָד – יְקַיֵּים, שְׁנַיִם – יוֹצִיא וְיִתֵּן כְּתוּבָּה. וּבְכֹהֵן, שְׁנַיִם – יְקַיֵּים, שְׁלֹשָׁה – יוֹצִיא וְיִתֵּן כְּתוּבָּה.

One who vows and obligates **his wife,** requiring her **not to taste a particular type of produce,**[HN] **must divorce** her **and give** her the payment of her **marriage contract. Rabbi Yehuda says: If** he is an **Israelite,** then if the vow will remain in effect for **one day he may maintain** her as his wife, but if it will be **two** days **he must divorce** her **and give** her the payment of her **marriage contract. And if** he is **a priest,** then if the vow will be in effect for **two** days **he may maintain** her; for **three** days **he must divorce** her **and give** her the payment of her **marriage contract.**

הַמַּדִּיר אֶת אִשְׁתּוֹ שֶׁלֹּא תִּתְקַשֵּׁט בְּאֶחָד מִכָּל הַמִּינִין – יוֹצִיא וְיִתֵּן כְּתוּבָּה. רַבִּי יוֹסֵי אוֹמֵר: בַּעֲנִיּוֹת – שֶׁלֹּא נָתַן קְצָבָה, וּבַעֲשִׁירוֹת – שְׁלֹשִׁים יוֹם.

One who vows and obligates **his wife,** requiring her **not to adorn herself with a particular type** of perfume, **must divorce** her **and give** her the payment of her **marriage contract. Rabbi Yosei says** that one must distinguish between different types of women: **For poor women,** this applies only **when he did not establish a set amount of time** for the vow, **and for wealthy women,** who are accustomed to adorning themselves more elaborately, if she is prohibited from doing so for **thirty days,** he must divorce her and give her the payment of her marriage contract.

גמ׳ וְכֵיוָן דְּמִשּׁוּעְבַּד לָהּ – הֵיכִי מָצֵי מַדִּיר לָהּ? כָּל כְּמִינֵיהּ דְּמַפְקַע לָהּ לְשִׁיעְבּוּדָהּ?

GEMARA The Gemara questions the efficacy of a vow taken by the husband prohibiting his wife from deriving benefit from him: **And since he is under a** prior **obligation to** provide **her** support in accordance with what is written in the marriage contract, **how can he vow** prohibiting **her** from benefiting from him? **Is it in his power to remove** his **obligation to her?**

וְהָתְנַן: ״קוֹנָם שֶׁאֵינִי עוֹשָׂה לְפִיךְ״ – אֵינוֹ צָרִיךְ לְהָפֵר, אַלְמָא, כֵּיוָן דְּמִשַּׁעְבְּדָא לֵיהּ – לָאו כָּל כְּמִינֵיהּ דְּמַפְקַע לֵיהּ לְשִׁיעְבּוּדֵיהּ, הָכָא נַמִּי, כֵּיוָן דְּמִשּׁוּעְבַּד לָהּ – לָאו כָּל כְּמִינֵיהּ דְּמַפְקַע לָהּ לְשִׁיעְבּוּדָהּ!

But didn't we learn in a mishna (*Nedarim* 85a): If his wife said: **It is** forbidden **like an offering** [*konam*] **that I will** therefore **not perform** any work **for** the benefit of **your mouth, he does not need to nullify** her vow, since this vow does not take effect at all. **Apparently, since she is under** a prior **obligation** by power of the Sages' ordinance to perform work **for him, it is not in her power to remove** her **obligation to him. Here too, since he is under a** prior **obligation** to provide support **for her, it is not in his power to remove** his **obligation to her.**[H]

אֶלָּא, מִתּוֹךְ שֶׁיָּכוֹל לוֹמַר לָהּ ״צְאִי מַעֲשֵׂה יָדַיִךְ בִּמְזוֹנוֹתַיִךְ״

Rather, one must say the following: **Since he is able to say to her** at any time: **Spend your earnings to sustain yourself,** meaning that he has the right to instruct her to support herself from her own earnings instead of supporting her himself,

BACKGROUND

Vows – נְדָרִים: This refers to a personal vow, i.e., a voluntary obligation to refrain from performing a certain action or from deriving benefit from a particular person or object. This is, in effect, a type of reverse consecration. One pledges to regard the object or person as if it, or he, were consecrated to the Temple. Any object can be forsworn, and one who fails to fulfill his vow violates the mitzva "He shall not profane his word" (Numbers 30:3). It is also possible, as in the case of the mishna here, to render prohibited to another one's own property by means of a vow. The other must then treat that property as consecrated. However, one cannot prohibit another's property to anyone other than himself.

The Sages were strongly opposed to the taking of vows and encouraged people who had taken vows to have them dissolved.

HALAKHA

One who vows and obligates his wife, prohibiting her from benefiting from him – הַמַּדִּיר אֶת אִשְׁתּוֹ מֵלֵיהָנוֹת לוֹ: A man vows and obligates his wife, prohibiting her from deriving benefit from him. Whether he specifies a time limit for the vow or not, if after thirty days either the time limit of the vow has expired or he has dissolved the vow, then he may remain married to her. But if the vow is still in effect after thirty days, he must divorce her and give her the payment of her marriage contract. During those thirty days that she may not benefit from him, she supports herself from her own earnings, and if her wages do not suffice, he must arrange for one of his friends to provide her with additional sustenance. This *halakha* follows the mishna here (Rambam *Sefer Nashim*, *Hilkhot Ishut* 12:23; *Shulḥan Arukh*, *Yoreh De'a* 235:2, *Even HaEzer* 72:1).

The details of the cases in which a vow such as this can take effect will be discussed subsequently in the Gemara.

One who vows and obligates his wife not to taste a particular type of produce – הַמַּדִּיר אֶת אִשְׁתּוֹ שֶׁלֹּא תִּטְעֹם אֶחָד מִכָּל הַפֵּירוֹת: If someone declares a vow prohibiting his wife from tasting a particular type of produce, he has a thirty-day grace period. But if the vow was in effect for more than thirty days, he must divorce her and give her the payment of her marriage contract, in accordance with the mishna (Rambam *Sefer Nashim*, *Hilkhot Ishut* 12:24).

It is not in his power to remove his obligation to her – לָאו כָּל כְּמִינֵיהּ דְּמַפְקַע שִׁיעְבּוּדָהּ: If the husband declares a vow prohibiting his wife from deriving any benefit from him, the vow does not take effect, since he has a prior obligation to her, based on the terms of the marriage (*Shulḥan Arukh*, *Yoreh De'a* 235:2).

LANGUAGE

Trustee [*parnas*] – פַּרְנָס: Some understand this word as an extension of the root *peh*, *reish*, *samekh* [*pras*], in the sense of dividing or giving. Others say the term is from the Greek **πρόνοος**, *pronoos*, meaning careful or seeing things from their beginning. The word **προνοητής**, *pronoētēs*, is also derived from this root. It means overseer or appointee in charge of management, which is very close to the meaning of the word in the mishna.

NOTES

A particular type of produce – אֶחָד מִכָּל הַפֵּירוֹת: The commentaries point out that the language of this vow refers to a particular type of produce regardless of who owns it, and not specifically to produce owned by the husband. They ask how the husband's vow could render it prohibited for his wife to benefit from something he does not own. Some suggest that the mishna is referring to a case where she took the vow and he simply ratified it. Others say that he can indirectly render it prohibited for her to eat that produce by linking the vow to marital relations or to benefiting from his property, stating that if she tastes from the produce he has prohibited her from eating, she may not engage in relations with him or benefit from his property (see Ritva and *Nimmukei Yosef*).

HALAKHA

He says to her: Spend your earnings to sustain yourself – אוֹמֵר לָהּ צְאִי מַעֲשֶׂה יָדַיִךְ בִּמְזוֹנוֹתַיִךְ: In the case of a man who said to his wife: Spend your earnings to sustain yourself, and took a vow that she may not derive benefit from him, and her earnings were sufficient to provide for her basic needs but not for luxuries, if the members of her extended family are accustomed to such luxuries his vow does not take effect, as he is under obligation to provide for such things as well. However, if the members of her father's house alone, but not all her extended family, were accustomed to such luxuries, and her husband is not wealthy and is not accustomed to such luxuries, and she agreed to live according to his more modest means, if the husband prohibits her by a vow from deriving benefit from him, and she returns to her father's house, the husband must provide for her according to the standards of her father's house, through a trustee, for thirty days (Rambam *Sefer Nashim*, *Hilkhot Ishut* 12:23; *Shulḥan Arukh*, *Yoreh De'a* 235:2).

נַעֲשֶׂה כְּאוֹמֵר לָהּ ״צְאִי מַעֲשֶׂה יָדַיִךְ בִּמְזוֹנוֹתַיִךְ״. וְאִם אִיתָא לְהָא דְּרַב הוּנָא אָמַר רַב, דְּאָמַר רַב הוּנָא אָמַר רַב: יְכוֹלָה אִשָּׁה שֶׁתֹּאמַר לְבַעְלָהּ ״אֵינִי נִיזּוֹנֶת וְאֵינִי עוֹשָׂה״, ״קוֹנָם שֶׁאֲנִי עוֹשָׂה לְפִיךָ״ אַמַּאי אֵינוֹ צָרִיךְ לְהָפֵר? לֵימָא: מִתּוֹךְ שֶׁיְּכוֹלָה לוֹמַר ״אֵינִי נִיזּוֹנֶת וְאֵינִי עוֹשָׂה״ – נַעֲשֶׂה כְּמִי שֶׁאוֹמֶרֶת לוֹ ״אֵינִי נִיזּוֹנֶת וְאֵינִי עוֹשָׂה״!

it is considered as though **he** were in fact **saying to her: Spend your earnings to sustain yourself.** The Gemara raises a difficulty: **And if it is so,** i.e., **that** the *halakha* is in accordance with **that** statement **that Rav Huna said** that **Rav said, as Rav Huna said** that **Rav said: A wife may say to her husband: I will not be sustained** by you **and,** in turn, **I will not work,** i.e., you will not keep my earnings, then when she says: That **which I perform for** the benefit of **your mouth** will be **forbidden like an offering** [*konam*], **why does he not need to nullify** the vow? Here too, **let** us **say: Since she is able to say: I will not be sustained** by you **and I will not work, it is considered as** though **she** were in fact **saying to him** by her vow: **I will not be sustained** by you **and I will not work,** and he should therefore have to nullify the vow.

אֶלָּא, לָא תֵּימָא נַעֲשֶׂה, אֶלָּא: בְּאוֹמֵר לָהּ ״צְאִי מַעֲשֶׂה יָדַיִךְ בִּמְזוֹנוֹתַיִךְ״.

Rather, the Gemara retracts its previous interpretation in favor of the following: **Do not say it is considered as** though he said to her: Spend your earnings to sustain yourself. **Rather,** the mishna is referring to a case **where he** explicitly **says to her: Spend your earnings to sustain yourself.**[H]

אִי הָכִי, פַּרְנָס לָמָּה לָהּ? בִּדְלָא סָפְקָה. אִי בִּדְלָא סָפְקָה – הֲדַר קוּשְׁיָין לְדוּכְתֵּיהּ! אָמַר רַב אַשִׁי: בְּמִסְפֶּקֶת לִדְבָרִים גְּדוֹלִים, וְאֵינָהּ מַסְפֶּקֶת לִדְבָרִים קְטַנִּים.

The Gemara raises a difficulty: **If so,** if he provided for her sustenance by instructing her to spend her own earnings, **why** does **she** require **a trustee?** The Gemara answers: This is referring to a situation **where** the amount she earns **is not enough** for her needs. Therefore, the husband must appoint a trustee to provide the balance. The Gemara asks: **If** it is a case **where** the amount she earns **is not enough** for her needs, **our difficulty is restored to its place:** How can he prohibit her from benefiting from him if he is under a prior obligation to provide for her? **Rav Ashi said:** The mishna is referring to a case **where** her earnings are **enough for large things,**[N] i.e., her basic requirements, **but not enough for small things.**

הָנֵי דְּבָרִים קְטַנִּים הֵיכִי דָּמֵי? אִי דְּרָגִילָה בְּהוּ – הָא רְגִילָה בְּהוּ, וְאִי לָא רְגִילָה בְּהוּ – פַּרְנָס לָמָּה לָהּ? לָא צְרִיכָא, דְּרָגִילָה בְּבֵית נָשָׂא, וְקָא מְגַלְגְּלָא בַּהֲדֵיהּ, דַּאֲמָרָה לֵיהּ: עַד הָאִידָּנָא דְּלָא אַדַּרְתָּן – גַּלְגִּילְנָא בַּהֲדָךְ, הָשְׁתָּא דְּאַדַּרְתָּן – לָא מָצֵינָא דְּאִיגַּלְגַּל בַּהֲדָךְ.

The Gemara asks: With regard to **these small things** for which her earnings are not enough, **what are the circumstances? If** the discussion involves a case where **she is accustomed to them,** then **she is accustomed to them** and they are equivalent to all other necessities, which he must provide. **And if she is not accustomed to them, why** does **she** require **a trustee?** The Gemara answers: **No,** it is **necessary** in a case **where** she was **accustomed** to such small provisions **in her father's house, but she** agreed to marry him and lower her lifestyle, and she had, until now, **abided** the lesser lifestyle and remained **with him.**[N] **For she says to him: Until now, when you did not vow** to render it prohibited for me to benefit from you, **I abided** the lesser lifestyle and remained **with you.** However, **now that you have vowed, I can no** longer **abide** the lesser lifestyle and remain **with you,** and therefore I wish to revert to the conditions of my father's house.

NOTES

Where her earnings are enough for large things, etc. – בְּמַסְפֶּקֶת לִדְבָרִים גְּדוֹלִים וכו': The expression: Large things, refers to basic foods such as bread and vegetables, while small items are defined as luxuries. With regard to why the vow applies to these small items, the Ritva says that since, as explained below, she waived her rights to such objects when she was with her husband, the Sages did not give his obligation to provide them sufficient power to override the vow entirely.

But she abided with him – וְקָא מְגַלְגְּלָא בַּהֲדֵיהּ: In principle she is entitled to the small things as well, but as long as she is being supported directly by her husband she forgives him and does not demand them. However, she does not fully waive her rights, and therefore once she is no longer willing to forgo these benefits he is obligated to provide them.

וּמַאי שְׁנָא עַד שְׁלֹשִׁים יוֹם? עַד שְׁלֹשִׁים יוֹם – לָא שָׁמְעֵי בָּהּ אֱינָשֵׁי, וְלָא זִילָא בָּהּ מִילְּתָא. טְפֵי – שָׁמְעֵי בָּהּ אֱינָשֵׁי, וְזִילָא בָּהּ מִילְּתָא.

The Gemara poses a question: **And what is different** about the time period mentioned in the mishna: **Up to thirty days?** The Gemara answers: If **up to thirty days** have passed, this is a short enough amount of time that **people do not hear about her, and the matter** of her receiving her sustenance through an intermediary **is** therefore **not demeaning for her.** However, if the vow lasts **longer** than this, **people** do **hear about her, and the matter is demeaning for her.** The husband must therefore decide if he wants to divorce her or sustain her in the appropriate fashion.

אִיבָּעֵית אֵימָא: שֶׁהִדִּירָהּ כְּשֶׁהִיא אֲרוּסָה. אֲרוּסָה מִי אִית לָהּ מְזוֹנֵי? שֶׁהִגִּיעַ זְמַן וְלֹא נִשְּׂאוּ. דְּתַנְיָא: הִגִּיעַ זְמַן וְלֹא נִשְּׂאוּ – אוֹכְלוֹת מִשֶּׁלּוֹ, וְאוֹכְלוֹת בִּתְרוּמָה.

The Gemara suggests an alternative answer: **If you wish, say** that the husband is under no obligation to sustain her because the case discussed in the mishna was **where he vowed** and obligated **her when she** was still **a betrothed woman,** and therefore he was not yet duty-bound to provide her with sustenance. The Gemara is puzzled by this explanation: **Does a betrothed woman have** any right to **sustenance** from her husband at all? The Gemara answers: The circumstance referred to is **when the** arranged **time** for the marriage **had arrived and they had not** yet gotten **married. As we learned** in a mishna (57a): If **the time arrived** and **they had not** yet gotten **married,** such women **may eat** food **from his** property, **and** if their husbands were priests **they may partake of *teruma*.**

וּמַאי שְׁנָא עַד שְׁלֹשִׁים יוֹם? עַד שְׁלֹשִׁים יוֹם עָבִיד שָׁלִיחַ שְׁלִיחוּתֵיהּ. טְפֵי – לָא עָבִיד שָׁלִיחַ שְׁלִיחוּתֵיהּ.

The Gemara asks: **But** if so, **what is different** if the vow will remain in effect for **up to thirty days** or longer? The Gemara answers: For **up to thirty days,** the **agent will carry out his agency**[N] effectively and take proper care of her needs. If the vow lasts **longer,** the **agent will not** fully **carry out his agency** but will begin to neglect her, until she cannot bear the situation any longer.

וְאִיבָּעֵית אֵימָא: שֶׁהִדִּירָהּ כְּשֶׁהִיא אֲרוּסָה וְנִישֵּׂאת. נִישֵּׂאת?! הָא סָבְרָה וְקִבְּלָה! דְּאָמְרָה: כִּסְבוּרָה אֲנִי שֶׁאֲנִי יְכוֹלָה לְקַבֵּל, עַכְשָׁיו אֵין אֲנִי יְכוֹלָה לְקַבֵּל.

And if you wish, say that **he vowed** and obligated **her when she was** still **a betrothed woman and she** subsequently **married** him, and therefore he is obligated to provide her sustenance. The Gemara is puzzled: If **she married** him after his vow, **she considered** the matter **and accepted** it upon herself. Why then is he forced to divorce her? The Gemara answers: The case is **when** she **says: I thought that I could accept** this manner of living, but **now** I see that **I cannot accept** it.

אֵימַר דְּאָמְרִינַן הָכִי גַּבֵּי מוּמִין, לְעִנְיַן מְזוֹנֵי מִי אָמְרִינַן הָכִי? אֶלָּא מְחַוְורְתָּא כִּדְשַׁנִּינַן מֵעִיקָּרָא.

The Gemara raises a difficulty: You can **say that we say so,** that if either the husband or the wife suffers from a physical blemish, the other can demand a divorce even after agreeing to the marriage under these conditions. This is **with regard to blemishes,**[N] but **with regard to sustenance can we say so?**[N] **Rather, it is clear as we initially answered:** The mishna discusses either a case where he told her to support herself from her own earnings and she had accepted a lower standard of living while she was with him, or a case where he took the vow when she was betrothed, and now the appointed time for the marriage has arrived and they have not yet gotten married.

״עַד שְׁלֹשִׁים יוֹם יַעֲמִיד פִּרְנָס״. וּפִרְנָס לָאו שְׁלִיחוּתֵיהּ קָא עָבִיד? אָמַר רַב הוּנָא: בְּאוֹמֵר ״כָּל הַזָּן אֵינוֹ מַפְסִיד״.

§ The mishna states that if his vow will remain in effect for **up to thirty days he must appoint a trustee** to provide sustenance to his wife. The Gemara is puzzled by this ruling: **And does a trustee not perform** the husband's **agency?** If through his vow he has rendered it prohibited for her to derive benefit from him, how can he provide for her through the trustee? An action performed by an agent is considered to have been performed by the principal. **Rav Huna said:** The trustee discussed in the mishna was not actually appointed as an agent. Rather, the mishna is referring **to one who says** in general terms: **Whoever sustains** my wife **will not lose out.**[H] Thus, anyone who complies does so of his own choice, although the husband will later compensate him. Therefore, the wife is not benefiting directly from the husband.

NOTES

For up to thirty days, the agent will carry out his agency – עַד שְׁלֹשִׁים יוֹם עָבִיד שָׁלִיחַ שְׁלִיחוּתֵיהּ: An entirely different explanation of this matter is presented in the Jerusalem Talmud: A wife can always refuse to accept her sustenance by means of an intermediary, even for one day, whether the husband is providing her with all her needs or merely supplementing that which she lacks. The reason for the thirty-day limit is that the wife is hoping he will find a way to release himself from the vow. It appears that in the Jerusalem Talmud the shared meals between husband and wife are viewed as an essential part of marriage.

With regard to blemishes – גַּבֵּי מוּמִין: The mishna (77a) states that if the husband suffers from a physical blemish the wife may demand a divorce. In at least some cases, this is true even if she knew about the blemish when agreeing to enter the marriage, as she can claim that she thought she would be able to accept it but now realizes that she cannot.

With regard to sustenance can we say so – לְעִנְיַן מְזוֹנֵי מִי אָמְרִינַן הָכִי: Rashi explains that in the case of blemishes it is possible that she initially thought she could tolerate the blemishes but subsequently discovered she was unable to do so, whereas with regard to sustenance it was certainly obvious to her from the beginning that she cannot survive without food. The Rashba explains the distinction in the opposite way: With regard to sustenance, it is reasonable to assume that a wife might agree to receive her food from an intermediary, whereas the presumption is that a person does not compromise with regard to blemishes.

HALAKHA

Whoever sustains my wife will not lose out – כָּל הַזָּן אֵינוֹ מַפְסִיד: One who prohibits his wife by a vow from deriving benefit from him must sustain her by means of a trustee. He does so by announcing: Whoever sustains her will not lose out. The one who responds to his call can claim his expenses from the husband, as stated by Rav Huna (*Shulḥan Arukh*, *Yoreh De'a* 235:2).

וְכִי אֲמַר הָכִי לָאו שְׁלִיחוּתֵיהּ קָעֲבֵיד? וְהָתְנַן: מִי שֶׁהָיָה מוּשְׁלָךְ בְּבוֹר וְאָמַר ״כֹּל הַשּׁוֹמֵעַ קוֹלוֹ יִכְתּוֹב גֵּט לְאִשְׁתּוֹ״ – הֲרֵי אֵלּוּ יִכְתְּבוּ וְיִתְּנוּ.

The Gemara poses a question: **And when** a husband **says this,** is the one who responds **not performing** the husband's **agency? But didn't we learn** in a mishna (*Gittin* 66a): With regard to **one who was cast into a pit**[H] **and said** that **whoever hears his voice should write a bill of divorce for his wife,** saying this out of concern that he might not be rescued and that she would not be able to remarry or would be required to enter into levirate marriage, **those** who heard him **should write and give** her a bill of divorce? This ruling indicates that they are considered his agents based on his instructions, as otherwise they would not be able to write a bill of divorce on his behalf. The similarly formulated statement here should therefore also endow the trustee with the status of an agent.

הָכִי הָשְׁתָּא?! הָתָם קָאָמַר ״יִכְתּוֹב״, הָכָא מִי קָאָמַר ״יָזוֹן״? ״כָּל הַזָּן״ קָאָמַר.

The Gemara refutes this claim: **How can** these cases **be compared? There,** in the case of a bill of divorce, he **says** that whoever hears his voice **should write** a bill of divorce, which is a command, and therefore those who hear him are considered his agents. **Here,** however, **does** he **say** that anyone **should sustain** his wife? **He** merely **says: Whoever sustains** her will not lose out, which is a general statement.

וְהָא אָמַר רַבִּי אַמִּי: בִּדְלֵיקָה הִתִּירוּ לוֹמַר ״כָּל הַמְכַבֶּה אֵינוֹ מַפְסִיד״! בִּדְלֵיקָה, לְמַעוּטֵי מַאי – לָאו לְמַעוּטֵי כִּי הַאי גַּוְונָא? לָא, לְמַעוּטֵי שְׁאָר אִיפּוּרִים דְּשַׁבָּת.

The Gemara raises a difficulty: **But Rabbi Ami said:** In the case **of a fire** that broke out on Shabbat, the Sages **permitted** him **to say** in the presence of gentiles: **Whoever extinguishes** this fire **will not lose out.**[H] From this it can be inferred that the phrase: In the case **of a fire,** comes **to exclude what?** Does it **not exclude a case like this?** It would seem that it was only in the case of a fire, when there are several extenuating factors, that the Sages permitted the use of such an expression without treating it as the appointment of an agent. The Gemara refutes this: **No,** this ruling serves **to exclude other prohibitions of Shabbat.**

מְתִיב רַבָּה: הַמּוּדָּר הֲנָאָה מֵחֲבֵירוֹ וְאֵין לוֹ מַה יֹּאכַל, יֵלֵךְ אֵצֶל חֲנָוָנִי הָרָגִיל אֶצְלוֹ, וְיֹאמַר לוֹ: ״אִישׁ פְּלוֹנִי מוּדָּר הֲנָאָה מִמֶּנִּי, וְאֵינִי יוֹדֵעַ מָה אֶעֱשֶׂה לוֹ״. הוּא נוֹתֵן לוֹ, וּבָא וְנוֹטֵל מִמֶּנּוּ – הָכִי הוּא דְּשָׁרֵי, אֲבָל ״כָּל הַזָּן אֵינוֹ מַפְסִיד״! לָא!

Rabba raised an objection from a mishna (*Nedarim* 43a): In the case of **one prohibited by a vow from deriving benefit from another** because of a vow the other took, **and he does not have** anything **to eat,** if the one who made the vow wants to help him but is unable to do so due to the vow, **he may go to a storekeeper with whom he is familiar and say to him: So-and-so is prohibited by a vow from deriving benefit from me, and I do not know what I can do for him.** The storekeeper subsequently **gives** food **to him, and** later **comes and takes** payment **from this** person who approached him. Rabba infers: **This** method of indirectly hinting **is what is permitted, but** he may **not** say: **Whoever sustains** the man **will not lose out,** as a declaration of that kind would make the storekeeper his agent.

לָא מִיבָּעֲיָא קָאָמַר; לָא מִיבָּעֲיָא ״כָּל הַזָּן אֵינוֹ מַפְסִיד״ – דִּלְעָלְמָא קָאָמַר, אֲבָל הַאי, כֵּיוָן דְּרָגִיל אֶצְלוֹ, וְקָאָזֵיל קָאָמַר לֵיהּ – כִּמְאַן דְּאָמַר לֵיהּ ״זִיל הַב לֵיהּ אַתְּ״ דָּמֵי, קָא מַשְׁמַע לָן.

The Gemara refutes this claim: The *tanna* **is speaking** utilizing the style of: **It is not necessary,** and he means the following: **It is not necessary** to say that he is permitted to say in general terms: **Whoever sustains** so-and-so **will not lose out, as** by doing so **he is speaking to everyone** and therefore does not appoint a specific agent. **But this** storekeeper, **since** the one who took the oath **is familiar with him and he goes** and **says** this **to him,** might be considered **like the one who said to him: Go, give him yourself.** The mishna therefore **teaches us** that since the one who made the vow did not issue an explicit command, the storekeeper is not considered his agent.

HALAKHA

One who was cast into a pit – מִי שֶׁהָיָה מוּשְׁלָךְ בְּבוֹר: If a man who was in a pit said: Whoever hears my voice should write a bill of divorce for my wife, and he specified his name, his wife's name, and the name of their places of residence, those that heard him should write the bill of divorce. Even if the body was later brought up and could not definitively be identified, the bill of divorce is valid. The Rif and the Rosh claim that this *halakha* applies only if it can be definitively ascertained that the voice from the pit was that of a man and not a demon. The Rambam, however, does not mention this concern (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 2:13; *Shulḥan Arukh*, *Even HaEzer* 141:19).

Whoever extinguishes this fire will not lose out – כָּל הַמְכַבֶּה אֵינוֹ מַפְסִיד: If a fire broke out on Shabbat, the Sages permit one to say in the presence of a gentile: Whoever extinguishes this fire will not lose out. Some authorities rule that one may not formulate this request directly by saying: If you extinguish the fire, etc., but only in an indirect manner, as above. The *Mishna Berura*, however, points out that the *Shiltei HaGibborim* is lenient in this regard (Rambam *Sefer Zemanim*, *Hilkhot Shabbat* 12:7; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 334:26).

גּוּפָא, הַמּוּדָּר הֲנָאָה מֵחֲבֵירוֹ וְאֵין לוֹ מַה יֹּאכַל – הוֹלֵךְ אֵצֶל חֲנֵנִי הָרָגִיל אֶצְלוֹ, וְאוֹמֵר לוֹ: ״אִישׁ פְּלוֹנִי מוּדָּר הֲנָאָה מִמֶּנִּי, וְאֵינִי יוֹדֵעַ מָה אֶעֱשֶׂה לוֹ״. הוּא נוֹתֵן לוֹ, וּבָא וְנוֹטֵל מִזֶּה. בֵּיתוֹ לִבְנוֹת, וּגְדֵירוֹ לִגְדּוֹר, וְשָׂדֵהוּ לְקָצוֹר – הוֹלֵךְ אֵצֶל פּוֹעֲלִין הָרְגִילִין אֶצְלוֹ, וְאוֹמֵר לָהֶן: ״אִישׁ פְּלוֹנִי מוּדָּר הֲנָאָה מִמֶּנִּי, וְאֵינִי יוֹדֵעַ מָה אֶעֱשֶׂה לוֹ״. הֵן עוֹשִׂין עִמּוֹ, וּבָאִין וְנוֹטְלִים שְׂכָרָן מִמֶּנּוּ.

§ Since it mentioned the above case, the Gemara returns to discuss **the** matter **itself:** In the case of **one prohibited by a vow**[H] **from deriving benefit from another** because of a vow the other took, **and he does not have** anything **to eat,** the one who took the vow **may go to a storekeeper with whom he is familiar and say to him: So-and-so is prohibited by a vow from deriving benefit from me, and I do not know what I can do for him.** The storekeeper **gives** food **to him, and** later **comes and takes** payment **from this** one who approached him. Similarly, if the subject of the vow needed someone **to build his house, or to erect his fence, or to reap his field,** and the one who took the vow wants to help him, he should **go to workers with whom he is familiar and say to them: So-and-so is prohibited by a vow from deriving benefit from me, and I do not know what I can do for him. They** subsequently **perform** work **for** the subject of the vow, **and they come and take their wages from this** person who spoke to them.

הָיוּ מְהַלְּכִין בַּדֶּרֶךְ וְאֵין עִמּוֹ מַה יֹּאכַל – נוֹתֵן לְאַחֵר לְשׁוּם מַתָּנָה, וְהָלָה נוֹטֵל וְאוֹכֵל, וּמוּתָּר. וְאִם אֵין שָׁם אַחֵר – מַנִּיחַ עַל גַּבֵּי הַסֶּלַע אוֹ עַל גַּבֵּי הַגָּדֵר, וְאוֹמֵר: הֲרֵי הֵן מוּפְקָרִין לְכָל מִי שֶׁיִּחְפּוֹץ. וְהָלָה נוֹטֵל וְאוֹכֵל, וּמוּתָּר. וְרַבִּי יוֹסֵי אוֹסֵר. אֲמַר רָבָא: מַאי טַעְמָא דְּרַבִּי יוֹסֵי – גְּזֵירָה מִשּׁוּם

If the two **were walking along the way,**[H] **and** the one prohibited from benefiting from the other **does not have** anything **with him to eat,** the one who took the vow may **give** food **to a different** person **as a gift, and this** one **takes** it **and eats, and** this arrangement is **permitted,** as he did not give the food directly to him. **And if there is no other** person **there** apart from the two of them, he should **place** the items **on a rock or on a fence and say: They are** hereby declared **ownerless for anyone who wants** them, **and this** one **takes** the food items **and eats** them, **and** this too is **permitted. But Rabbi Yosei prohibits**[N] this practice. **Rava said: What is the reason** for this ruling **of Rabbi Yosei?** It is a rabbinic **decree due to**

HALAKHA

One prohibited by a vow, etc. – הַמּוּדָּר הֲנָאָה וכו׳: In the case of one who is prohibited by a vow from deriving benefit from another person, the one who made the vow may say to a storekeeper: So-and-so is prohibited by vow from deriving benefit from me, and I do not know what I can do for him. The storekeeper may proceed to give that person food and claim the money from the one who vowed. The latter, however, is not legally obligated to pay for his expenses (*Ba'al Halakhot Gedolot*, citing Rosh and Ran). Likewise, if he wants to perform work for the one subjected to the vow, he can make a similar offer to workers (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 7:13–14; *Shulḥan Arukh*, *Yoreh De'a* 221:8).

If the two were walking along the way, etc. – הָיוּ מְהַלְּכִין בַּדֶּרֶךְ וכו׳: If the one who vowed and the subject of his vow were walking along the way together and the latter had nothing to eat, his colleague may give him food by means of a third party. However, it is prohibited for him to tell the third party that he is giving him the food for this purpose, or to say anything that makes it clear that he is handing it to him only so that the other person can eat. If no third party is present, the one who vowed may place the food down and declare it ownerless, and the other may take it and eat it (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 7:14–15; *Shulḥan Arukh*, *Yoreh De'a* 221:9).

NOTES

Rabbi Yosei prohibits – רַבִּי יוֹסֵי אוֹסֵר: The Rashba explains Rabbi Yosei's ruling in light of each case. The first, the gift to a third party, is based on the incident of Beit Ḥoron, as explained below (71a). As for the second case, placing the objects on a rock and declaring them ownerless, it is possible that if only two people are present the concept of rendering property ownerless is meaningless, and it is as though the item were given directly to the other party.

Perek **VII**
Daf **71** Amud **a**

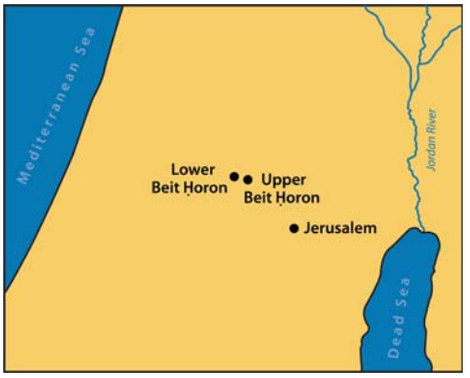
מַעֲשֶׂה דְּבֵית חוֹרוֹן.

the **incident of Beit Ḥoron,**[NB] where an individual had vowed to prohibit his father from deriving benefit from him, and then in order to allow his father to come to the celebration of his son's wedding, he gave all of his property to someone else as a gift. The recipient of the property was concerned that the vow would be transgressed by the father, so he consecrated the son's property and declared that if he was not empowered to do so, then the original transfer of property as a gift would not be valid. Consequently, in the present case, the Sages are unconcerned by the artifice performed, while Rabbi Yosei is concerned with such artifice and therefore prohibits it.

BACKGROUND

Beit Ḥoron – בֵּית חוֹרוֹן: Beit Ḥoron was divided into two neighboring cities, Upper Beit Ḥoron and Lower Beit Ḥoron. They were located near the northern border of the tribe of Judah's territory, and are mentioned in the Bible. Due to their proximity to the main road leading to Jerusalem, a number of important battles took place in their vicinity, including one of the victories of Judah the Maccabean and one of the battles of the Great Revolt.

Both the upper and lower cities were among the ancient settlements that were resettled at the time of the return of the exiles from Babylonia. In towns like these there was generally a strong community deeply committed to halakhic observance. The incident of Beit Ḥoron recorded here demonstrates the sensitivity of the local residents to observing the mitzvot of the Torah with great care.



Location of Upper Beit Ḥoron and Lower Beit Ḥoron

NOTES

The incident of Beit Ḥoron – מַעֲשֶׂה דְּבֵית חוֹרוֹן: This incident that occurred in Beit Ḥoron serves as a precedent for the definition of a gift in the context of the *halakhot* of vows: Any gift that is not a complete gift to the extent that the recipient can consecrate it is not considered to have entirely left the possession of the benefactor. But Rabbi Shimshon of Saens raises a difficulty: For many purposes, including vows, a gift given on condition that it be returned is still treated as a valid gift, despite the fact that it cannot be consecrated. He answers that although the recipient must return this type of gift in the near future, during the time it remains in his possession he can use it as he pleases. But in the incident at Beit Ḥoron, the condition limited the actual usage of the gifts to create a situation enabling the father to benefit from them. Some suggest that the primary problem there was that the donor indicated explicitly that he desired for his father to come enjoy the meal, and that this was the purpose of the transfer. And even though he did not expressly condition the gift on the fulfillment of this purpose, the conclusion of the story proves that this was the intention. And whenever this type of explicit statement is lacking, there is no problem with it, at least according to the first *tanna*.