YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Talmudic Aggadot**

**By Rav Dr. Yonatan Feintuch**

**Shiur #31: The Story of R. Yannai and the Laws of Inheritance**

**Part I**

a. The story

In the eighth chapter of *Massekhet Bava Batra* (111a) we find the following brief *aggada*:

“R. Yannai went about leaning on the shoulder of R. Simlai, his attendant, and R. Yehuda Nesia came towards them. [The attendant] said to [R. Yannai], ‘The man who approaches us – he is handsome and his cloak is handsome.’ When [R. Yehuda Nesia] reached them, [R. Yannai] felt [the cloak] and said to [his attendant]: ‘This [cloak] – its measure is like that of sackcloth.’

[R. Yehuda Nesia] asked [R. Yannai], ‘From where do we know that a son takes precedence over a daughter in [the inheritance of] a mother’s estate?’

He said to him, ‘It is written, ‘Of the tribes’ – [the plural] indicating that mother’s tribe is comparable to the father’s tribe; just as [in the case of] the father’s tribe, a son takes precedence over a daughter, so too [in the case of] the mother’s tribe, a son takes precedence over a daughter.’

He said to him, ‘If so, [we might argue that] just as [in the case of] the father’s tribe, a firstborn takes a double portion, so too [in the case of] the mother’s tribe – a firstborn takes a double portion.’

[Whereupon] [R. Yannai] called to his attendant: ‘Lead on! This man does not want to learn.’”

This story deals with characters from the period of the *Amoraim* in Eretz Yisrael. R. Yannai was a first-generation Amora; R. Yehuda Nesia, grandson of R. Yehuda ha-Nasi, redactor of the Mishna (Rebbi), was the *nasi* at the time.[[1]](#footnote-1) The story clearly comprises an outer framework, which is *aggadic* in nature, and an inner halakhic discussion which concerns the laws of inheritance. The outer story describes R. Yehuda Nesia approaching R. Yannai and his attendant. The attendant comments to R. Yannai about the stately appearance of the man approaching them, but R. Yannai refuses to be impressed by his outer appearance.

Before analyzing the different parts of the story, a brief background to the halakhic discussion is in order.

b. Halakhic background to the story – laws of inheritance by daughters

The eighth chapter of *Massekhet Bava Batra* deals with the laws of inheritance. The second mishna in the chapter sets down the order of priorities and, *inter alia*, discusses the relationship between sons and daughters in their father’s estate (8:2):

“The order of inheritances is as follows: (*Bamidbar* 27) ‘If a man dies and has no son, then you shall hand his estate to his daughter’ – a son takes precedence over a daughter, and all of the son’s descendants take precedence over the daughter….”

The simple meaning of the mishna is that where there is a son (or if there are descendants of the son, even if he is no longer alive) then the daughter does not inherit at all. However, in the Tosefta (*Tosefta Bava Batra* 7:10) we find that the matter is more complex. According to some of the Tannaim, a distinction must be made between assets that came from the father’s side and those that came from the mother’s side:

“And just as the son takes priority over the daughter in the father’s assets, so the son takes priority over the daughter in the mother’s assets. R. Elazar ben Yossi, says in the name of R. Zekharia ben ha-Katzav (and so said also R. Shimon ben Yehuda, a man from Kfar Ibus, in the name of R. Shimon): The son and daughter take equal shares in the assets of the mother.”

The discussion in the Bavli of the first mishna in the chapter deals with this disagreement (111a), and cites, in support of the first opinion, a teaching about the verse, “And any daughter who possesses an inheritance of any of the tribes of Bnei Yisrael…” (*Bamidbar* 36:8):

“‘Of any of the tribes’ – this draws a parallel between the tribe of the father and the tribe of the mother. Just as with regard to the father’s tribe the son has precedence over a daughter, so with regard to the mother’s tribe – a son has precedence over a daughter.”

The teaching compares the mother’s tribe to the father’s tribe, and deduces that in both cases the daughter will not inherit if there is a son. Later on in the *sugya*, the opinion of R. Zekharia ben ha-Katzav is also discussed. Following this discussion, the Gemara brings the story about R. Yannai and R. Yehuda Nesia, whose halakhic exchange concerns the same subject that is treated in the *sugya*.

c. Yona Frankel’s analysis

Why did R. Yannai become angry?

The story, as noted above, consists of two parts. The first records a conversation between R. Yannai and his attendant about the external appearance of R. Yehuda Nesia, who approaches them. From the opening description we deduce that R. Yannai was old and blind. He feels the garment that the nasi wears, but does not address him at all; he shares his estimation of the garment with his attendant.

In the second part of the story, the *nasi* addresses a question to R. Yannai with regard to the opinion in the Tosefta cited previously, according to which the son takes precedence over the daughter even in the mother’s assets. In response, R. Yannai quotes a teaching based on the word “*mi-matot*” (‘of the tribes’), which had previously been mentioned as proof of the opinion of the Tanna Kama. The teaching compares the assets of the father and of the mother and deduces that in both cases, the son takes precedence. R. Yehuda Nesia goes on to ask whether the plural (‘tribes’), upon which the comparison is based, might perhaps be meant to teach a different lesson, relating to the inheritance of a first-born. In other words, he suggests that the same comparison be drawn between the assets of the mother and the assets of the father, but with the conclusion that in both cases the firstborn takes a double portion. This stands contrary to the law that appears in the mishna later on in the chapter (mishna 4):

“A son and a daughter are equal concerning inheritance, except that a son takes a double portion of the father’s assets but does not take a double portion of the mother’s assets.”

Surprisingly, instead of offering a reasoned response, R. Yannai becomes angry. He reverts to addressing his attendant rather than R. Yehuda Nesia, complaining, “This man does not want to learn.”

Why is R. Yannai angry? What causes him to react to R. Yehuda Nesia’s question in this manner?

Prof. Yonah Fraenkel[[2]](#footnote-2) notes that in the first part of the story, R. Yannai – like other blind Sages who feature in other *aggadot* – is not impressed by the external appearance of the man coming toward him; rather, he “sees through” it. Indeed, it would seem that people who are unable to appreciate the outer façade of objects or people are more sensitive to their inner essences. R. Yannai is not the least awed by the luxurious garment which, as he “sees” it, is worth no more than sackcloth – an outer covering which has no value in its own right and says nothing about the man wearing it. The halakhic background to the comparison of R. Nesia’s garment to sackcloth, as Frankel explains, relates to the laws of ritual purity and impurity. In terms of these laws, the capacity of a garment to contract impurity is not a function of its appearance or its value, and therefore from this point of view there is no essential difference between a fine, expensive garment and simple, coarse sackcloth.[[3]](#footnote-3)

Thereafter R. Yehuda Nesia asks about the source for the view of the Tanna Kama, who disagrees with R. Zekharia’s view that a son takes precedence over a daughter in the mother’s assets, and is answered with a known teaching that was brought previously by the Gemara. R. Yehuda Nesia then proposes rejecting this teaching in favor of a different one, concerning the law of double inheritance by the firstborn – which, as noted, runs counter to the law of the mishna. The question in and of itself seems innocuous enough: in many other places, even in *midrashei halakha* themselves, we find “alternative” teachings that are formulated as questions or hypotheses, even though they contradict the accepted halakha. Here, too, R. Yehuda Nesia is not establishing halakha, but rather – seemingly – trying to understand why the verse is interpreted as it is, in terms of a son’s inheritance in relation to a daughter’s, rather than being interpreted in a different way, in terms of a firstborn son’s double inheritance. Again we ask – why does this anger R. Yannai?

Frankel uses two clues to explain the story:

1. A slightly different version of the story, found in a manuscript
2. The connection between the outer framework of the story and its inner, halakhic content

In the version that Frankel cites, in the halakhic exchange there is no mention of “He said to him,” but rather only “he asked him” at the outset. According to this version, the whole exchange, with its question and answer, is a sort of “debate” that the questioner maintains with himself. R. Yehuda Nesia wonders about the source of the law awarding priority to a son over a daughter in the mother’s assets, and answers his own question with the well-known teaching. On this basis he then asks another question, proposing a teaching that goes against the halakha. Frankel views this “debate” of R. Yehuda Nesia, repeating a known question and its answer as an introduction to his second question, as an attempt to impress R. Yannai; he is perhaps only pretending to want to learn. Moreover, Fraenkel views his teaching that goes against a known halakha as an attempt to lead R. Yannai into a trap – and it is this that angers R. Yannai.

Fraenkel’s reading of the halakhic discussion itself is very critical of R. Yehuda Nesia. On the other hand, it does explain R. Yannai’s unexpectedly sharp response to him – in other words, it explains R. Yannai’s understanding of R.Yehuda Nesia’s intention, However, the assumed intention was not necessarily R. Yehuda Nesia’s true intention, since he may indeed have been prompted by a genuine desire to learn. In any event, Frankel’s explanation of R. Yannai’s understanding is supported by the connection between the outer framework of the story and its inner content. The outer framework records R. Yannai showing disdain for R. Yehuda Nesia’s majestic outer appearance: he is not impressed by it and is critical of it. Later on, the attitude that has already been formed even before he meets R. Yehuda Nesia influences the manner in which he understands R. Yehuda Nesia’s question.

The main theme of the story

According to Fraenkel’s analysis, which focuses on the personality and behavior of R. Yehuda Nesia, the central theme of the story is the relationship between outside and inside; between an impressive (and perhaps misleading) outer façade and the inner essence (which may be quite disappointing).

What is interesting about this analysis is that the connection between the inner and outer layers is also reflected in the story’s structure: the analysis is based, *inter alia*, on the relationship between the outer framework and the inner content.

We might add to Fraenkel’s words by pointing out that the first part of the story, in which the blind R. Yannai feels R. Yehuda Nesia’s garment, alludes to the biblical story of Yitzchak. In Sefer Bereishit, Yitzchak feels the garment of Yaakov, who has come to him with the aim of deceiving him and receiving the blessing meant for his brother Esav. Thus, the allusion to Yaakov serves as a sort of hint to the fact that the exchange (or monologue, as Frankel would have it) that follows, which likewise concerns matters of inheritance, is similarly deficient in its truthfulness.

d. The role of the story in the broader context of the *sugya*

Absolute rejection of the opinion of R. Zekharia ha-Katzav

Fraenkel addresses the story on its own, with no attention to the broader *sugya*. Let us now consider the role of the story in its context.

As noted, the *sugya* begins with a discussion of the disagreement between the Tana Kama and R. Zekharia ben ha-Katzav concerning the status of a daughter with regard to the mother’s assets. R. Zekharia’s opinion (which is rejected by the Tana Kama) is that the daughter inherits equally with the son. Following the discussion of the reasoning behind both tannaitic opinions, there is a section in the *sugya* that consists of several halakhic discussions surrounding this disagreement. *Inter alia*, in these discussions the halakhic opinion of R. Zekharia ben ha-Katzav is rejected with unusual vehemence by two of the greatest Babylonian Amoraim – Shmuel and R. Nachman, who are sharply critical of those who rule as he does, and go so far as to threaten them:

“R. Nitai intended to rule a case in accordance with [the view of] R. Zekharia ben ha-Katzav. Shmuel said to him, ‘In accordance with whom? In accordance with Zekharia?! [The view of] Zekharia is nullified.’

R. Tavla ruled a case in accordance with R. Zekharia ben ha-Katzav. R. Nachman said to him, ‘What is this?’ He replied, ‘R. Chinena ben Sheleimia said in the name of Rav that the halakha is in accordance with R. Zekharia ben ha-Katzav.’ He said, ‘Take back what you said, or I will pull R. Chinena bar Sheleimia from your ears!’

R. Huna bar Chiya intended to rule a case in accordance with R. Zekharia ben ha-Katzav. R. Nachman said to him: ‘What is this?’ He said, ‘Rav Huna said in the name of Rav that the halakha is in accordance with R. Zekharia ben ha-Katzav.’ He replied, ‘I will send to him [and ask] […]’

As Rav and Shmuel both said, ‘The halakha is not in accordance with R. Zekharia ben ha-Katzav.’”

Immediately after this section comes the story about R. Yannai and R. Yehuda Nesia. In the story, R. Yehuda Nesia offers a suggested reading whose significance is a nullification of the teaching that supports the opinion of the Tana Kama. Practically, this could lead to acceptance of the view of R. Zekharia ben ha-Katzav – a view that is strongly rejected by the Amoraim in the *sugya*. Therefore, in the broader context of the *sugya*, relating a story about R. Yannai’s anger may be understood as a continuation of the attack at those who rule in accordance with the opinion of R. Zekharia ben ha-Katzav. The negative view that R. Yannai has of R. Yehuda Nesia, for the reasons set forth above, supports his rejection of R. Yehuda’s words and also serves as another layer of rejection of the position of R. Zekharia ben ha-Katzav in the *sugya*.

**The problem with the alternative teaching of R. Yehuda Nesia**

In conclusion, let us look at the second part of R. Yehuda Nesia’s proposal and its place in the *sugya*.

The alternative teaching that he proposes compares the mother’s assets to those of the father in terms of the rights of the firstborn, instead of comparing them in terms of the son’s priority over the daughter. This law, as noted, connects back to the mishna that appears later on in the chapter (mishna 4), which sets down the law contrary to R. Yehuda Nesia’s interpretation. Let us look at the mishna once again:

“A son and a daughter are equal concerning inheritance, except that a son takes a double portion of the father’s assets but does not take a double portion of the mother’s assets…”

According to R. Yehuda Nesia’s question, if the verse mentioning “of the tribes” is interpreted in relation to this law, then the difference between the father’s assets and the mother’s assets with regard to the firstborn is nullified, and the firstborn would be entitled to a double portion of the mother’s assets, too.

If we look at the *sugya* in the Gemara on this mishna, we find that the possibility raised by R. Yehuda Nesia’s question is already rejected there. The Gemara (122b) raises a question concerning the first part of the mishna, which reads: “A son and a daughter are equal concerning inheritance.” This introduction seems rather surprising, for we have already seen that where there is a son, the daughter does not inherit at all. The Gemara brings various explanations for the mishna and rejects them, finally adopting the explanation proposed by Mar, son of Rav Ashi:

“Rather, this is what it means: Both a son and, [in the absence of a son,] a daughter are equal in the estate of a mother and in the estate of a father, except that a son takes a double portion in the estate of his father, but does not take a double portion in the estate of the mother.”

Mar bar Rav Ashi’s interpretation of the mishna emphasizes the similarity between the father’s estate and the mother’s estate in terms of the status of the son and the daughter, and the laws applying to them in inheritance. It seems that what he means is that in general, with the exception of two specific laws, there is no difference in the laws of inheritance by sons and by daughters. Regardless of whether the estate is of the father or of the mother, in both cases only the son inherits. Where there is no son, the daughter inherits.[[4]](#footnote-4) The difference in the inheritance of sons between the father’s estate and the mother’s estate is expressed in the case of a firstborn: a firstborn takes a double portion only of the father’s estate.[[5]](#footnote-5)

Thus, Mar bar Rav Ashi’s words represent yet another rejection of the position of R. Zekharia ben ha-Katzav. R. Zekharia perceives a fundamental difference between the father’s estate and the mother’s estate, insofar as the status of the son and the daughter in the mother’s estate is not the same as their status in the father’s estate. In the latter, the son takes precedence over the daughter, while in the former, son and daughter are equal. This position is rejected in the process of Mar bar Rav Ashi’s explanation of the mishna: “A son and a daughter are equal regarding inheritance.”

Returning to the story, R. Yehuda Nesia proposes comparing the mother’s assets to those of the father with regard to the firstborn, instead of comparing them with regard to inheritance by a daughter. This proposal goes against Mar bar Rav Ashi’s interpretation of mishna 4 which, as noted, is the explanation adopted by the *sugya*. Thus, the rejection of R. Yehuda Nesia’s question in the story also sits well with the continuation of the chapter (although that is obviously not R. Yannai’s motivation), and it provides further justification for inclusion of the story within the *sugya*.

Conclusion

A review of the context of the story in the *sugya* sheds greater light on its role and the reason for its inclusion. In the *sugya* preceding the story, the emphatic rejection of the halakhic position of R. Zekharia ben ha-Katzav occupies a central place. Then comes the story of R. Yannai becoming angry at R. Yehuda Nesia. R. Yehuda Nesia proposes the possibility – even only theoretically – of rejecting the teaching that opposes the view of R. Zekharia ben ha-Katzav.

We have also seen that in general, the question of the comparison between the father’s estate and the mother’s estate is central to the *sugyot* dealing with the first few *mishnayot* in the eighth chapter. The Gemara then goes on to adopt, as the explanation for the difficulty arising from the mishna, the interpretation of Mar bar Rav Ashi, which is based on a position that precludes the possibility that R. Yehuda Nesia raises in the story. This may be another reason for the inclusion of the story about R. Yannai’s seemingly odd anger towards R. Yehuda Nesia, as part of the consolidation of the halakhic positions that are expressed in several places in the *sugya*.

Translated by Kaeren Fish

Tags: inheritance, R. Yehuda Nesia, R. Yannai, blind, sight, senses, outer value, son and daughter, anger

Summary: This article analyzes a short aggada relating to halachic inheritance.

1. "*Nesia*" is an Aramaic title, meaning “the *nasi*.” In order to differentiate between the grandfather and the grandson, who share the same name and the same title, the grandfather is usually referred to in Hebrew as “Rabbi Yehuda ha-Nasi” (or simply “Rebbi”), while the grandson is referred to in Aramaic as “Rabbi Yehuda Nesia.” In this shiur the focus is on the grandson. [↑](#footnote-ref-1)
2. Y. Frankel, *Sippur ha-Aggada, Achdut shel Tokhen ve-Tzura*, Tel Aviv 5761, pp. 302-305. [↑](#footnote-ref-2)
3. This issue is more complex halakhically speaking; see Frankel’s elaboration, p. 304, nn. 32,33. [↑](#footnote-ref-3)
4. So it appears from the Rashbam ad loc. [↑](#footnote-ref-4)
5. Further on we find another difference in the laws of inheritance by daughters, between the father’s estate and the mother’s estate, deduced from the end of the mishna. [↑](#footnote-ref-5)