YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Talmudic Aggadot**

**By Rav Dr. Yonatan Feintuch**

**Shiur #32: The Story of R. Yannai and the Laws of Inheritance**

**Part II**

**a. The *sugya* in the Yerushalmi**

**The story in the Yerushalmi**

In the previous *shiur,* we discussed the story of the encounter between R. Yannai and R. Yehuda Nesia as recorded in *Bavli* *Bava Batra* (111a) and the exchange between them concerning the laws of inheritance. Let us now look at the parallel unit in the Yerushalmi, which likewise appears in the eighth chapter of *Bava Batra* (8:1; 16a):

“R. Yannai and R. Yochanan were sitting [together]. R. Yehuda Nesia came and asked, ‘What is the meaning of the verse, “And every daughter who possesses an inheritance in any of the tribes…”?’ He said to him, ‘This compares the tribe of the father to the tribe of the mother. Just as [with regard to] the father’s tribe, the daughter has no [inheritance] where there is a son, so likewise [with regard to] the mother’s tribe, the daughter has no [inheritance] where there is a son.’ [R. Yehuda Nesia asked:] ‘Perhaps, alternatively, [we may deduce that] just as [with regard to] the mother’s tribe, the daughter does inherit [even] where there is a son, so likewise [with regard to] the father’s tribe, the daughter inherits [even] where there is a son.’

[Whereupon] R. Yochanan said to [R. Yannai]: ‘Let us move on from here; this man does not wish to hear a word of Torah.’”

**Similarities and differences between the two versions**

The story here is mostly similar to the version in the Bavli, but it differs in certain details. Firstly, in terms of the characters involved, R. Yochanan replaces R. Yannai as the main character who confronts R. Yehuda Nesia, while R. Yannai is merely an onlooker. Secondly, the outer framework of the narrative that appeared in the Bavli, concerning R. Nesia’s external appearance, is absent here. The most important difference, however, concerns the content of R. Yehuda Nesia’s question. The discussion among the Sages in the midrashim surrounding the biblical verses concerns the question of inheritance by daughters. R. Yehuda Nesia asks what is deduced from the verse, “And every daughter who possesses an inheritance in any of the tribes…” (*Bamidbar* 36:8). R. Yochanan answers that what we deduce from this verse is the comparison between the father’s estate (“the father’s tribe”) and the mother’s estate concerning inheritance by a daughter: just as in the former instance a daughter does not inherit when there is a son, the same applies in the latter instance.

We recall that this point is a matter of controversy among the Tannaim in the *beraita*, which appears in the Tosefta and is cited in both the Bavli and the Yerushalmi. The Tosefta reads as follows (*Bava Batra* 7:10):

“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.”

Now, R. Yehuda Nesia goes on to ask: since what we deduce from the verse is the comparison between the father’s assets and the mother’s assets, perhaps the conclusion should be the inverse: that the father’s assets should be compared with the mother’s, such that in both cases the daughter inherits an equal portion to the son. R. Yochanan does not respond to this alternative teaching; his response, addressed to R. Yannai, is to move on, since R. Yehuda Nesia is apparently not interested in hearing words of Torah.

**R. Yochanan’s anger explained in light of the context of the sugya**

Here the same question arises as in the story in the Bavli. The Talmuds are full of instances where different proposals are offered for the interpretation of a verse, at least on the level of theoretical questioning. Why, then, does R. Yochanan lose patience with R. Yehuda Nesia and respond so harshly?

The answer, once again, would appear to lie in the broader context of the story in the sugya. The sugya in the Yerushalmi has a different introduction from the one in the Bavli, and it includes a discussion that does not appear in the Bavli, concerning the laws of a daughter’s inheritance. The discussion begins with a beraita conveying a teaching based on a verse that talks about a daughter inheriting in the event that there is no son (in the wake of the question raised by the daughters of Tzelofchad):

“It is written: ‘If a man dies and he has no son, you shall hand his inheritance to his daughter.’ (*Bamidbar* 27:8) R. Yishmael said: ‘The text differentiates between this inheritance and every other [discussion of] inheritance in the Torah, for everywhere else it says, ‘you shall give [his inheritance…],’ but here it says ‘you shall hand [over],’ (‘*ve-ha’avartem*’) [implying that] it is a violation of the law that a daughter should inherit.”

The Tanna in this *beraita* (R. Yishmael) learns from the word ‘*ve-ha’avartem*’ (“you shall hand over”), which appears in this verse instead of the more common ‘*ve-natatem’* (“you shall give”), that a situation in which a daughter inherits is a sort of “travesty” or “violation” (*'aveira'*) of the law (“*ibbur ha-din*”).[[1]](#footnote-1) In other words, this law is a deviation from the general rule that only sons inherit. This beginning of the *sugya* is notable; for the purposes of comparison, the teaching on this verse brought in the midrash halakha Sifri Bamidbar is more “neutral” with regard to the law of a daughter inheriting:

“In all [other] instances the text says, ‘you shall give [the inheritance],’ while here it says, ‘you shall hand over.’ Rabbi said: There is no other instance of ‘handing over’ to another tribe except in the case of a daughter, since her son and her husband inherit from her.”[[2]](#footnote-2)

Immediately after this *beraita,* the *sugya* presents a debate with non-Jews concerning the inheritance rights of daughters:

“The sages of the nations say, ‘A son and a daughter are equal to each other [in matters of inheritance], for they deduce [from the words] ‘and he has no son’ that if he does have a son, then the son and daughter are equal. [The Sages] asked them: ‘But it is written, ‘and if he has no daughter’ – does this also then mean that if he has a daughter, they are equal? You acknowledge that there is no son [i.e., direct descendant], so here too, there is no son.”

The Yerushalmi refers here to the non-Jewish position, according to which a son and daughter are equal in terms of inheritance rights – in contrast to Torah law. Eretz Yisrael was under Roman rule during the Talmudic period, and according to Roman law at that time, daughters would inherit in certain circumstances equally with sons. It is therefore reasonable to assume that the Yerushalmi is engaging here in polemic against the Roman view. The non-Jewish view is presented in the *sugya* as seeking a textual basis in the verse, “If a man dies and he has no son, then you shall hand over his inheritance to his daughter” (*Bamidbar* 27:8). The non-Jewish sages maintain, on the basis of this verse, that the estate is handed over to the daughter alone when there is no son, but if there is a son, the daughter and son inherit equally. Obviously, this interpretation is invalid, since the entire context of the unit makes it clear that where there is a son, the son alone inherits: prior to the question posed by the daughters of Tzelofchad, the situation was that only sons would inherit. In the wake of their question, the text teaches that in the event that there is no son, the daughter inherits. This teaching appears to be cited as an expression of disdain for the non-Jewish sages, or for Jews who attached themselves to the non-Jewish sages and were influenced by their legal opinions. As part of their show of disdain, the Sages “play along” and pose a difficulty that arises from the continuation of the textual unit, bringing the non-Jewish interpretation into question: the very next verse reads, “And if he has no daughter, you shall give his inheritance to his brothers.” According to the “non-Jewish” logic, the verse would then have to mean that if the deceased had a daughter, his daughter and his brothers would share the inheritance between them equally. However, even the non-Jewish sages agree that this is not the law; rather, the brothers of the deceased inherit only when he did not leave a descendant. In this way, the Gemara demonstrates that the exegetical logic applied to the first verse cannot be right, since it fails to stand the test of the rest of the unit.

The *sugya* then goes on to discuss a number of issues relating to teachings derived from verses dealing with inheritance, *inter* *alia* citing the disagreement among the Tannaim concerning inheritance of the mother’s estate. Here too, as in the Bavli, the *sugya* ultimately rules against the opinion of R. Zekharia ben ha-Katzav, who maintains that where the mother’s estate is concerned, the daughter inherits equally with the son. The rejection of his view is gentler here than it is in the Bavli, although certainly still quite decisive.

At this point, following the disagreement of the *Tannaim*, the story of R. Yehuda Nesia is introduced. The direct context is clear: the story introduces a discussion of the verse, ‘And every daughter who possesses an inheritance in any of the tribes of Bnei Yisrael,” from which we derive the law that goes against the view of R. Zekharia ben ha-Katzav: the word “*mi-matot*” (of the tribes) compares the tribe of the father to the tribe of the mother, and the status of the estate on each side, such that in both instances the son takes priority over the daughter. Accordingly, R. Yochanan answers R. Yehuda Nesia’s question by explaining what is deduced from this verse. R. Yehuda Nesia now poses another question. He does not suffice with proposing R. Zekharia ben ha-Katzav’s position, but goes even further, proposing that the teaching be turned altogether upside down: if it is deduced from the word ‘*mi-matot’* that the estates of the father and the mother are equal, perhaps they are equal in the opposite respect: that in both cases the daughter inherits equally with the son. To this R. Yochanan responds with anger. He abandons R. Yehuda Nesia in mid-discussion, claiming that R. Yehuda Nesia is not interested in listening to Torah.

In view of the broader context of the *sugya*, R. Yochanan’s anger makes sense. R. Yehuda Nesia raises a proposal that is in fact identical to the view of the non-Jewish sages – a view that is addressed and opposed by the *sugya* from the outset. His proposal goes against the most fundamental assumption arising from the biblical text and forming the basis of the halakha in the laws of inheritance: that where the father’s estate is concerned, the sons inherit while the daughters do not. The Gemara defends this view at the beginning of the *sugya* by attacking the view of the non-Jewish sages, and perhaps also attacking the Jews who are swayed by this different fundamental assumption. It is against this background, apparently, that R. Yochanan asserts that R. Yehuda Nesia is not interested in listening to Torah.

**b. Revisiting the story in the Bavli**

Let us first review the story in the Bavli:

“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.’”

As noted above, a central difference between the two accounts concerns the content of R. Yehuda Nesia’s question. In the Bavli, he does not raise the possibility that in effect turns the law upside down – that a daughter should inherit equally with the son, even in the father’s estate. All he does is reject the parallel drawn by the Tana Kama between the father’s estate and the mother’s estate with regard to the son’s priority, proposing that the parallel be applied to a different question: the law of a double-inheritance by the firstborn.

In the previous *shiur,* we saw how the rejection of R. Yehuda Nesia’s specific questions in the Bavli fits into the *sugya*, which concerns the laws of inheritance. We might now complete the picture through the converse view – in other words, why the *sugya* in the Bavli does not bring the story that we saw in the Yerushalmi. As we saw, the displeasure with R. Yehuda Nesia in the story in the Yerushalmi arises from his proposal to derive from the verses that daughters inherit equally with sons. In the Yerushalmi, this view is considered highly problematic, seemingly because of the polemic with the non-Jewish scholars that appears at the beginning of the *sugya*. In the Bavli, in contrast, it seems that the mere raising of this question is not viewed with such severity. This is borne out by the fact that elsewhere in the chapter such a question is raised explicitly in a discussion among the Babylonian Amoraim (*Bava Batra* 110a):

“’And sons [inherit from] the father’ – from where do we derive this? As it is written, ‘If a man dies [and has no son, then you shall hand over his inheritance to his daughter].’ [From this we infer that] the reason [the inheritance is given to the daughter] is because he has no son, but if he has a son, the son takes precedence.

R. Papa said to Abaye: ‘Might we not deduce that if there is a son, the son inherits; if there is a daughter, the daughter inherits; and if there is both a son and a daughter, neither he nor she inherits? But then who inherits? Is it perhaps the elder of the city who inherits? [Surely not;] I therefore maintain that if there is a son and a daughter, neither he nor she will inherit *everything*, but both will inherit equally.”

The discussion here starts with the basic halakha that is derived from the verse – that where there is a son, the son takes priority in the inheritance. Concerning this point Rav Papa asks Abaye whether it would perhaps make sense that where there is a son and a daughter, neither inherits. On the face of it, this seems like a strange question, and the Gemara makes clear, and it demands some explanation. The Gemara indeed explains that the possibility that Rav Papa refers to is not that neither inherits *at all*, but rather than neither inherits *exclusively*; in other words, they share the inheritance. What Rav Papa proposes here, according to the explanation in the Gemara, as a theoretical possibility, is exactly the same question that R. Yehuda Nesia raises in the story in the Yerushalmi – thereby arousing R. Yochanan’s anger. Thus we see that in the Bavli this question – when raised as a theoretical possibility – is not regarded with such severity. Even though Abaye immediately rejects it, it is treated as a legitimate question that is part of the halakhic give-and-take and it is evaluated purely on its own merits.

 Since the *sugyot* in the Bavli do not view with such severity or shock the very mention of the question of whether daughters might inherit equally as part of the discussion of the verses, there would be no point in including a story in which a Sage becomes angry at R. Yehuda Nesia for raising the issue. It is for this reason, it would seem, that the Bavli brings a different story, with anger expressed as a result of a different proposal. This joins the other points raised in the previous *shiur* concerning the fact that the rejection of R. Yehuda Nesia’s question in the Bavli sits well with the discussions and halakhic positions that appear in the sugyot there. The discussions there included, on one hand, a repeated, vehement rejection of the position of R. Zekharia ben ha-Katzav, and on the other hand, Mar bar Rav Ashi’s explanation of the mishna concerning the law of the firstborn – an explanation that is the opposite of R. Yehuda Nesia’s proposal.

**c. The story of R. Yannai and the distinguished man and its relationship to the story in the Bavli**

**The story in Vayikra Rabba**

To round off our discussion of the story in the Bavli, it is interesting to compare it with a different story about R. Yannai which appears in Vayikra Rabba (parsha 9):[[3]](#footnote-3)

“It once happened that R. Yannai was walking on the way and he met a man who was extremely distinguished. [R. Yannai] said to him: ‘Sir, would you agree to be hosted by us?’ He replied, ‘As you desire.’ They brought him into his home. […] [R. Yannai] said to him, ‘Lead the Grace [After Meals].’ He said, ‘Let Yannai lead the Grace in his own home.’ He said, ‘Are you able to repeat back something that I say for you?’ He replied, ‘Yes.’ [R. Yannai] said, ‘A dog has eaten R. Yannai’s bread.’ The man got up and grabbed him. He said, ‘You are holding my inheritance, and preventing me from it!’ [R. Yannai] answered, ‘What inheritance of yours do I have?’ He said, ‘From early childhood we chant, ‘The Torah was commanded to us by Moshe as an inheritance’ – and the verse does not conclude [with the words] ‘of the congregation of Yannai’, but rather, ‘of the congregation of Yaakov.’ After they were reconciled, [R. Yannai] asked him: ‘Why were you deserving of eating at my table?’ He told him, ‘I have never heard an evil word [from/about someone] and returned an evil word to that person, nor have I ever seen two people fighting without restoring peace between them.’ [R. Yannai] said to him: ‘You possess such civility, and I called you a ‘dog’?!’ And he applied to him the verse, ‘… To him that orders his way aright I will show the salvation of God’ (*Tehillim* 50:23).’”

In this story, R. Yannai is impressed by the external appearance of the man he meets. R. Yannai invites the man to his home. During the course of their meal, R. Yannai tries to engage him in conversation about Gemara, Mishna, anything – but it turns out that the man is an ignoramus. Eventually R. Yannai invites him to lead the Grace After Meals, and discovers that the man does not know even that. Here R. Yannai grows angry. Whether he is angry at the man or at himself is not clear. In any event, he directs his anger toward his guest, humiliating the guest and comparing him to a dog. The man promptly rebukes R. Yannai for his attitude and behavior, and ultimately the two men are reconciled. R. Yannai discovers that the man may not be a learned sage, but he possesses another important quality: he pursues peace, taking care not to hurt those who have hurt him, not to gossip, and to try to reconcile others who have quarreled.

The story ends with R. Yannai being impressed all over again, this time with justification. He acknowledges his mistake – both in having offended his guest and in having gauged him only in terms of his wisdom, while in fact there are many other areas that are no less important. It is clear from the story that the area in which R. Yannai stumbled – the realm of proper interpersonal conduct – is his guest’s special strength. R. Yannai realizes that he was wrong both in his estimation of his guest’s outer appearance, mistaking him for a scholar, and in his negative reaction upon discovering that he was not a scholar at all; ultimately, the guest has other fine qualities.

We might perhaps suggest that in hindsight, R. Yannai’s favorable intuitive impression of the man, causing him to invite him to his home, was actually correct – but not for the reasons that R. Yannai had in mind. Perhaps there was indeed something positive that radiated from the man, beyond his garments – something of his character. We sometimes meet people who have special personalities, drawing us to them even though we cannot define what their special quality is. R. Yannai was mistaken in his initial interpretation of the situation: he was thinking only of greatness in Torah scholarship. He assumed that the man’s outer majesty, supposedly reflecting his vast knowledge, was what drew him to him. Later he discovered that there are other parameters that may cause even an ignoramus to radiate greatness. After the man rebukes R. Yannai and insists that he too has a claim on the Torah, R. Yannai still believes that there was indeed something special that attracted his attention, but he cannot define it. This is what prompts him to ask, “Why were you deserving of eating at my table?” – in other words, ‘If you are not a scholar, what is that intangible quality that led me intuitively to invite you?’

More than he discovers about his guest, R. Yannai discovers something about himself. His eyes misled him into thinking that he was drawn to the man because of his impressive external appearance. Ultimately, he discovers that he possess an inner sense that was not mistaken. Secondly, his assumption on the level of his conscious thinking is that the only factor that impresses him is the level of a person’s scholarship. Here, too, he discovers that he is capable of being impressed by the noble personality of an individual whose mission in the world is not to be a great sage, but rather to spread peace and harmony.

**The relationship between the stories**

Here we might ask, what is the relationship between the two stories about R. Yannai? Since the stories are found in two separate sources and do not relate directly to one another, it is difficult to make any decisive statements in this regard. Nevertheless, it seems that there is some connection between them, and we might perhaps enrich our understanding of the story in the Bavli by keeping in mind the story in Vayikra Rabba.

The story of the encounter with R. Yehuda Nesia (at least its first part), like the story of the encounter with the distinguished man, deals with R. Yannai’s attitude towards an outer appearance, to which his attendant draws his attention – but R. Yannai is unmoved. Perhaps he has internalized the message of the previous encounter. Later on, R. Yehuda Nesia displays his ability to analyze verses and deduce the law – recalling the “test” that R. Yannai gave his guest, who failed on all counts. Here it becomes clear, in light of the lesson that R. Yannai learned, why he now refuses to view R. Yehuda Nesia’s majestic garments as anything other than an outer shell. He sees that R. Yehuda Nesia has no real desire to learn Torah, and so he wants to distance himself from him. It may be, therefore, that the similarity between the images that introduce the two stories is not coincidental. Perhaps the story in the Bavli is a sort of “repair,” from R. Yannai’s perspective, for his encounter with the ignoramus.

As we have seen, R. Yannai’s anger towards R. Yehuda Nesia in the Bavli serves the halakhic aims of the *sugya* and it is for this reason, apparently, that it is included. However, we might still ask whether R. Yannai was justified in his attitude towards R. Yehuda Nesia, or whether, in his attempt to implement the lessons learned in the past, he went overboard in his treatment of the *Nasi* who was, after all, a scholar himself. This question to which I don't have a definite answer, remains for the reader to reflect on

Translated by Kaeren Fish

1. The expression “*ibbur ha-din*” appears elsewhere; see, for example, *Shemot Rabba* 30; *Devarim Rabba*, beginning of *parashat Vaetchanan*. [↑](#footnote-ref-1)
2. In other words, the instance of a daughter inheriting is the only situation in which an inheritance is handed over from one tribe to another. If the daughter inherits, and then marries a man from a different tribe, her son or her husband inherit the land, and it passes to their tribe. [↑](#footnote-ref-2)
3. For discussion of the story see A. Shinan, “R. Yannai, Ha-Rokhel, ve-ha-Adam ha-Meshupa,’” *Bikkoret u-Parshanut* 30 (5754), pp. 15-23. [↑](#footnote-ref-3)