

חֶלֶק אֲבִיהֶן שֶׁהָיָה עִם יוֹצְאֵי מִצְרַיִם וְחֶלְקוֹ עִם אָחָיו בְּנִכְסֵי חֶפֶר

The portion of their father, who was among those who left Egypt, and their father's portion among his brothers in the estate of Chepher (his father).

1. From their father Tzelafchad.
2. From their grandfather Chepher.- A double portion because Tzelafchad is a Bechor.

This is interesting because Tzelafchad should not have been entitled to his father's property, nor the daughters of Tzelafchad his property since the property was not in Tzelafchad or Chepher's possession. It was to be in their possession in the future, after the land of Israel had been conquered. But, this exception rules that regarding those who left Egypt, their possession is granted immediately.

The daughters of Tzelafchad received a 4th portion from an uncle (a brother of Tzelafchad), who died childless.

- We learn
1. The land of Israel was divided amongst those who left Egypt, even if they were not still living at the time of the conquest.
 2. A daughter of a son, received a share, even if their father's brothers were alive.
 3. That Tzelafchad was entitled to two shares, tells us the land was considered in the possession of those who left Egypt.

לְיוֹצְאֵי מִצְרַיִם נִתְחַלְקָה הָאָרֶץ

The land was apportioned to those who left Egypt.

Israel was divided-

1. Amongst those who left Egypt, who were older than 20.
2. Those who entered the land, who were above the age of 20.
3. Land was allocated to both. But land was given only to those who actually entered the land. It reverted to the prior generations and then down for redistribution.

All three, are ways to get land distributed.

Way #2 permits those who were not 20 years old at the time of the Exodus, to receive some land.

Forfeit:

Caleb and Joshua - each got 6 parcels.

Complainers - Their tickets were torn up and added to all, that was divided for everyone to share.

The complainer's children could, however, receive some portion of the land, as inheritance from their grandfathers.

לְשֵׁמוֹת מִטּוֹת אֲבוֹתָם

According to the names of the tribes of their fathers.

Rav Pappa and Abaya have a long discussion regarding how was Israel divided

(See Num. 26:54).

סימן לרב עלפחד ויוסף איכפל מנשה יחשב

A mnemonic: The numerous one, Tzelafchad and Yosef, repeat, Menashe, counting.

Rav Pappa asks six questions about the two positions: Dividing when 1) leaving Egypt, or 2) when entering Israel.

Numerous, Tzelafchad, Yosef, repeat, Menashe, counting, is the mnemonic.

1. For the numerous one, you increase it (Num. 26:54).
2. Tried to prove that the land was divided amongst those, as they left Egypt, from the story of the death of Tzelafchad (118a1).
3. Bnai Yosef complained. Why? If the land was divided upon leaving, they got too little, because they had many children under the age 20. They would not have complained if they received land upon entering.

There was no other person who did not get land upon entering the land of Israel. How do we know? Because these are the only two groups who complained; the daughters of Tzelafchad and the children of Yosef. Therefore, if any felt left out, he would have spoken up and the Torah would have recorded it.

No, only those who complained, and received benefits had their benefits are recorded.

Obviously, the children of Yosef, were not successful. The Torah told this story to teach us that if you are a multitudinous people, hide in the forest so as not to attract the envy of others. (Joshua 17:15).

We are above the eye, or we are like fish, covered by water and no eye can see us (118b1).,

לְכוּ וְהִתְבָּאוּ עֲצֻמְכֶם בְּיַעֲרִים שְׁלֹא תִשְׁלוּט בְּכֶם עֵין רָע

Go and hide yourselves in the forest, so that you won't be under the control of the 'evil eye',
the 'ayin harah'.

Satan has the power to damage a person when he comes to the Satan's attention.

For example, someone speaks of another's good fortune, or success. This may cause Satan to take notice of that person.

Shulchan Aruch - Technically it is permissible to call up two brothers for successive aliyahs and even a father and a son. But people refrain out of concern for the ayin harah.

Rema - We even avoid the 7th Aliyah, followed by Maftir

Hagbah and Galilah is permitted, if they are not called up by name.

מִרְגְּלִים יְהוֹשֻׁעַ וְכָלֵב נָטְלוּ חֵלְקָם

The spies – Joshua and Caleb took their portions.

1. Caleb and Joshua were granted the portions of the ‘Miraglem’, ‘the ‘spies’ (Num 14:38).
2. Complainers - received no portion. Their land went into the general pool and was shared by all the people (these are the followers of Korach).

Daughter’s of Tzelafchad referred to both in their statement, “Our father died in the wilderness”, refers to Tzelafchad (Num. 27:3).

Rabbi Akiva- He was the person who desecrated Shabbos in the wilderness, “That person” also refers to Tzelafchad (Num. 15:32-36).

Did the rest of Bnai Yisroel complain? They complained during the 40 years. Are they also disinherited? No. Only the complainers with Korach. And therefore, only 6 portions went to Caleb and Joshua. The other 250 portions reverted to all the people.

5th question regarding the numbers of shares allotted to the tribe of Menashe:

- 10 portions fell to Menashe.
- 4 portions to the daughters of Tzelafchad.

לְעוֹלָם בְּתֵי אֲבוֹת קָא חֲשִׁיב

The posuk is only interested in counting the paternal houses.

Chepher did not get the land, only a ticket. Nonetheless, his descendants could get two parts. Usually a Bechor gets two parts, of that which his father actually possesses, and we consider Chepher possessed the land, even though he was not actually in Eretz Yisroel.

The children of the complainers got a portion if they were over age 20 at the time they entered the land.

Moses, actually, did know the law regarding the daughters of Tzelafchad, only he did not know if they get 'pi shenayim', "a double amount". He knew about the wood gatherer, but only which type of death would be applied to him, stoning or strangulation, because he violated the Sabbath laws so notoriously.

The daughters of Tzelafchad are in the Torah, because they asked such a good question and loved the land of Israel.

וְנָתַתִּי אֶתְּהָ לָכֶם מוֹרָשָׁה אֲנִי ה'

“I will give you the land as an inheritance, I am G-d.”

This can only mean from your forefathers. Therefore, the forefathers possessed the land upon leaving Egypt.

We learn (from Ex. 6:8), “You ‘possess’ as you leave Egypt, but you will not be able to collect.”

Chazal Tzelafchad was the person who gathered wood on Shabbos.

The daughter’s of Tzelafchad asked their question at the

1. right time.
2. as expounders of the Torah and righteous persons.
3. and they were wise.

They came to Moses while he was teaching the laws of Yibum.

-If a man dies and does not leave a son, or a daughter, the brother should marry his wife.

The daughters of Tzelafchad asked, “If by being children, we exempt our mother from Yibum, just as a son would, could we not be equal to a son in regard to inheritance, also?”

בְּיִשּׁוּבָה הַלֵךְ אַחֵר חֻבָּמָה

At a study session, follow wisdom.

At a study session, priority is given to wisdom. At a festive gathering, priority is given to age.

Rashbam - At a gathering for Torah purposes, we give a place of honor to those of greatest knowledge. At a banquet, or a wedding, priority is given to age, over wisdom.

R Moshe Feinstein – May a younger sibling get married first? If both are engaged, the older has priority. If the older did not yet find a match, the younger may proceed. They are not required to wait until the other finds a mate.

בְּמִסִּיבָה הֵלֵךְ אַחֵר זָקֵנָה

At banquets we follow age.

Shach – One should have his sons, or daughters, marry in order of their age.

Rashbam mentions -This is why the Torah sometimes names the daughters of Tzelafchad by age and sometimes, by wisdom.

Chasam Sofer – Would not be lenient in this matter.

Maharsham maintained -That this restriction is not a matter of law, but merely ‘derech eretz’.

Rav Moshe Feinstein wrote regarding sons- The younger brother may marry first, since he, also, has a mitzvah to marry and should not be restrained from doing so, by his older brother’s delay.

הַסֵּרַת נִדְרִים אֵינָה צְרִיכָה מוֹמָחִין

The annulment of vows does not require experts.

Even a husband, or a girl's father, may revoke a vow.

How do we know that revocation of vows does not require an expert? The Torah instructs Moses to speak to Aaron and his sons, “When a person offers a sacrifice for making a vow...” (Lev 22:17-18). This suggests that we need more than one person. We need others to serve as witnesses. When it comes to revocation of a vow, no such instruction is given, so the Rabbi's learn that we don't need a learned person, such as Moses, or witnesses, such as Aaron and his sons, but even an average person may revoke a vow.

הָיוּ יָמִים טוֹבִים לְיִשְׂרָאֵל בַּחֲמִשָּׁה עָשָׂר בְּאָב

Israel had no festive days, as festive as, the fifteenth of Av.

The sun stood still during the battle with Sichon, on the 15th of Av.

Moses began to pray at Shacharis and prayed three times per day, every day, until his death on the 7th of Adar, of the next year. Assuming each month has 29 or 30 days, this amounts to 516 prayers, minus the one missed at Maariv, on the 15th of Av.

515 is the gematria of the word, “voeschanon”.

Daas Zekeinim

Mi Baalei HaTosfos

הָיוּ יָמִים טוֹבִים לְיִשְׂרָאֵל בְּחֻמְשָׁה עָשָׂר בְּאָב

Israel had no day as festive as the 15th day of Av.

Yom Kipper we understand:

1. It is a day of forgiveness and pardon.
2. We were give a 2nd set of 10 commandments.

But, to say that Israel had no day as festive as Chamishah Asor b' Av, we don't understand. There are 6 answers.

1. The rule limiting marrying only within other their own tribe, was rescinded.

If a female was to inherit, only then, she could not marry outside her tribe.

2. One could marry into the 'shevet', 'tribe', of Benjamin, which had been forbidden since the concubine of Givah episode.
3. The generation in the desert would no any longer die that year (15,000/year. Dying during the full moon is over for the year.
4. The number of soldiers that Yerovam ben Navat stationed along the road to Jerusalem, to prevent Jews going to Temple for pilgrimages, was downsized,
5. Those who died at Betar, could be buried.
6. The cutting down of wood for the Bais Hamikdash was finished and people could do more learning at night.

The nights were longer and there was more time at night.

The Torah combines 7 famous people covering the full span of history. They are mentioned to bolster the concept that Torah is life and Torah study prolongs life. All these 7 were righteous and lived long in merit of their Torah study (121 b2).

Adam – Methuselah – Shem – Jacob – Amram – Achiyah HaShiloni – Elijah. Elijah is still alive, having ascended to heaven in a whirlwind.

וְאַחִיָּה הַשִּׁילוֹנִי רָאָה אֶת עַמְרָם

How could a Achiyah Shiloni see Amram?

Everyone in the desert was supposed to die.

That decree was not against the tribe of Levi and Achiyah Shiloni was a Levi (121 b3).

Only those above age 20, or under 60 died. Above 60, they lived. Therefore, he could live a long time. He was already over 60 at the time of “Yetziat Mitzraim”, the ‘Exodus from Egypt’ (121 b3).

How was Eretz Yisroel divided?

-By tribes or by individuals? For example, each tribe was equal in size, to each of the other tribe. For example: divided into 12 equal portions, or into 600,000 equal portions with each individual receiving the same amount as every other person. Also, it was divided by lottery, according to the Urim V'tumim.

אֶרֶץ יִשְׂרָאֵל לְשִׁבְטִים אֵיפֻלּוּג אִיבָעִיָא לְהוּ

Was Eretz Yisroel divided according to the tribes?

Rashbam – Perhaps by tribes and then each tribe, which received equal shares, parceled out areas for its population. A tribe, with many people, would give a relatively small share to each member.

-Or, everyone in the nation received the same amount, on a per capita basis and the area obtained by each tribe, would vary based on its population.

Rambam and Ra’Aved learn that it was by the first method (Num. 33:54), “For the numerous one (tribe), you will increase its inheritance, etc.”.

The first division:

Which parcel goes to which tribe, was determined by lottery and by the Urim V’Tumim. The individual parcels were decided, only by lottery.

אֶלְעָזָר מְלוּבָּשׁ אֹרִים וְתוּמִים

Elazar wore the Urim V'tumim.

This explains how the Kohen Gadol used the Urim V'tumim, which was:

- a box containing the names of the tribes

and

- a box containing the regions of the land

With the divine spirit's aid he consulted the Urim V'tumim.

(122a3) Explains how the division will be in Messianic times.

Answer: Divided according to the tribes. People got greater or lesser valued portions.

Was the change in value made up by compensation with money?

This is not sensible.

No! A poor value plot was made larger so it would equal the better value plot, and payment was only made for a difference in proximity to Jerusalem.

(122a3) Joshua and Caleb were given their portions, not by lottery, but by God.

אַחֵר הַבֵּן וְאַחֵר הַבֵּת בְּנִחְלָה

Both a son and a daughter are subject to the same laws of inheritance.

Discusses the differences in estates left by men vs. women.

Both a son and daughter are subject to the (same) law of inheritance. Except that the male, if he is the firstborn, receives two portions from his father's estate, but does not receive two portions from his mother's estate. Daughters are supported from their father's estate until they marr, but daughter's are not supported from their mother's estate.

מאי אָחֵר הָבֵן וְאַחֵר הַבֵּת לְנַחֲלָה

What does it mean that both a son and a daughter are subject to the same laws of inheritance?

What does the Mishnah mean by: “One law for each son and daughter regarding inheritance”?

We know this is not so.

Mnemonic Naphsham – 4 Rabbis who answer.

Rav Nachman bar Yitzchak – “A son and daughter take equally from prospective property”.

Rav Pappa - “They each would get (no need we learn this elsewhere) the double portion their father got, if the father was a bechor, a first born.

Rav Ashi - A man may choose one of the people in a category to inherit from him, i.e., one of his sons, or if he has no sons, any one of his daughters, or if he has no sons, or daughters and no father; he may include one of his brothers and exclude others.

Mar ben Rav Ashi - Of course it was their father’s and is now in his family. We learned this from the daughter’s of Tzelaḥchad, who received an extra portion, because their father was a Bechor.

וְאַחֲרֵי הַבֵּת שְׁוִין בְּנֵכְסֵי הָאִם וּבְנֵכְסֵי הָאָב

Both a son and a daughter are equal, with respect to inheriting a mother's estate and a father's estate.

Final answer:

Mar bar Rav Ashi- The focus of the Mishnah is on the differences between a father's and a mother's estate. They are similar, in that both estates are treated equally in regard to inheritance by a son and inheritance by a daughter, but there are two exceptions:

1. A double portion due a first born.
2. Posthumous support of the daughters.

These two exceptions apply only to a father's estate, not a mother's.

Does a firstborn receive double portion from the entire estate, regarding $\frac{2}{3}$, or double the amount of another one of the brother's inheritance?

- If there is only 1 other brother, the firstborn indeed receives $\frac{2}{3}$ rd.
- If there are more than 1 other brother, i.e., 11 others, he gets $\frac{2}{13}$ ths and the other 11 brothers each get $\frac{1}{13}$ – $\frac{11}{13}$ ths.

(123a1) We learn that Reuven, who by moving his father's bed, lost the right of first born to Joseph; so Joseph had two portions, which he gave to Ephraim and to Menashe.

חֵלְקוֹ עִם אָחִיו עִם חֲמִשָּׁה

A first born divides with one (brother) and with five brothers.

A first born takes a double portion of the father's assets. This relates to assets in the father's possession before his death. The firstborn shares equally, in those assets that come to the estate posthumously (Deut 21:17, "in all that is found with him....").

This applies except for certain property.

Property that had benefit accrue to it automatically, without effort or investment, is a natural extension of the property that was in the father's possession.

For example, a cow, leased or consigned to others, at a rental rate for a share of the profits,
and the cow gave birth to a calf; or a cow grazing in a public pasture that gave
birth to a calf.

However, this does not apply to already built houses or planted vineyards using capital from the undivided estate. The first born does not take double from this.

רָאָה הַקָּדוֹשׁ בְּרוּךְ הוּא שְׁשֻׁנוּאִין מַעֲשֵׂה עֵשָׂו בְּפָנֶיהָ

God saw that Esau's behavior was hated by her.

R Levi Yitzchak of Barditshev explained that our Matriarchs were initially barren because HaShem desires the prayers of the righteous.

Leah was different, she had already prayed to HaShem and cried many tears for His help in avoiding a marriage to Esau, whose ways she despised. Further tears and prayers from her were not needed, for her to merit having a child.

וְמִי שֶׁרִי לְהוֹ לְצַדִּיקִי לְסִגּוּיִי בְּרִמָּאוֹתָא

Is it permitted for a righteous person to behave deceptively?

Yaakov assured Rachel that he could match the deceptiveness of her father with his own deceptiveness. One should behave honestly with those who are honest and deceptively with those who are deceptive.

Ben Bag Bag (Bava Kamma 27b) says “It is not permitted to steal back objects from a thief”.

Ben Ish Chai says, “That only applies if using legal means will succeed, if not, he may take back what is his, without the agreement of the thief and act much as Yaakov did”.

שְׂאִין זֶרְעוֹ שֶׁל עֵשָׂו נִמְסָר אֶלֶּא בֵּיד זֶרְעוֹ שֶׁל יוֹסֵף

Esau will not be defeated, except by the seed of Joseph.

Rav Shlomo Zalman Ehrnreich - Esau was exceptional in his honoring his parents. He brought his father the best, the choicest of his products.

When the sons of Yaakov sold Joseph, they acted without a thought for their elderly father, and this strengthened Esau's merit. This protected him.

Only Joseph and Benjamin, the sons of Rachel, who were not part of the sale of Joseph, could nullify the merit of Esau and eventually lead to Esau's defeat.

הָנִיחַ לָהֶן אֲבִיהֶן פָּרָה מִוַּחֲכָרָת וּמִוִּשְׁכָּרָת בְּיַד אֲחֵרִים אוֹ שֶׁהִיָּתָה רוֹעָה בְּאֶפֶר

If their father left them a cow, that was consigned, or leased to others, or one that was grazing in the marshes.

If it bore a calf, the firstborn takes a double portion.

Why are both examples needed?

Certainly if a cow, which was not in the possession of the father, but is consigned or rented, has a calf, it is subject to a double inheritance to a firstborn son.

Certainly, a cow, that is grazing in the marshes, would be subject to double inheritance, since it is more in the possession of the father, than the rented one.

We need the two cases to teach that for the rented, or consigned cow's calf, to be subject to double inheritance, it must be similar to the cow grazing in the marshes.

That is the benefit that accrues automatically, with no expense to the others brother's in feeding the animal, etc.

יָצָא עָלֵיהֶן שְׁטֵר חֹב בְּכוֹר נוֹתֵן פִּי שְׁנַיִם

A loan document, that guarantees payment against the estate. The firstborn pays double.

A loan document is produced against the state. The firstborn must pay a double portion of his legacy toward satisfying the debt (this assumes the estate has already been divided).

The firstborn can say, “I won’t take a double portion and I won’t give a double portion”. He is entitled.

For example, he may renounce his double portion. Why would he do this?

1. He does not protect his single portion from the creditor (but)
2. If his brothers are not available, i.e., out of the country, or they are minors, he protects a greater portion of the estate from the creditor, by renouncing his second portion.

וְאִם אָמַר אֵינִי נוֹתֵן וְאֵינִי נוֹטֵל

And if he says, “I do not wish to collect double, nor do I wish to pay double.”

Rebbe teaches that the firstborn receives double from the assets in the possession of the estate, and also from assets collected later, such as a debt owed to the father. However, the firstborn is also responsible to pay any debt the father has, at double the rate of the other brothers. Therefore, there might be good reason to forgo the double portion of income, since the amount he would owe, would be greater.

We learn that if the firstborn does not want it, he may forgo his right to a double portion; and he is not obligated to pay a double portion to satisfy any debt of the estate.

לְדִידָךְ קְשִׁיָּא אָמַר לִיה אַבִּי לְרַבָּה לְרַב נַחֲמָן קְשִׁיָּא

Abaya said to Rava, “According to your view there is a difficulty and according to Rav Nachman there is a difficulty.”

In regards to a loan to a non-Jew:

The ‘bechor’, takes a double portion (if it is a written loan) and the interest.

A loan is considered to have been collected during the father’s lifetime. Therefore, it is included in the father’s estate and is divided with the eldest son receiving two portions.two times.

גִּבְסִי לְסִבְתָּא וּבִתְרָה לִירְתָאִי

Man grants estate to —————> Grandmother for life, then to —————> her daughter's husband.

Does a husband inherit his wife's possessions – Yes

He inherits that which is in her possession at the time of her death.

He does not inherit prospective assets.

But the daughter died before her grandmother died. Therefore, is the chain to the husband broken?! Yes.

Rav Huna – The structure of this bequest, permitted the grandmother the use of the property, the right of 'usufruct' (legal right to use and profit from something belonging to another), but it was also bequeathed to the daughter. Therefore, this was not a prospective asset, but a real asset. No, if grandmother had sold the item, she had the right to do so. Therefore, it was not a possession of the daughter.

וְאִין הַבְּכוֹר נוֹטֵל בְּרֵאוּי בְּמוֹחָזֵק

The firstborn does not collect prospective assets, as he does from assets that were in his father's possession.

Does he have a right to a double portion of money, deposited in an interest bearing account in a bank? It is in reality a loan to the bank; he collects interest. The bank can use the money for its own investment, is it not really a loan, and therefore, it is only a prospective asset, which does not authorize a double portion to the first born?

Shulchan Aruch says – “Yes, he does not collect a double portion of the money his father loaned to others, even if the loan is documented to be guaranteed”.

ומלֹוה שְׁעָמוּ פְּלָגִי

A case where a first born owed a debt to his father.

The brothers divide the second portion of the first born. It is uncertain if this loan is considered a prospective amount, whose disposition is in doubt, in which case these monies would be divided (Bava Metzia 100a).

Therefore, lets say the Bechor owes his father 400 zuz. He has two brothers. Normally, we would divide the money into 4 parts and each brother would get 1 part and the Bechor would get the 4th. Here, each gets one part and they divide the 4th part three ways.

If benefit accrued, or harm accrued to the estate before division by the activities of the brothers, but the Bechor protested, he gets double the benefit and the other brothers must make up his loss of the original value.

הואיל ויתרֶתָּה במקצת ויתרֶתָּה בְּכֹל הַנִּכְסִים בּוֹלָן

If a Bechor renounces his double portion in part of the estate, he is dealt with as though he renounced his right to a double portion in the entire estate.

הָאוֹמֵר אִישׁ פְּלוֹנִי בְּנוֹ בְּכוֹר לֹא יִטּוֹל פִּי שְׁנַיִם אִישׁ פְּלוֹנִי בְּנִי לֹא יִירֶשׁ עִם אָחָיו לֹא אָמַר כָּלוּם

If a person says, “This, my first born son, should not get double, or, this, my son, should not inherit anything”. He has said nothing.

It is null and void. These statements are contrary to the words of the Torah.

How is it that (in Gen 49:4), Yaakov declared that due to Reuven’s impetuous nature, his double portion would be forfeit and the double portion would be given to Joseph’s sons, Menashe and Ephraim? Was that proper and legal? Was it not contrary to the words of the Torah?

Yes, but it was proper, only because the Torah had not yet been given.

Sforno and Daas Zekeinim suggests that a father is permitted to transfer the double portion away from the first born, if he has committed an offense. Here, Reuven committed an offense.

שְׁפוּי וְנִשְׁתַּטָּה וְחָזַר וְנִשְׁתַּפָּה

Someone who was sane, became insane and then his mind settled again.

Who is insane?

Rambam – Anyone who has lost his mind and behaves erratically in any area, is considered insane, even if, in many areas, the person seems coherent.

Rashba disagrees and writes that only someone who demonstrates the three traits mentioned (in BT Chagiga 3b) qualifies as insane:

1. Going out alone, at night.
2. Sleeping in a cemetery.
3. Tearing one's clothing.

Shulchan Aruch – agrees with Rambam.

Or Sameach – A person who is clearly insane can be categorized as insane, even if he does not demonstrate any of the traits mentioned in Chagiga.

כָּל שֶׁתְּחִלָּתוֹ אוֹ סוּפוֹ בְּפִסְלוֹת

Any testimony, whose beginning or end, occurred when the witness was in a state of disqualification, is invalid.

Rebbe Abba – A witness, who saw an event and then becomes blind, may not submit his testimony.

Shmuel, Rav Sheishes and Rav Pappa suggests that he may testify.

A Berissa – Teaches us a rule that a witness is only allowed to testify if he was eligible to testify at the moment he witnessed the event and at the moment that he testifies.

Rashbam agrees-He may not testify, if he became blind.

Another scenario:

A witness to a transaction, later became a member of the family of one of the parties.

Is he allowed to testify? Yes, any analysis of the document, reflects the situation, as of the moment it was signed and not of the current status of the witness.

כָּל תּוֹךְ כְּדֵי דִבּוּר כְּדִבּוּר דְּמִי

Any statement, that is within the time it takes to make the statement, is considered part of the original statement.

This means that, if a person changes his mind and retracts his statement immediately after expressing it, it is an effective retraction.

Except if he donated to ‘hekdesch’, to ‘the Temple’. That pledge cannot be retracted.

Pischei Teshuva also suggest -That a pledge to Tzedakah cannot be retracted, even if done so immediately. As soon as the pledge is made, the possession of it, is in the hands of the poor.

S’ma and Aruch HaShulchan and Rashba and Shulchan Aruch do not consider a pledge to the poor, or even to a Shul, as a pledge to a sacred fund and it may be retracted, if done so ‘Toch Kdei Dibbur’, “within the time it took to make the statement”.

הָאוֹמֵר אִישׁ פְּלוֹנִי יִירָשֵׁנִי בְּמָקוֹם שֵׁשׁ בֵּת

If a person says, “Let so and so inherit me”, in a situation where he has a daughter,
or if he says, “Let my daughter inherit me”, in a situation where he has a son,
he has said nothing.

Because:

He made a stipulation that is contrary to what is written the Torah.

R Yochanan ben Berokah-

- But, if he spoke in reference to one who is fit to inherit him, his words stand.
- But, if he spoke in reference to one who is not fit to inherit him, his words do not stand.

Gemara-

- A bequest to a non-heir is not valid.
- A bequest to an heir can be disproportionate.

הַתּוֹרָה נִתְּנָה רְשׁוּת לְאָב לְהַנְחִיל לְכָל מִי שִׁירָצָה

The Torah gave a father the right to bequeath his estate to any son that he wants.

Dev 21:16 “And it shall be on the day he bequeaths to his sons...”

R Yochanan ben Berokah and Rava interpret this verse: That the father has control to designate his possessions among his heirs, but only if he uses a positive expression. For example, “So and so will inherit all my property”, but not if he says, “So and so will not inherit”. The negative statement alone, does not outline a plan for who will receive his belongings and therefore, the system of the Torah is still in effect and all are eligible to receive their portions.

Ritva suggests -This designation of who will inherit is effective only if he gives it all at once, not as a partial gift, which requires a kinyon.

הַתּוֹרָה נִתְּנָה רְשׁוּת לְאָב לְהַנְחִיל לְכָל מִי שְׂוִרְצָהּ

The Torah gave a father the right to bequeath his estate to any son that he wants,
on the day that he bequeaths to his son.

This teaches us that the father may actively bequeath. It is not a mere passive action.

That means he may adjust the proportions and the amounts, that each son gets.

Some will get more or less than others.

Only the second portion, that is due the firstborn, may not be touched (Deut 21:15-17) ... to
give him a double portion.

.. לא יוכל לבכר" נפקא

The father cannot give the (double) extra portion to anyone but the firstborn son.

However, the father may be able to give away the regular portion from any son.

(Deut 21:16), “On the day that he bequeaths to his son”.

הַבָּנִים יִירָשׁוּ וְהַבָּנוֹת יִזְוְנוּ

The sons inherit and the daughters are supported.

It says in the Ketubah, that the sons of this wife shall inherit the possessions listed with Ketubah and that the daughters shall be supported from the husband's property.

Do the proceeds of an insurance policy fulfill the obligation of the husband to pay the value of the Ketubah?

If it did, the husband should have recovered the Ketubah, which is evidence of his indebtedness, once he exchanged the policy for it. The fact that she still possess the Ketubah, teaches us that he intended no such exchange and he does not intend that the insurance proceeds serve as satisfaction of the claim represented in the Ketubah.

וְאִשָּׁה אֶצֶל בְּנֵי הַבֶּעַל

A woman, with her husband's sons.

Rashbam – Children are biblically mandated to honor their mother.

The word ‘et’ in ‘kabeid et avichah’ is used to derive an obligation to honor one’s stepmother as well.

Rav Akiva Eiger questions -Is one is obligated to honor a stepmother, even after one’s father has died.

Kesuvos 103a says -They are not obligated.

Is honor to one’s stepmother an independent obligation, or only a manifestation of honor to your father? If only via the father, it would be cancelled by his death, or if he should not be honored, for example, if he became an apostate.

וְהַתְּנִיחַ הָרִי שֶׁהָלַךְ בְּנוֹ לְמַדְיַנַּת הַיָּם וְשָׁמַע שָׁמַת בְּנוֹ

A man had a son, who traveled abroad. The man heard that his son died.

The man wrote a document giving his estate to another person, but then learned that his son was actually still alive.

Tanna Kamma rules- The gift is still valid.

R Shimon ben Minasya teaches -The gift is cancelled. We assume that had he realized that his son was alive, he would not have given his property away.

R Nachman agrees that we take into account the mind set of the person.

The Halacha teaches the same as Rabbi Shimon ben Minasya.

הַבֹּתֵב אֶת נִכְסָיו לְאַחֵרִים

If one writes his estate over to others,
and leaves his children without legacy.

What is done is done. The gift is valid, but the sages are not pleased with him.

Rabban Shimon ben Gamliel says – Unless his children were not conducting themselves properly, in that case he did what was right.

Gemara-

Tells a story about Yonathan ben Uziel.

A man didn't want his sons to inherit his estate and he gave his estate to Yonathan ben Uziel, who sold 1/3, gave 1/3 to the Temple, and gave 1/3 to the man's sons. He was told by Shammai that he did wrong and since he did not follow the father's stipulation, he forfeits all the resources. Yonathan ben Uziel says, "I owned it and just as you can't cancel the sale, or consecration, you can't cancel my gift to these boys".

לֹא תִיָּהוּ בִּי עֲבוּרֵי אַחֲסָנָתָא וְאַפִּילוּ מִבְּרָא בִּישָׁא לְבָרָא טָבָא

Do not be present where an inheritance is transferred (from its rightful recipient) even if it is being transferred from a bad son to a good son.

Tanna Kamma – A person may legally give all his possessions to others and leave his sons with nothing, but the sages frown on such an action.

R Shimon ben Gamliel said-If the sons were not behaving properly, then disinheriting them is acceptable.

Rambam – Shifting one's inheritance away from his children is a sin and is not allowed.

Rashbam agrees and suggests that even shifting portions to favor one son, over the other, is not appropriate.

But, if the father left his sons with nothing, his actions are, nonetheless, valid.

לֹא תִיָּהוּ בִּי עֲבוּרֵי אַחֲסָנָתָא וְאַפִּילוּ מִבְּרָא בִּישָׁא לְבָרָא טָבָא

Do not be present when someone transfers his estate, even from a wicked son, to a good son.

If so, how was Avraham Avinu able to pass his estate to Yitzchak and exclude Yishmael and the other sons born to his concubines?

Maharsha suggests - Yishmael did not stand to inherit, since he was a son of a non-Jewish maidservant.

Sefer Be'er Sheva – Prohibits disinheriting a wicked son, since he might have righteous children, who would benefit. Avraham knew by Divine Inspiration, that no righteous descendants would emerge from Yishmael.

Horkanos gave his entire estate to one son, R Eliezar, but that is because the other sons continued to exclude R Eliezar from his inheritance. Horkanos just gave them a dose of their own medicine.

The Rabbis do not agree that a father may disinherit even a son who acts improperly.

Perhaps the next generation will be Talmedei Chachomim and the funds will be well used.

(134A1 – Speaks about Yonathon ben Uziel and how great he was).

הָאוֹמֵר זֶה בְּנִי נֶאֱמָן

If a man says, “This is my son” – he is believed.

If a man says, “This is my brother” – he is not believed,

and the alleged brother takes only from the portion of the one who identified him.

If the alleged brother dies, that which he took, returns to the one who identified him.

If the alleged brother receives property from elsewhere, all the brothers will inherit it.

Gemara- The man is believed if he identifies his son. What results from this declaration?

That son inherits his father’s property and the father’s wife is released from the obligation of Yibum since he is not childless).

בְּשֶׁעָה שְׂיוֹשֵׁב וְעוֹסֵק בַּתּוֹרָה כָּל עוֹף שָׁפוֹרֵחַ עָלָיו נִשְׂרָף

When he sat and studied Torah, any bird that flew over him was incinerated.

Two explanations are offered for this phenomenon:

Rashi - The Heavenly Angels would gather around Rabbi Yonathon to hear his Torah and it was their fiery presence which consumed the bird.

Tosphos – Rabbi Yonathon’s Torah study was a joyous re-creation of the Torah at Mt. Sinai, including the fire which surrounded the mountain top and which now consumed the bird.

בְּשָׂעָה שִׁיוֹשֵׁב וְעוֹסֵק בַּתּוֹרָה כָּל עוֹף שָׁפוֹרֵחַ עָלָיו נִשְׂרָף

When he sat and studied Torah, any bird that flew over him was incinerated.

Two students learned that Yonathon ben Uziel studied with such intensity that any bird that was in the vicinity and flew over him was burnt to a crisp.

One student considered this and remarked, “Can you imagine such holiness. How is it possible for a human being to reach such a level of sanctity?”

The other student considered the story and asked, ‘Is Yonathon obligated to pay for the bird, is a heavenly flame considered like any other flame for which one is obligated to pay for damage it causes?’

Consider the differences between students who learn the same story and come to different ideas.

לְפָטוֹר אֶת אִשְׁתּוֹ מִן הַיְבוּם אֶצְטְרִיכָא לִיה

It was necessary (for The Tanna) to teach (that he is believed) regarding releasing his wife from Yibum.

But we don't really need to learn that he releases his wife from Yibum, because we learned that from the Mishnah (Kiddushin 64a). A man can claim to have children and release his wife from Yibum. Not so, that rule teaches he may release his wife, only in a case where we had no presumption that he had a brother.

Here, even if we had a presumption that he did have a brother and she would be subject to Yibum, he can release her by claiming to have a son. Why is a man who says, "This is my son", believed, and is able to release his wife? Because of a 'migu'. He could have released her by saying, "I divorced her".

Therefore, since he could release her by this means, there is no reason for him to make a false claim.

הפֿותֿב נֶכְסֵיו לְבָנָיו צָרִיךְ שִׁיבֿתֿוב מֵהַיּוֹם וּלְאַחֵר מִיָּתָהּ

A writing, by which a healthy person can cause his property to be transferred to his sons:

“From today, I give this as a gift to you after I die. But usage by you, my sons does not occur until after my death”.

Rules:

1. Neither father, nor son can sell it.
2. Father can sell and the property is sold, only until he dies.
3. The son can sell, but the buyer has no share in the property, until the father dies.

Why is this form of gift effective?

There was uncertainty in the phrases, ‘from today’ – ‘after my death’, because the words are contradictory and create doubt.

For example: If a man gives a get and says, “This is your get from today and after my death”.

We don’t know, did he mean that the get should take effect now, but is conditional upon his death? If so, the get is valid and has effect after he dies, retroactively, to the moment he gave it.

“This is your get today, but it won’t take effect until after my death”.

רבי יוסי אומר אינו צריך

R Yose says, “He does not need”

to write “from today”. The date on the contract, tells us the date.

The contract states the acquisition date, the date of ‘kinyon’. It depends on the way the contract is written. The contract serves only as a proof, but the phrase “from today” is needed, if the date of acquisition is not clear from the contract law, according to Reish Lakish.

The contract must say, “acquired it” from the owner and “we acquired” by the buyer, in that order indicating the instructions were obeyed.

(136a3) A father gave his land, conditionally, to his son, to take effect after his death and kept the fruits for himself. The son, then sold it. The sale won’t take effect until the father dies and the buyer gets full ownership. If the son dies first, the property goes back to father.

Buyer takes a risk.

There is a disagreement between R Yochanan and Reish Lakish, who says that the buyer does acquire the property. He takes title at the time of the sale and acquires full rights when the father dies. And the law is according to Reish Lakish.

וְרִישׁ לָקִישׁ אָמַר

Reish Lakish said ...

R Shimon ben Lakish - The buyer acquires the property. He takes title at the time of the sale and can use it after the father dies.

A Palestinian, Amora, born approximate 200 CE, lived to 275 CE. He had unusual strength. He sold himself to a circus to raise money and combated wild beasts in the arena.

Johanan ben Nappaha saw Amora, was impressed and offered him his sister and an opportunity to study with him in his school in Tiberias.

Famous Sayings:

- A man does not commit a sin, unless he is temporarily insane.
- Correct yourself first and then correct others.
- Better to join in a business venture to help the poor, than to give them charity.
- Don't live next to an ignorant, pious person.

דבֿעֿלמָא קנין פירות בקנין הגוף דמי

Usually, ownership of the rights to the produce, is tantamount to actual ownership of the property.

Therefore, if the father has ‘kinyon paros’ and the son has ‘kinyon haguf’ and can sell it.

The sale is good.

“I give to you, Shimon and after you, I give it to him, Levi”.

Shimon can sell it and it will be a valid sale.

Why? Because, “I give it to you”, conveys full ownership. The essence is that he can sell it and the sale is valid. The next beneficiary gets nothing, if the first no longer owns it. This is different from a temporary gift. For example, “My esrog is yours and afterwards, give it to so and so”, versus the statement, “My property shall go to you and after you, to so and so....”.

Rebbi- If the first person sells it, the second can extract the property from the purchaser.

Rav Shimon ben Gamliel says –No, the second one only has a right to receive that which number one left for him.

דְּבַעְלָמָא קִנְיֵן פִּירוּת כְּקִנְיֵן הַגּוּף דְּמִי

In general, ownership of the rights is tantamount to actual ownership of the essence of the property,

says R Yochanan.

Reish Lakish says, -“No”.

R Yochanan - Therefore, if the son sells it, it is not a sale, because the father reserved the right to the fruit itself and that is ownership of the essence.

Reish Lakish says - If the son sells it, the sale is good, and the purchaser owns everything after the father dies.

Rav Shimon ben Gamliel agrees - The sale is good,

R Yochanan agrees with R Shimon ben Gamliel- Because R Yochanan thinks that Rav Shimon ben Gamliel made his decision based on the principle, “Ownership of the rights to the produce is tantamount to ownership of the essence”.

Reish Lakish agrees with R Shimon ben Gamliel -Because Reish Lakish thinks Rav Shimon

ben Gamliel made his decision only in the case where he used the phrase, “after you” and not that he disagrees with Reish Lakish that kinyon of the produce, is not kinyon haguf.

זֶה גִּיטָךְ אִם מָתִי זֶה גִּיטָךְ מֵחֻלִּי זֶה זֶה גִּיטָךְ לְאַחַר מִיתָה לֹא אָמַר כְּלוּם

This is your get “if I die”, or “after this illness” or “after my death”, he has not said anything.

If a person gives a ‘get’ to his wife to be effective after he dies, the ‘get’ is void because a dead man cannot divorce his wife. Had he said, “At the end of the death process”, it would have been valid, because that is defined technically as a moment before the person is considered to have left this world.

A ‘get’ is designed to sever the marriage relationship which if death comes first is already severed by death and a ‘get’ is superfluous and not valid.

The transfer of a gift after death would be valid since there is no relationship to sever.

אַתָּרוֹג זֶה נָתוּן לָךְ בְּמִתְנָה וְאַחֲרָיָהּ לְפָלוּנִי

‘This esrog is given to you as a gift and after you it shall go to so and so’.

If the use is equivalent to the essence he owns it and his blessing on the esrog is valid.

If the use is not equivalent to ownership, the ‘bracha’ is not valid.

Rebbi – He owns only the right of use, but he must leave it intact. Therefore, it is not considered his own.

R Shimon ben Gamliel says that the first beneficiary owns it and can sell the esrog or eat it.

Therefore, it is considered his own and he can fulfill his obligation to make a blessing with it.

However, both Rabbis agree that each person has fulfilled his obligation. How can Rebbi explain his position??

Reb Nachman explains - He gave him the esrog (full ownership) on condition that after he makes his blessing he will pass it on. If he passes it then he fulfilled the condition and retrospectively owned it when he made his bracha and his obligation is fulfilled. If he sells it or eats it which are usually considered symbols of ownership he did not fulfill his obligation to pass it on and did not own it and his blessing is not valid.

הָאֲחִין שָׁקְנוּ אֶתְרוּג בְּתַפּוּסַת הַבֵּית

Two brothers inherit an estate. One of them bought an esrog, with money from the undivided estate.

Is it his?

-If so, he can fulfill the mitzvah, but only if his brother had known and would not have objected.

-If it is not his because his brother objected, he cannot fulfill the mitzvah.

Therefore, a gift, given on condition it be returned, is considered the beneficiaries property while he has it.

Rav Bivi Bar Abaya (descendent of Eli the Cohen), lived in a town called Mamla. Which means “cut”, or “hump”. In that family, all died young due to a curse on Elie’s household and Rav Huna insults him, “Because you came from the town of Mamla, you state blemished arguments” (see 137b2 line 17 B5).

שׁוֹר זֶה נָתַתִּי לָךְ בְּמַתָּנָה עַל מְנָת שֶׁתְּחַזִּירָהּ

I give you this ox as a gift on condition you return it (to me)

and he consecrated the ox and then returned it to the donor. It is no longer useful to me. We examine the words if he said “return it” it was returned. If he said “return it to me” it must be still useful to him and if given to ‘Hekdesh’ that condition would not be fulfilled.

137b3- a gift is refused.

I don’t want it. He acquires it.

138a1- R Yochanan says he does not acquire it.

Protest was immediate-he does not acquire it.

Protest was delayed-he acquired it.

Rav Shimon ben Gamliel says- No, he need not object immediately, perhaps he did not believe the gift would actually be given to him, therefore, he did not object.

But all agree that if he did protest immediately, he does not acquire it.

שְׁכִיב מֵרַע

A seriously ill person

lying on his sickbed, made a bequest. His oral will has validity and transfers his possessions, even in the absence of a formal act of acquisition.

“I give money to #1, #2, or to #3” - All these gifts are acquired simultaneously. If he said these words without pause, a loan document permits collection from all, but he can recover the whole debt from the last person and up the ladder backwards.

138A2 to his son “give my first born 200 zuz as is appropriate for him”.

Is the 200 part of his double amount or is it extra?

138a2 If he says, “as befits him”. He takes it in addition to his first born portion. If he says, “as his firstborn portion”, he does not take both but can choose.

138a4 “To my wife for the ketubah”. She does not take both only one payment.

“As befits her”, she takes in addition to her ketubah.

Others say that she does not take both but has the upper hand in deciding which payment to take.

לְפָלוֹנִי בְּעַל חוֹבִי כָּרְאוֹי לוֹ

Give to my creditor as befits him.

Gift to a creditor is different. Give to so and so - 200 zuz

- a. as befits him
- b. for his debt

Schiv Mara a. He takes in addition to the debt.
 b. He takes only his debt
 owes me money.

138b2

Requires independent verification - according to the sages, because we worry about a possible mistake by Bais Din.

23 Bava Basra 138b2 line 30 B30
Bleich 4 p.30

לֹא בֵּית דִּינָא פְּתֵר בֵּית דִּינָא לֹא דִּיּוּקִי

A Bais Din does not scrutinize the actions of another Bais Din.

Rambam - We can give full faith and credit to another Beis Din on the presumption that all Batei Din are competent. There is no re-hearing as a matter of right, but there can be a re-hearing at the discretion of the second Bais Din.

(Yevamos 121a) Rav & Shmuel heard about a ruling of Rav Shila, who they feared had made a gross error in halacha. That circumstance does permit investigation of the ruling of the original Bais Din.

הָאֵב תּוֹלֵשׁ וּמֵאֲכִיל לְכָל מִי שְׂרָצָה

A father may detach produce and give it to whomever he wishes.

The father may detach produce and feed whomever he wishes.

Whatever he detached that was not eaten, is to be shared by all his heirs.

- The detached produce is divided to all sons.

- The attached produce has been given, only, to the one who received the gifts.

This is different from a gift, or sale to other than to a son. They would be assessed and must pay that amount to the heirs for the produce.

Here, the reference is to the benefactor's son. If he gives a property to his son, he can be assumed to do so generously, because he is close to his son.

הַנִּיחַ בָּנִים גְּדוּלִים וְקָטָנִים

A father left older, as well as, younger sons.

A man dies without distributing his property. What are the rights that each heir has to draw upon the estate, before it is divided.

Sons divide equally. Whether older or younger, they cannot take extra.

Married ?- If paid for by the estate, each can become married and have the estate pay.

Married ?- If paid for by the father, while he was alive, the other brothers are not entitled to have their marriages paid for from the estate.

Daughters are the same as above:

However, daughters are fed at the expense of son's estate.

But daughters are not fed at the expense of other daughters. For example, one daughter's inheritance is not used to pay the expenses of another, or younger daughter!

הָאִי גָדוֹל אָחִי דְּלָבַשׁ וְאִיכְסִי מִבֵּיתָא מֵאִי דְעָבַד עָבַד

With regard to the oldest brother, who clothes and cloaks himself with funds from the undivided estate, according to the law what he has done, he has done.

- Wedding -
- a. If older boys get married while the father was alive? (see a below)
 - b. If older boys married after the father died and they took the money from the estate? (see b below)
 - a. The younger boys can't claim, that since their father paid for the other brothers' weddings while he (the father) was still alive and they (the younger brothers want to claim that also, they cannot.
 - b. The younger ones can do that also.

A woman borrowed money and did not pay it back and she got married.
Is her husband obligated to pay it back for her?

Daf Yomi Digest

שְׁהַנֶּכְסִים מְרֻבִּין הַבָּנִים יִירָשׁוּ וְהַבָּנוֹת יִזְוֶנוּ

When the property of the estate is abundant, the sons inherit it and the daughters are supported.

Large estate-Sons inherit and daughters are supported, until they marry, or reach full maturity(Kesuvos 52b).

Small estate-Boys do not get support.

Girls get supported (food, clothing and wedding expenses).

Rava - No, girls get what they need and the extra goes to the boys.

Admon - Do boys get nothing? -

R Shimon ben Gamliel - No, Admon is correct.

If estate is small– separate 12 months money for support of girls. Support boys also, for 12 months. Any left over goes to the boys, as an inheritance.

אֲדַמּוֹן אוֹמֵר בְּשִׁבּוּל שְׂאֲנִי זָכָר הִפְסַדְתִּי וְכוּ'

Admon's question, "Because I am male, do I lose?"

"I should still inherit even if it is my responsibility to care for my sister". And you do, you are supported and you get the residual property (Mishnah #2 to 143b2).

The deceased left sons, daughters and a tum tum, (tum tum – A person of uncertain gender; he gets the lesser amount). For example, if estate is abundant, he is treated as if he was a daughter, and is supported. If the estate is meager, he is treated as if he is a son, he gets no inheritance and must go begging.

A man says, "If my wife has a son, I will pay money" - collects

daughter - collects

tum tum - does not collect anything

any healthy child - collects

If his only child is a tum tum - The tum tum collects and inherits all.

דָּאָמַר רַב חֲסִידָא בֵּית תַּחֲלָה סִימָן יָפָה לְבָנִים

Rav Chisdah says that a first born girl is a good sign for the children.

An oldest daughter is helpful in raising the other children, but the father loses the Mitzvah of ‘pidyon haben’, but this is not important if the father is a Kohen, or a Levi.

It is viewed as an incitement to the evil eye to ask a person how many children he has. It is equally inappropriate to answer this question. If asked, simply say, ‘Baruch HaShem, not enough’ or “Thank you for asking, each one is a treasure”.

דאָמער רב חסדא פֿת תּחלה סימן יפה לְבָנִים

Rav Chisdah says:

When a girl is the first child born, it is a good sign for the sons who will follow.

1. The firstborn girl helps raise the younger children.
2. She prevents the “evil eye” of envy from affecting the family.
3. Had a son been the firstborn and received a double portion of the inheritance, his siblings might have been envious, begrudging him the advantage he has through no merit on his part.

הַזָּכָר נוֹטֵל שֵׁשָׁה דִּינָרִין וְהַנְּקֵבָה נוֹטֵלָת שְׁנֵי דִּינָרִין

The boy takes six gold dinars and a girl takes two gold dinars.

Why would a father give 100 for a son and 200 for a daughter's birth.

A father prefers to give money to a daughter, so she can be self-supporting.

A first child:

-Fathers prefer daughters over, why? Some consider it a good omen.

A 'bechor' may produce envy. So it is best to avoid a 'bechor', since he will receive double.

A daughter raises her younger brothers.

In a case of twins, when we don't know which child, the boy or girl, come first, we give 100 to the boy and split the second 100. He gets 150 and she, 50.

נָכְסִי לְהָאִי דְּמַעְבְּרָתָּ

I give my money to the baby you are carrying.

The fetus does not acquire.

But, if the father dies before it is born, the baby gets the money once it is born, according to our Mishnah. (Bava Basra 140b2). Does this not violate the rule that a person may not convey something that has not yet to come into existence?

2nd case: A man gives Kiddushin money to a women and says, “You are hereby betrothed to me, after I convert to Judaism” or “after you convert to Judaism”.

According to R Meir, the betrothal is valid and takes effect when the qualified person’s conversion occurs. The Chachamim disagree.

3rd case: R Huna rules that a man may sell the fruits of his date palm, before they are produced and the sale takes effect as soon as they are produced.

There are three parts to conveyance. The owner, the item, and the recipient.

In case #1-The recipient is not yet in existence, yet our Mishnah conveys to him after he is born.
In case #2-The bride or groom is not yet in existence, yet, R Meir permits betrothal after conversion.

In case #3-The item (the fruit) is not yet in existence, yet R Huna permits the sale once the fruit is produced.

Daf Yomi Digest

דַּרְפוֹי מִרְפֵּיָאן בִּידֵייהוּ מַעֲיָקָרָא

Initially, there was uncertainty in their hands.

A shadchan (matchmaker) introduced two people, but they decided not to continue to see each other.

The young man met another girl and they became engaged, but later, decided to call off the engagement.

The young man called the girl that the shadchan had introduced to him and this time the two were engaged and they married.

The Shadchan asked for his customary remuneration, noting, that but for him, the two would likely never have met.

Our Gemara describes a case regarding people, who took the property of a childless convert and then learned that his wife was pregnant. Their acquisition is invalid, since the child would inherit from its father. Even if later the wife has a miscarriage, they had given up expectation of obtaining the ownerless property and their original acquisition is invalid.

So here, the shadchan, when he heard that the first attempt failed, gave up on the thought that he would receive remuneration. Therefore, the groom is correct, he owes the shadchan nothing.

לומר שממעט בחלק בכורה

The Mishnah means to say that he reduces the portion of the firstborn.

Two other explanations:

1-An unborn child does not diminish the double portion, but the other brothers have to wait to divide the estate, depending on if it is a boy, or a girl.

2-A man says, “If I marry you, your current children will inherit from me”.

However, any as yet unconceived children from the second wife, are non-existent.

Daf Yomi Digest

דְּאִיתְּמַר קְנִי בְּחִמּוֹר לֹא קָנָה

If one says to his fellow, “Acquire this gift, “like a donkey”, who is not able to make a kinyon.
He has no capacity.

But, if he says, “You and the donkey”.

Rav Nachman says, “He acquires half”.

Rav Hamnuna says, “He has said nothing and he acquires nothing”.

Rav Sheishes says, “The recipient acquires all”.

הָהוּא דִּאָמַר לָהּ לְדַבֵּיתָהּוּ נִכְסָיו לִיָּהּ וּלְבָנֶיהָ

There was a man who said to his wife, “My belongings are to you and to your sons”.

הָהוּא דְּשָׁדַר פִּיסקֵי דְּשִׁירָאֵי לְבֵיתָהּ

There was a man who sent silk garments to his house:

-Male clothing to sons.

-Female clothing to daughters.

But, he did not specify to his:

1. Unmarried daughters

2. Daughter-in-law

My belongings go to my sons-

-but he only had one son and one daughter.

Do we say that one son can be referred to as plural? No, all goes to the one son. Or to one son and grandson? While some may refer to a grandson as 'son', the son and the grandson are not the same. No, all of his belongings go to the one son.

הַנִּיחַ בָּנִים גְּדוּלִים וְקֹטָנִים

If a man died and left adult and minor sons

and the adult sons make a profit for the estate. They all share, but only if the profit came by itself.

If by their effort, those who put forth the effort, benefit, unless their effort was minimal.

For example, an effort that even children could do. In that case, they all share.

אַחַד מִן הָאֲחִין שְׁמִינוּהוּ גַבְאִי אוּ פּוֹלְמוֹסְטוֹס

One of the brothers, whom they appointed tax collectors, or a magistrate. .

A father left an undivided estate, and one brother was recruited for work by the government to be a tax collector, or an official. Any profit is shared by all, or if one got sick and the estate paid his medical bill, he owes it back.

If recruited because of the estate, money goes to the estate and is shared.

If recruited because of his skills, money goes to him.

What if both the estate and his skills? The money goes to the estate.

(144b1) If he decides to learn Torah at a Yeshiva, instead of at home, the extra costs of his living elsewhere is charged to him.

הכל בידי שמים חוץ מצננים פחים

All is in the hands of Heaven, except for cold drafts.

Is there a difference between a person, who becomes ill due to his own negligence and one, who becomes ill due to circumstances beyond his control? For example, a person who does not properly protect himself from the cold. If he recovers, is it proper for him to say the bracha of 'HaGomel', for recovering from the illness?

Gaon Chida says-He does not, citing that R Akiva, when he emerged from the Pardes, and Yitzchak, after the Akedah, did not recite the prayer. He includes release from prison, for not paying taxes, in the category of self imposed dangers.

Teshuvot Sdei Haaretz and the Taz disagree and state that the bracha is always appropriate. While the illness or danger may be due to negligence, only through HaShem's help could recovery occur.

מָקוֹם שֶׁנֶּהֱגוּ לְהַחזיר קִדּוּשִׁין מִחֻזְרִין

In a place where the custom is to return the Kiddushin money, they must return it.

Argument between Rab Nasson and Rab Yehudah Hanasi:

If money is given to a Kallah and she backs out, can he recover his money?

Rav Poppa - Gifts will be returned.

- Kiddushin money will not be returned, unless the Kallah breaks off the wedding.

Five Halachas:

1. They are collectible in Bais Din.
2. Only collectable when the groom gets married.
3. No interest.
4. No decrease by Schmittah
5. A bechor can't collect double –because it is considered ‘prospective assets’.

He can only get a double portion from the assets that are already in the possession of his father.

אָמַר רַב כּהֶנָּא כִּלְלָא דְּשׁוּשְׁבִינּוֹתָא

Rav Kahana said: The rule for groom's gifts (is as follows):

- Only requires reciprocation, if the groom marries exactly like the first wedding and only if he knows about the wedding, i.e., is invited, hears the music and may deduct something for not being there.

Tangent – Different types of Talmidai Chachamim.

דְּכָתִיב „כָּל-יְמֵי עָנִי רָעִים” וְהַבֶּעַל גִּמְרָא „וְטוֹב-לֵב מִשְׁתָּה תָמִיד”

“All the days of a pauper are bad.” This relates to a Talmudist. “But, he of good heart, has a continual feast.”

This refers to the Mishnaist.

He, that has a merry heart, has a continual feast. This refers to one who is generous.

השולח סבלונות לבית חמיו

A person sends bridal gifts to the house of his father-in-law.

If he even has only 1 meal, he is considered paid back.

If he stipulated that they must be brought with her to her husband's house, if not, they are collected.

Must have consumed at least a dinars worth, by drinking and eating.

- drink at least a dinars worth.

- his shaliach ate a dinars worth.

What is the rule regarding a pro-rated value?

- Recover a portion of the gifts.

- If gifts are dropped off and they increased in value. Who get the profit, if the gift is returned?

Teku

- Perishable gifts? In Israel perishables can deteriorate rapidly.

מַעֲשֵׂה בָאָדָם אַחֵד שֶׁאָמְרוּ לוֹ אִשְׁתּוֹ תוֹתֵרְנִית הִיא

There once was an incident of a person, who was told that his wife had no sense of smell, etc.

And he decided if that was so, he would divorce her. As he went to test her sense of smell, a wall fell on her and she died. A person who plans to divorce his wife, cannot inherit from her.

A person who kills another, cannot inherit from him, however, there is an exception.

Rambam – A ‘ben sorer u’morah’, a “disobedient son”, who is executed by Bais Din, will have his property inherited by his father. We might think that since he was put to death by his father’s testimony, that there could be a motivation to have the son executed in order to get his assets. This is the exception to the rule that when a person is the cause of another’s death, even indirectly, he will not inherit the deceased property.

הואיל ולא נכנס אחריה אלא לבודקה

Since he followed her, only to test her.

A man tried to divorce his wife, but she refused to cooperate. Eventually, she died and the husband asked the Rema if he could inherit her possessions.

Even though (in Bava Basra 146) we learn that a husband, who dies while they are in a fight, does not inherit from her.

Tosphos, the Rosh, the Mordechai, and the Tur all rule that he does inherit from her, unless they are actually divorced. This is the Halacha.

שְׂכִיב מֵרַע שָׁכַתְבָּ כָּל נִכְסָיו לְאַחֵרִים

A seriously ill person signed all his property over to others
and he gets better. He gets it all back.

We assume that his intent was that he thought he would die and therefore, he gave it away.
He would not have done so, had he thought he would live.

שְׂכִיב מֵרַע שָׁכַתְבָּ כָּל נִכְסָיו לְאַחֵרִים

A seriously ill person signed away all his property over to others.

If he kept some land, his gift is a valid gift.

We learn that when a deathly ill person gifts away his possessions, but retains some, we can assume he retained it for his sustenance after he survives. Therefore, his gift is a valid gift.

But Yad Ramah suggests that perhaps, he kept some assets, not because he was not certain of his imminent demise, but in order to have something to leave his heirs. In which case, his survival is not anticipated and his gift could be reversed.

Here, even if he retained some assets, his gifts could have been entirely sincere.

So we honor the gift.

שְׁלֹשָׁה דְּבָרִים צִוָּה אַחִיתוֹפֶל אֶת בָּנָיו

Three important pieces of advice were given by Achithophel to his sons.

1. Avoid conflict, in your house or with your friends.
2. Don't fight the Kingdom of David. The government represents a peacemaker, because without it, people would physically fight each other.
3. Plant wheat on Shavuos. Insufficient food is a source of strife and discord. Plant so you will have enough. And plant on Shavuos, because a real Tsaddik, is one who dies on the same date as he was born. David HaMelech was born and died on Shavuos.

מִתְּנַת שְׂכִיב מֵרַע מִדֶּרֶבֶן בְּעֶלְמָא הִיא

That Halacha of a sickbed gift, only had a Rabbinic origin.

Rav Nachman ruled that when a seriously ill person gives a gift:

- It must be something of substance – not merely rights.
- Something now present, ‘something that is in the world’.
- The seriously ill person’s gift, does not require a real kinyon.

שְׂכִיב מֵרַע שֶׁאָמַר יְדוּר פְּלוֹנִי בְּבֵית זֶה

A deathly ill person says, “This person can live in my house”.

The person does not acquire the house and does not need to put up a mezuzah, unless he lives there for 30 days, or more.

Does a hospital room require a mezuzah?

Avnei Nezer - A rented room requires a mezuzah, only if a person stays there for 30 days.

- A sick person is not really renting the room, he is merely paying for a place to heal.

Rav Wozner - This is the rule in a non-Jewish hospital. But if the hospital is owned by Jews, it must have mezuzahs. The owner must provide. The patients have no such obligation. A person must affix a mezuzah to his guest house, even if no one stays 30 days.

אִיבְעִיָא לְהוּ דְקָל לְאַחַד וּפִירוּתִיו לְאַחַר מֵהוּ

They asked the following question. If he gave a gift to Reuven and he gave its fruit to Shimon.,
What is the law?

-Did he forget to retain something from Reuven?

-Do we say he retained the tips of the branches, so he could keep the fruit for himself?

(146a2)

Rav Abba says regarding Reish Lakish. There is a similar debate where a person gifts a house to one and the rights to the roof to another.

שָׁכִיב מֵרַע שָׁפָתָב כָּל נִכְסָיו לְאַחֵרִים

A seriously ill person signed away all his possessions to others.

If he gives it all at once, he can get it back. If he gave a little at a time and then some more,
He cannot get it back. Partial gifts cannot be recovered, except for the last bit of it.

If he gives it all away, perhaps he has some property we don't know about.

“I gift a my property to so and so”. His gift is complete, therefore, he can get it back.

Either his statement, or our knowledge that there was nothing held back, i.e., we know his details
allows him to get it back.

Any language of gift, or inheritance will work, if that person stands to inherit from him anyway.

חֵילֶק כָּל נִכְסָיו לְעֲנִיִּים מֵאִי

If he pledged all his property to the poor, what is the law?

A man made a pledge of charity to one organization, but then forgot which organization he had made the pledge to. He considered that he had three choices. Tzedakah is a Biblical mitzvah and must be dealt with stringently.

1. Should he pay each charitable organization the amount he pledged?
2. He could wait until an organization approaches him and asks for the tzedakah.
3. He could place the money in a fund and leave the various organizations to sort it out between themselves.

Hagros Ashri rules that as in all monetary uncertainties the money stays where it is until the uncertainty is resolved. The one who wants it must bring proof that it should be taken from the one who possesses it, to give it to him.

אם עמד אינו חוזר וזימנין

If he recovers, he cannot retract, or if he recovers, he may retract.

A man who makes a death bed bequest of all his possessions and subsequently recovers, may retract his gift, since it is obvious that he gave everything away, only because he expected to die.

What if he sold all his possessions on his death bed, but then recovered, can he reverse the sale? It depends: If he kept the funds in his possession, it is an indication that the sale was conditional on his death, and if he survived, he would still have the money to refund to the buyer. But if he used the money to pay his debts, that indicates he expected the sale to be final, whether he lived or died. Therefore, he cannot back out.

אִיקְפֹּד רָבָא

Rava was angry.

When Issur found a way to gift the money, that Rava held for him to his son, Rava was upset. Why? Could it be that Rava wanted to keep the money?

No, but he did want to have the mitzvah of giving the money to Issur, the convert's son, himself. He was upset that now, he could not do that, Also, he showed his students the value of the mitzvah, by being upset when it was denied him.

וְכַמָּה כָּל שְׁהוּא

How much property is implied by the expression, ‘land of any size’?

If a person retains even a small amount, he can’t take back his gift. A ‘kol shehu’, means even a little bit and equals the amount of land, or movable property, that he needs to support himself.

Why is this a good interpretation? Such a retained item may be worth many thousands of dollars. That is not “a little bit”, and it could be land, or movable objects.

חֲמִשָּׁה עַד שִׁכְתָּבוּ כָּל נְכֻסֵיהֶם

Five categories of people who give all of their property away:

1. On their death bed.
2. Property given to a slave. He gets his freedom and all the property.
3. All property to a wife, making her his guardian, an ‘apitropis’, “an agent”.
4. A small gift to wife and the rest to his children,
assuming that the wife is ‘mochel’, “in agreement”.
5. A woman, whose possessions are ‘mavrachas’, ‘separated’ from her husband, to
keep her property.

הַשְׁתָּא אָמְרִי מַר צוֹרְבָא מַרְבָּנָן וְאִם צוֹרְבָא מַרְבָּנָן

Now people will say that master (Rav Tovi) is a rabbinic scholar and another will say master (Rav Achadvoi) is not a rabbinic scholar.

The sister of Rav Tovi gave all her property to him in her will. The other brother, R Achdadvoi, heard and discussed this with her and convinced her not to do this, because people would think that only Rav Tovi was a scholar. She changed and gave all her property to the other brother, so people would think he is a Torah Scholar and the other is not.

How can we understand that Rav Achdavo, could do something to another, that he would not wish to have done to himself?

1. There is a principle that you came first, ‘chaiyecha kodmim’, so here he was protecting himself.
2. The damage had not yet been done, so he has permission to deflect it from himself, even though it damaged another.

הָרִי הִיא כְּמַתָּנַת בְּרִיא וְהָרִי הִיא כְּמַתָּנַת שְׂכִיב מֵרַע

Such a gift is like the gift of a healthy person and in other respects, it is like a gift of a seriously ill person (Schiv Mira).

A partial Schiv Mira gift is a combination, meaning it is irreversible, even if he recovers. Therefore, it is considered a gift from a healthy person in certain respects and is like a gift from a seriously ill person in other respects.

No kinyon is required, therefore, it is like a gift from a Schiv Mira.

Rav Nachman says- A kinyon is required.

Is a kinyon really required?

Not if the person clearly stated that it is being distributed only because of “nearness to death”, it is a ‘Mitzvah Matanas Misah’.

This is a higher level of gift, therefore, no kinyon is needed.

מִתֵּנַת שְׂכִיב מֵרַע שְׁכָתוֹב בָּהּ קִנְיֹן

A sickbed gift with a kinyon written into it.

What is the law?

Rav Shmuel - What was the intention of the Schiv Mira? To give a gift which would be the best of both worlds!

To increase the recipients claim to the property: If he dies, you own it, based on the bequest of a Schiv Mira and if he recovers, he can't get it back because you have kinyon on it.

Rava – When a kinyon was done, we assume that he wished to give him both benefits.

A contract can't be given after death. So ownership passed to the recipient at the time of the kinyon and that cannot be revoked.

בִּירוֹעַ שֶׁלֹּא הָיָה קִנְיֹן אֶלָּא מִחֲמַת הַמֵּיתָה

It is certain that he gave a Kinyon, only due to his apprehension of death.

When we analyze a stipulation, we must take into account the purpose and principle behind that stipulation or condition. A person who gives away his assets in anticipation of death, even if the recipient makes a kinyon on it, can reverse his gift and regain his assets. We understand that he had in mind his imminent demise.

A man built a Shul and stipulated that it have an Ashkenaz Nusach. Years later, the Shul membership had dwindled and a Chassidic group wanted to take over and change the Nusach.

Teshuvos Chelkas Yaakov (quoted the Taz and Tosphos) that -We can analyze the donor's intent and here we believe he would be pleased that his Shul would be used for prayer and study rather than fall into disuse.

לֹא כָתַב בָּהּ שְׁכִיב מְרַע

He did not record in it, that he was seriously ill.

He wrote a gift document, but did not record that he was a Shiv Mira.

He must bring proof that he was seriously ill, in order to get it back.

וְלֹא כָּתַב בָּהּ וּמָגוּ מִרְעִיָּה אִיפְטָר לְבֵית

But the clause was not written in it and he passed to his eternal home from his illness.

What if he was ill, but a different disease killed him?

Should we assume that he died of his first illness?

No, if we are uncertain, we leave the property where it is.

חולין שרוב חולין לחיים

When it comes to illness, most people live.

May a Kohen visit a sick person in the hospital?

Teshuvah Teshuvah Shai – Yes, he need not be concerned that the person will die during his visit, since most ill people survive.

Rav Moshe Shternbuch - If the hospital is not populated by dangerously ill people, he may visit. But if dangerously ill people are treated there, or if limbs, or cadavers are present for teaching purposes, a Kohen may not enter.

Rav Moshe Feinstein – Prohibits a Kohen from working in a hospital, unless he has permission of administration to leave if there is a death of a Jewish person. A Kohen may visit a hospital, but should first inquire that no dead bodies are in the hospital. If most of the patients are not Jewish, he does not need to inquire.

לומר קטן היה בשעת מיתו

Say that he was a minor at the time of his death.

A young man sold property and soon, thereafter, he died. His family wished to contest the sale on the basis that he was a minor, which would require that the body be exhumed for inspection regarding the signs of maturity.

Rabbi Akiva refused.

1. The signs could have developed in the grave.
2. We are not permitted to humiliate the dead by exhuming, or moving them.

Except: 1. To bury the body near its relatives, or family in Eretz Yisroel.

2. Where it will be out of danger of robbers, or natural forces.
3. When it was stipulated at the time of the original burial.
4. The burial site is not owned by the person buried there and was used without the owner's permission.

אִי אַתֶּם רְשָׁאִים לְנוֹלוֹ

He said to them, “You are not allowed to disgrace him”.

Bais Yosef - It is a Rabbinic prohibition.

R Moshe Feinstein - It is a Biblical prohibition (see Chullin 11a) where Rav Kahana teaches us that we do not do an examination (autopsy) on a murder victim to learn if he/she was a Tereifah, that the victim had a disease that would kill him, in order to ameliorate the punishment of the murderer.

Teshuvos Ateres Paz suggests that there are two categories of disgracing a corpse:

1. By moving the body to a better place of internment. That is only a Rabbinic prohibition and can be done under certain circumstances.
2. The Biblical prohibition is in actual violation of the body; of the corpse itself. For example, to remove a limb, or to perform an autopsy.

אֵיתָמַר קָטָן מֵאֵימָתִי מוֹכֵר בְּנִכְסֵי אָבִיו

It was stated: From what age may a young person sell the land of his father?

Rava - Age 18

Rav Huna - Age 20

Rashbam - The discussion is only about land and only land that he inherited from his father.

Gittin 59a - Other items sold, or bought by a child, is valid.

Sales of land might be valid after Bar Mitzvah from a Torah perspective, but the rabbis ruled that the sale of land is only valid after age 20.

Rabbeinu Tam - The age of 20 is a requirement to sell land obtained via any source, even his own purchase, or a gift from another source relative, or friend. We are concerned that he does not have sufficient mature judgement to sell land.

Rambam and Shulchan Aruch agree - Only after age 20.

23 Bava Basra 155a2 line 11 A3
Daf Yomi Digest

מִבֵּן עֶשְׂרִים שָׁנָה

After age 20 years.

The Russian government learned that at age 13, a Jewish child is considered to be an adult, from a Torah perspective. Therefore, they declared that a child of 13, who converts, has the right to do so without discussion with his family, or the rabbis.

Rav Tzvi Hirsch, son of R Yitzchak Elchonon of Kovno explained that (Bava Basra 155a) we have a discussion regarding important matters, such as sale of land. We consider a person not sufficiently mature until age 20. If worldly matters can't be decided until age 20, certainly matters that involve eternity,, requires an advanced age.

הַפְּעוּטוֹת מְקַחֵן מְקָח וּמִמְכָּרֵן מִמְכָּר בְּמִטְלָטְלִין

The law of young children is that their purchases and sales are valid regarding moveable property.

A person can be considered a ‘Katan’, “minor”, till end of age 35! If he does not have ‘simonim’, “signs of maturity”.

What about the 18th year itself ?

20th year itself ?

Teenagers can serve as a witness, only regarding movable objects.

Therefore, he can sell them, but not sell land.

But can a teenager give property away as a gift?

23 Bava Basra 158b2 line 13 A13
Weiss # 11

שִׁמְעַ מִינָה אֲוִירָא דְאֶרֶץ יִשְׂרָאֵל מִחֻכִּים

We learn from this that the climate of the Land of Israel makes one wise.

(Vayikrah Rabbah 13:5)- “There is no Torah like the Torah of the Land of Israel and no wisdom like the wisdom of the Land of Israel.

Chasam Sofer and Yehuda HaLevi - There, the prophets prophesied and the presence of the Almighty is most clearly felt.

Satmar Rebbe - The air of Eretz Yisroel makes one wise. But remember the evil impulse, also becomes wiser there.

„תַּחַת אֲבוֹתֶיךָ יִהְיוּ בָנֶיךָ תִּשְׁתַּמּוּ לְשָׂרִים בְּכָל-הָאָרֶץ”

“In the place of your fathers will be your children and you shall appoint them as officials throughout the land.”

This is a blessing.

Rashbam - The righteous will have children and grandchildren to inherit their positions.

Tosphos - The righteous will have children who are as righteous as they are.

Ein Yaakov - The accomplishments of children will not be at the expense of their parents, but will add to their story and reputation.

Maharsha - The children, as righteous people, will be worthy to inherit all that was promised to our ancestors.

עַד שֶׁלֹּא נַעֲשֶׂה חֲתָנוּ

He had not yet become a son-in-law.

A person signed a document and later became the son-in-law of one of the parties in the document. He may not testify to verify his own signature, because he is now related to one of the parties. However, others may testify regarding the authenticity of his signature.

It is not because we don't trust him, but simply because the law of the Torah does not allow a close relative to testify. He is "like the relative, himself", 'keguf echad im krovo'.

הֲרַחֵיק אֶת הָעֵדִים שְׁנֵי שִׁטִּין מִן הַכֶּתֶב פְּסוּל

If the signatures of witnesses were distanced two lines from the text of the document, it is invalid.

Rashbam - Even if witnesses were to come and testify that nothing was added from the time they signed the contract, it is not valid since it was not made according to the standards of Halacha.

Ramah - Two empty rows provide the possibility that someone could falsify the document.

Darchei Moshe - If the second witness signs above the first, using one of the empty lines, it is valid.

Yeshivos Yaakov - This takes into account those opinions that rule that the document is complete with one signature and can be made valid by filling in the empty line with the name of even a relative (162b).

23 Bava Basra 164b3 line 39 B6
Weiss # 59

אַל יִסְפֹּר אָדָם בְּטוֹבוֹתוֹ שֶׁל חֲבִירוֹ שֶׁמִּתּוֹךְ טוֹבוֹתוֹ בָּא

Do not indulge in praising your friend, because amongst his good qualities, may come
attention to his faults.

Rambam (Hil Daiyth 7:4) - Whoever relates the virtues of a person before his enemies, that is
the dust of slander.

Avos 1:17 - It is a meritorious trait to praise people and inform others of their deeds.

לִשׁוֹן הָרַע סֵלָקָא דְּעֵתָךְ

Do you really think that every man speaks lashon hara?

Lashon Hara is not only limited to uncomplimentary comments about others; we are also warned not to say nice things either, since this can lead to uncomplimentary things, as well.

Rashbam - Avoid excessive praise. Others may contradict your excesses with derogatory words.

Rambam - Don't praise someone in front of people who do not like him, because they will mention the features they dislike.

לִשְׁוֹן הָרַע סֵלֶקָא דְּעֵתָךְ

Do you really think (that every man) speaks lashon hara (every day)?

If a person, speaks disparagingly about another (meaning he speaks lashon hara, and violates the Biblical prohibition against defamation of another persons character,) is he permitted to be a witness?

Teshuvah Besamim Rosh - If we were to do so, there would be no-one who would qualify as a valid witness. People believe that there is no prohibition involved in bad mouthing, or speaking negatively about others.

Shulchan Aruch - Persisting in a transgression, after being warned and informed that his activity is prohibited, and after giving the person the benefit-of-doubt that he did not know he was violating a Biblical injunction, only then, is he disqualified as a witness.

23 Bava Basra 165a1 line 2 A5
Weiss #970

רוב בגזל ומיעוט בעריות והכל בלשון הרע

Most people are suspect of some form of robbery, only a minority (are suspect) of illicit relations, but all are suspect of lashon hara.

A man is not permitted to be in a room alone with a woman, due to the concern regarding (the uncommon possibility of) illicit relations.

Therefore, a person should certainly not be alone in a room with unguarded money, due to concern regarding, the much more common possibility, of robbery.

שְׁנַיִם שֶׁהֵעִידוּ דִּין זֶה וְאַחֵר בְּבֵית דִּין זֶה

Two witnesses, where one witness testifies before one court and the other testifies before another court.

A document, with one witness' signature, is not valid.

Abaye - And another witness, who testifies orally, cannot combine with one witness, who signed.

Ameimar - Believes that he is able to testify.

Rav Ashi - Ameimar derived his opinion from a case where each witness testified before a different Bais Din. That is different from our case.

Rabbeinu Yona - We may allow two courts to combine two testimonies, but only if the two courts (i.e., all 3 judges of each court) meet together and agree.

Netivos Hamishpat would allow this, if only two members of each court, met together.

הַמַּעוֹן הַזֶּה אִם אֶלֶין הַלַּיְלָה

Within this house, I will not sleep tonight.

When the price of birds became prohibitively expensive, R Shimon ben Gamliel took an oath that he would not sleep, until he forced the bird sellers to lower their prices.

However, we are taught that a person's income is decided on Rosh Hashanah and HaShem would replace whatever was spent to honor Shabbos, Yom Tov, or for Temple Korbanos; so it should not matter if the price is outrageous. That principle may work for the rich, who have money to put forth to pay and can wait to be paid back, but the poor do not have the extra money to pay forward.

It is permissible to band together to create lower prices, so that everyone can afford the necessities of life for Shabbos, Yom Tov and Temple obligations.

הָאִי מֵאֵן דְּבָעִי לְמַחְוֵי חֲתִימוֹת יָדֶיהָ בְּבֵי דִינָא לֹא לַחְוֵי בְּסוֹף מְגִילָתָא

One who needs to show a sample of his signature to the court, should not show it by signing at the end of a blank scroll.

Always sign a sample of your signature at the top of the page,
so no one can add writings on top, that implicate, or obligate you.

הָנִהוּ עֲרָבָאֵי דְאַתּוּ לְפּוּמְבְּדִיתָא

There were certain Arabians who come to Pumbedisa, etc.

A person was pressured to make a contribution that he simply could not afford, but the other person was unreasonably insistent and would not leave until he had his check.

Immediately after writing the check and the collector left, the person cancelled the check.

Is this permitted, or did he trick the collector and commit a sin?.

Rav Yitzchak Zilberstein -Since the collector acted improperly, by applying too much pressure, it is permitted to act in a deceitful manner also. (Tehillim 18:27, “and with the crooked (you may) act perversely.”

Our Gemara also teaches, that a halachically invalid deed to land, that the Jews were forced to sell, was an acceptable practice in those circumstances. They used a parchment, that had been erased, and wrote on it.

הָבָא לִידוֹן בְּשֵׁטֶר וּבַחֲזָקָה

If someone says, “I have a chazakah and a document, etc.”

The Rabbis argue whether it is necessary to verify an unnecessary claim.

A chazakah is sufficient to secure ownership. But, if a person claims to have additional proof, namely a document of sale and that he had witnesses to back up his claim of purchase, is he obligated to produce that evidence?

Shulchan Aruch says- “Yes, he is and if he does not (produce the document), he is not believed”.

Bach - He is not believed that he has the extra proof, but he may still claim ownership by chazakah, if he has used the property for the past three years.

However, if the owner is a person who would not mind if, for example, his son used his property, than chazakah is not established.

מִי שֶׁפָּרַע מִקְצַת חֹבּוֹ רַבִּי יְהוּדָה אוֹמֵר יַחֲלִיף

A person paid back part of a loan. Rabbi Yehudah says, “He should exchange the old document for a new one”.

R Yehudah - The lender should issue a new document, with the new, updated amount owed.

R Yose - We leave the original document alone, but issue a receipt for the amount paid, or the document could be given to a third party, with instructions regarding repayment of the remainder of the loan.

Can a borrower pay the loan back partially, or in small amounts?

Rif - Only if the lender agrees, otherwise it is not acceptable.

Most Rishonim – permit partial repayment.

Rambam and Tosfos - The date, on the new document, should be the date of the origin of the loan.

Ramban suggests that the current date be used.

שָׁטַר שְׂזִמְנוּ כְּתוּב בְּשַׁבָּת

A document that was dated on Shabbos.

R Yehudah - It is valid, because we assume it was not actually written on Shabbos, or Yom Tov.
Rashbam suggests -It may have been written according to the solar calendar, that starts and stops at midnight, rather than at sundown. This raises the question; are we permitted to use secular dates?

Maharam Shick is very strong in his opposition to the use of secular dates. That system is based on a reference to the birth of the gentile Messiah and Jews are prohibited from referencing other gods, it is considered idolatry.

Rav Moshe Shternbuch sees nothing wrong with using the secular date for convenience and we find examples where the rabbis of the past used the Greek method of calculating dates.

הָיָה מְסִיק בֵּיהּ זְוִי בְּרַבִּי אָבָא

He had an outstanding loan against R Abba.

R Yitzchak lent money to R Abba, but lost the promissory note. R Abba did not want to pay until the promissory note was produced to be destroyed, for fear it would resurface and he would have to pay again. R Yitzchak, offered to give him a receipt, but he refused, saying, “Then, it would be my responsibility to always guard that receipt, as proof of my payment, should the lost promissory note be found”.

How do we deal in such an impasse?

“The borrower, is servant to the lender” (Mishle 22:7).

The one who benefitted from the kindness of the lender, should suffer the inconvenience, not the lender.