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A SURVEY OF CHILDREN IN RABBINIC TEXTS

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Submitted in Partial Fulfillment of Requirements for Ordination

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March 07, 2025
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Chapter One: Exploring “Honor Your Father and Mother” in Rabbinic texts.

Brief Word Study

In this chapter, I will briefly explore how the commandment to "Honor your father and mother" evolved from the Tanakh to the modern era. It first appears in *Exodus 20:12*, as one of the ten commandments. It reappears in a similar form during the retelling in *Deuteronomy 19:16*, and in another, slightly different form in *Leviticus 19:3*. I will start with a brief word-study. Below are the commandments' first two appearances, including my translations.

Exodus 20:12

כְּבֹד אֶת־אָבִיךָ וְאֶת־אִמֶּךָ לְמַעַן יָאָרְכוּן יְמֶיךָ עַל הָאָדָמָה אֲשֶׁר־יְהוָה אֱלֹהֶיךָ נֹתֵן לָךְ	Honor your father and your mother, so that your days will be long-numbered upon the land that Adonai, your God, is giving you.
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Deuteronomy 19:16

כְּבֹד אֶת־אָבִיךָ וְאֶת־אִמֶּךָ כְּאֲשֶׁר צִוָּךְ יְהוָה אֱלֹהֶיךָ יֵאָרִיכְךָ יְמֶיךָ וְלְמַעַן יֵיטִב לָךְ עַל הָאָדָמָה וְלְמַעַן אֲשֶׁר־יְהוָה אֱלֹהֶיךָ נֹתֵן לָךְ	Honor your father and your mother, as Adonai, your God, commanded you, so that your days will be long-numbered, and so that you will do well upon the land that Adonai, your God, is giving you.
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Per Brown, Driver, and Briggs (BDB), כָּבֵד or “*kaved*” stems from the meaning “heavy”, or to “be heavy”. For example, *kaved* appears in the Passover narrative, describing one of the ways in which Pharaoh reneges. Specifically, *kaved* is applied to Pharaoh’s heart, as an idiom to describe how Pharaoh stubbornly refuses to follow through on his promises to the Israelites. For example, in *Exodus 7:14*:

וַיֹּאמֶר יְהוָה אֶל־מֹשֶׁה כָּבֵד לֵב פַּרְעֹה מֵאֵן לְשַׁלַּח הָעָם	Adonai said to Moses, “Pharaoh’s heart is heavy; he refuses to send off the people”
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When applied to a person, *kaved* connotes a sense of honor. One can imagine the sense of *kaved et* expanding from “to be heavy with someone” to “honor someone.”

The other time the formal commandment appears, outside the giving of the ten commandments in *Leviticus 19:3*, there are two notable differences.

Leviticus 19:3

אִישׁ אָמֹן וְאָבִיו תִּירָא	You shall, every man/person, revere your mother and your father
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First, and as will be discussed in more detail later, the order of father and mother reverses, with mother occurring first. The other difference is the use of the verb תִּירָא; stemming from the root: י - ר - א, or יָרָא, “*yareh*”, meaning to revere. Per BDB, the primary sense of *yareh* is to fear, although it can also mean “to stand in awe of” or “to revere”, as it does here. Thus, as a starting point, the commandment can be summarized as: honor and revere (*kibbud* and *yirah*) your father and your mother. Let us continue by examining the commandment’s treatment in the *Mishnah*.

Mishnah

The commandment appears to be directly referenced three times, most substantively in *Mishnah Peah 1:1*:

אלו דברים שאין להם שעור. הפאה, והבכורים, והראי, וגמילות חסדים, ותלמוד תורה.	These things are unquantifiable: the <i>peah</i> [the corner], the first fruits, the pilgrimages, <i>g'milut chasadim</i> [acts of generosity beyond the call of duty], and studying <i>Torah</i> .
אלו דברים שאדם אוכל פר תיהן בעולם הזה והקרן קיימת לו לעולם הבא. כבוד אב ואם, וגמילות חסדים, והבאת שלום בין אדם לחבר, ותלמוד תורה כנגד כלם:	These are the things that a person consumes as interest in this world, and the principal as established in the world to come: honoring one’s father and mother, <i>g'milut chasadim</i> , and bringing peace between a person and his friend, and studying <i>Torah</i> , is equal to them all.

The *Mishnah* situates the commandment amidst a discussion of actions that are unquantifiable or entail the bulk of their reward via time-delayed gratification. Honoring one's father and mother is grouped within the latter. The commandment is phrased solely with *kibbud* without *yireh*, perhaps because *kibbud* is the phrasing from the ten commandments, and thus a more popular reference. The specific metaphor describing the reward from *kibbud Av v' Em* is that of principal, the קָרָן, and interest, פְּרוּת. The latter is consumed while one is alive, and the former is reserved for after one passes on, in the world to come. At a minimum, this framing suggests the *Mishnah* views the commandment pragmatically: while there is ongoing "reward" for honoring one's parents while they live, the core of the reward occurs in the world to come. Furthermore, it suggests the Rabbis of the *Tannaitic* era conceived of honoring parents as an unselfish act, insofar as the tangible benefits primarily accrued to others. In this sense, observing the commandment is paired aptly with *g'milut chasadim*, acts of generosity beyond the call of duty. Meanwhile, the commandment is also compared to studying *Torah*, which while unselfish, is better construed as an act of service, toward oneself, toward God, etc. Said another way, the *Mishnah* portrays studying Torah as akin to "virtue is its own reward", and it presents honoring one's parents in the same frame. All told, it frames honoring one's parents as unselfish and virtuous.

The commandment also appears in *Mishnah Keritot* 6:9, where it features among a discussion of paired-items that arise in scripture:

<p>רבי שמעון אומר, כבשים קודמין לעזים בכל מקום. יכול מפני שהן מבחרין מהן. תלמוד לומר (ויקרא ד), ואם כבש יביא קרבנו לחטאת, מלמד ששניהם שקילין.</p>	<p>Rabbi Shimon says, sheep precede goats in every place [in the Torah]. Might it be because they are more chosen than them. The verse states: "and if one brings a sheep as his sin-offering"; it teaches that the two of them are equal.</p>
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<p>תורין קודמין לבני יונה בכל מקום. יכול מפני שהן מבחרים מהן. תלמוד לומר (שם יב), וכן יונה או תר לחטאת, מלמד ששניהן שקולים.</p> <p>האב קודם לאם בכל מקום. יכול שכבוד האב עודף על כבוד האם, תלמוד לומר (שם יט), איש אמו ואביו תיראו, מלמד ששניהם שקולים.</p> <p>אבל אמרו חכמים, האב קודם לאם בכל מקום, מפני שהוא ואם חביבין בכבד אביו. וכן בתלמוד תורה, אם זכה הבן לפני הרב, קודם את האב בכל מקום, מפני שהוא ואביו חביבין בכבד רבו.</p>	<p>Doves precede pigeons in every place. Might it be because they are more chosen than them. The verse states: “a pigeon or a dove as a sin-offering; it teaches that the two of them are equal.</p> <p>The father precedes the mother in every place. Might it be that the father’s honor is better than the mother’s honor. The verse states “Every man, his mother and his father, you shall revere”; it teaches that the two of them are equal.</p> <p>However, the sages said, the father precedes the mother in every place, because he and his mother are obligated in honoring his father. And [it is] thusly with regards to studying Torah; if the son was privileged before the master, [the master] precedes the father in every place, because he and his father are obligated in honoring his master.</p>
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This *Mishnah* occurs after an extended discussion of sin-offerings, featuring sheep, goats, doves, and pigeons. The discussion repeatedly returns to the theme that an offering should be commensurate with a person’s means. However, the *Mishnah* concludes the conversation by specifying that both types of animals or birds these varying pairs are, in and of themselves, of equal value as offerings. One hypothesis is that the *Mishnah* is seeking to be sensitive regarding Jews’ financial status: to indirectly reinforce that a less expensive sin-offering does not make it better or worse than a more expensive one. In addition, Rabbi Shimon claims that “doves precede pigeons” and “father precedes mother” in every place. However, his source texts conclusively prove these claims are false. Putting forth the patently false starting point as a claim, opposed to a supposition, is surprising. The *Mishnah* continues by establishing the relative

priority of fathers amongst the trios of father/mother/child and father/child/child's-teacher. Father precedes mother and child since the latter two are both commanded to honor the former. But a child's teacher precedes a child and the child's father, since the latter two are commanded to honor the former.

The third location is *Mishnah Nedarim 9:1*, where the commandment comes up in reference to keeping vows. The Mishnah decides that a vow concerning one's parents could potentially be retracted, should the vow impact one's ability to honor them:

<p>רבי אליעזר אומר, פותחין לאדם בכבד אביו ואמו. וחכמים אסרין.</p>	<p>Rabbi Eliezer says, they offer a person an opening to retract a vow, by [considering] honoring his father and mother. But, the sages prohibit [this approach].</p>
<p>אמר רבי צדוק, עד שפותחין לו בכבד אביו ואמו, יפתחו לו בכבוד המקום,</p>	<p>Rabbi Tzadok says, in lieu of offering him an opening to retract a vow in [comparison to] honoring one's father and mother, they will offer him an opening to retract a vow by [considering] honoring God.</p>
<p>אם כן אין נדרים.</p>	<p>If thus, there are no vows.</p>
<p>ומודים חכמים לרבי אליעזר בדבר שבין לבין אביו ואמו, שפותחין לו בכבד אביו ואמו</p>	<p>The sages agree with Rabbi Eliezer, in a matter between him and his father and mother, that they offer an opening to retract a vow by [considering] honoring his father and mother.</p>

The *Mishnah* initially explores Rabbi Eliezer's perspective that any vow could be retracted, should it impact one's ability to *kibbud Av v'Em*. The Mishnah decides this is invalid, because it is too broad. Their proof occurs by extending this logic to the foremost commandment, as phrased by Rabbi Tzadok: that any vow could be retracted if it impacted a person's ability to honor God. The Mishnah concludes that if this criteria were implemented, then there would be no vows at all, since virtually every vow could

be construed as impacting one's ability to honor God. Thus, the *Mishnah* narrows the scope of Rabbi Eliezer's perspective, indicating that only a vow specific to one's parents might entail a path to retracting it, should it impact one's ability to honor them. The *Mishnah* prioritizes this commandment and is sensitive to its diminishment.

All told, the *Mishnah* does not address how to implement *kibbud Av v'Em*. It teaches that carrying it out is similar to *talmud Torah*, studying *Torah*, because although it is rewarding to do, the bulk of the reward is in the world to come. The *Mishnah* also reinforces the priority of *kibbud Av v'Em* as not quite the same priority as commandments regarding *Avodah*, serving God. By contrast, the *Gemara* does concern itself with how *kibbud Av v'Em* is put into practice.

Gemara

Like the *Gemara* itself, its references to *kibbud Av v'Em* are extensive. In this brief study, I will analyze some examples where the *Gemara* directly addresses *kibbud Av v'Em*, focusing on *Kiddushin 30b-31a* in the Babylonian *Talmud*, which features a multi-faceted discussion of honoring one's father and mother, honoring God, and how they relate to one another. As we will see, ultimately the *Gemara* reaches similar conclusions to those in *Mishnah Keritot 6:9*: honoring and revering one's father and mother are of equal merit, bounded by specific situations, such as when a woman is bound by someone else's authority. The preceding conversation outlines the responsibilities a father has toward his son, and it almost incidentally bridges into *kibbud Av v'Em* as a means of discerning whether a mother is similarly obligated as father toward their son:

כל מִצְוַת הָאָב עַל הַבֵּן וְכוּ'. מֵאֵי כָל מִצְוַת הָאָב עַל הַבֵּן? אֵילִימָא כָל	[quoting the <i>Mishnah</i>] "all <i>mitzvot</i> of a father toward his son, etc." What is meant by "all <i>mitzvot</i> of a father
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<p>מִצְוֹתָא דְּמִיחִיב אָבָא לְמִיעֲבַד לְבָרִיה נָשִׁים חַיִּיבוֹת – וְהִתְנָא: הָאֵב חַיִּיב בְּבִנוּ לְמוּלוּ וְלִפְדּוֹת. אָבִיו – אִין, אִמּוֹ – לֹא</p> <p>אָמַר רַב יְהוּדָה, הֵכִי קָאָמַר: כֹּל מִצְוֹת הָאֵב הַמוּטְלִת עַל הַבֵּן לַעֲשׂוֹת לְאָבִיו, אֶחָד אָנָּשִׁים וְאֶחָד נָשִׁים חַיִּיבִין. תְּנִינָא לְהָא דְּתַנּוּ רַבָּנִן: “אִישׁ” – אִין לִי אֶלָּא אִישׁ, אִשָּׁה מִנִּין? כְּשֶׁהוּא אֹמֵר “תִּירָאוּ” – הֲרִי כָּאן שְׁנַיִם.</p> <p>אִם כֵּן מָה תִּלְמוּד לֹאמַר “אִישׁ”? – אִישׁ סִיפֵק בִּידּוֹ לַעֲשׂוֹת, אִשָּׁה אִין סִיפֵק בִּידָהּ לַעֲשׂוֹת, מִפְּנֵי שְׂרָשׁוֹת אַחֲרִים עָלֶיהָ. אָמַר רַב אִידִי בַּר אֲבִין אָמַר רַב: נִתְּגַרְשָׁה, שְׁנֵיהֶם שְׁוִים</p>	<p>toward his son”? If we say, all mitzvot that a father is obligated to do for his sons, women are obligated? But it is taught [in a <i>baraita</i>] the father is obligated for his son, to circumcise him, and to redeem him. His father - Yes! His mother - no!</p> <p>Rav Yehuda said, this is what it [the <i>Mishnah</i>] says: all <i>mitzvot</i> of the father incumbent upon the son to do for his father, both men and women are obligated. We already learned this, as our sages taught “man” [from Leviticus 19.3], I have only derived “man”, from where is “woman” derived”? When it says “תִּירָאוּ” behold, here two [are obligated; man and woman]</p> <p>If thus, what [does it mean] when the verse says “man”? A man, it is in his power to do; a woman, it is not in her power to do, because others’ authority is upon her. Rav Idi son of Avin said in the name of Rav: If she is divorced, the two of them are equal.</p>
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As mentioned above, the thrust of this discussion revolves around a father’s obligations toward his son. The *Gemara* segues into the question of whether a mother is similarly obligated, signals, via the technical term “אֵילִימָא”, that the conclusion might erroneously be “not so”, then brings in *yirat Av v’Em* as a proof text. I.e., it cites the plural verb, תִּירָאוּ to conclude that both men and women are obligated. Interestingly, the *Gemara* concludes with a similar codicil as *Mishnah Keritot* 6:9, noting that a man and a woman are technically equally obligated when a woman is divorced, since in that scenario, she would not be under her husband’s authority and could use her time and resources to honor her parents.

The *Gemara* immediately proceeds to a discussion of how honoring one’s Parents compares to honoring God.

<p>תַּנּוּ רַבָּנִן: נֶאֱמַר: “כָּבֵד אֶת אָבִיךָ וְאֶת אִמְךָ”, וְנֶאֱמַר: “כָּבֵד אֶת ה’ מֵהוּן”, הַשְׁוָה הַכְּתוּב כְּבוֹד אֵב וְאִם</p>	<p>Our sages taught [in a <i>Bariata</i>], it is stated “honor your father and your mother” [Exodus 20:11], and it is stated “honor <i>Adonai</i>, from your wealth” [Mishlei 3:9].</p>
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<p>לְכָבוֹד הַמָּקוֹם.</p> <p>נֶאֱמַר: "אִישׁ אָמוֹ וְאָבִיו תִּירָאוּ", וְנֶאֱמַר: "אֶת ה' אֱלֹהֶיךָ תִירָא וְאֶתוֹ תַעֲבֹד", הַשְׁוֶה הַכְּתוּב מִרְאֵת אָב וְאִם לְמוֹרָאת הַמָּקוֹם.</p> <p>נֶאֱמַר: "מְקַלֵּל אָבִיו וְאִמּוֹ מִתְיָמֵת", וְנֶאֱמַר: "אִישׁ אִישׁ כִּי יִקְלֵל אֱלֹהִיו וְנָשָׂא חֶטֶא", הַשְׁוֶה הַכְּתוּב בְּרִכַּת אָב וְאִם לְבְרִכַת הַמָּקוֹם. אָבֵל בְּהִקָּאָה וּדְאִי אִי אֶפְשָׁר.</p> <p>וְכֵן בְּדִין, שְׁשִׁלְשֵׁתֵן שְׁוִתְפִין בּוֹ. תְּנוּ רִבְנֵן: שְׁ שֶׁה שְׁוִתְפִין הֵן בְּאֶדָם: הַקֹּדֶשׁ שֶׁ בְּרוּךְ הוּא, וְאָבִיו, וְאִמּוֹ. בְּזִמְנָא שֶׁאֲדָם מְכַבֵּד אֶת אָבִיו וְאֶת אִמּוֹ אָמַר הַקֹּדֶשׁ שֶׁ בְּרוּךְ הוּא: מַעֲלָה אֲנִי עֲלֵיהֶם כְּאִילוֹ דְרָתִי בִּינֵיהֶם, וְכְבֻדִּי.</p>	<p>It equates the honor of honoring one's father and mother to honoring God</p> <p>It is stated "every man shall revere his mother and father" [Leviticus 19:3], and it is stated "You shall revere Adonai, your God, and you shall serve Him" [Deuteronomy 6:13]. It equates the honor of revering one's father and mother to revering God.</p> <p>It is stated "One who curses his father and mother shall be put to death" [Exodus 21:17], and it is stated, "every man who curses his God, will bear his sin" [Leviticus 24:15]. It equates the honor of blessing one's father and mother to blessing God [note: 'blessing' is a euphemism for cursing]</p> <p>And this is logical, because the three of them are partners in [creating] him. Our sages taught [in a <i>Baraita</i>]: there are three partners in a human: the Holy One blessed is He, his father, and his mother. At the time that a human is honoring his father and mother, the Holy One blessed is He said, "I praise them as if I dwelt among them and they honored me"</p>
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Before segueing into a broader argument, the *Gemara* implicitly recognizes that honoring one's father and mother is something that a person does "מֵהוֹנֶךְ", from your wealth. While we have not yet addressed the *Gemara's* perspective on what *kibbud Av v'Em* entails, this suggests it is something that a person should do using one's own funds.

The *Gemara* proceeds into a three-pronged argument in favor of construing *kibbud Av v'Em* as similar in importance to *kibbud Adonai*. It presents three pairs of verses where a commandment is phrased using a specific verb: one half of the pair where the object of the verb is one's Parents, and the other half where the object is God. *The Gemara* concludes that "שְׁשִׁלְשֵׁתֵן שְׁוִתְפִין בּוֹ": that the three of them, God, a person's father, and person's mother, are partners in him, the child. The *Gemara's*

conclusion is a slightly rephrased conclusion from *baraita*: an emphatic stance elevating the prestige of honoring one's father and mother.

The conversation then turns to a tricky question: between honoring one's father and mother, which one takes precedence?

Kiddushin 30b/31a

<p>תניא רבי אומר: גלוי וידוע לפני מי שאמר והיה העולם שכן מכבד את אמו יותר מאביו, מפני [start of page 31a] שמשדלתו בדברים, לפיכך הקדים הקד ש ברוך הוא כיבוד אב לכיבוד אם</p>	<p>It is taught [in a <i>Baraita</i>] that Rabbi [Yehuda HaNasi] said: "it is made clear and known before the One who spoke and the world was, that a son honors his mother more than his father, because she persuades him with words, therefore the Holy One blessed is He, preceded honoring one's father before honoring one's mother.</p>
<p>וגלוי וידוע לפני מי שאמר והיה העולם שבהן מתירא מאביו יותר מאמו, מפני שמלמדו תורה, לפיכך הקדים הקד ש ברוך הוא מורא האם למורא האב [...]</p>	<p>And it is revealed and known before the One who speaks and the world was, that a son reveres his father more than his mother, because he teaches him Torah, therefore the Holy One blessed is He, preceded revering the mother before revering the father [...]</p>
<p>שאל בן אלמנה אחת את רבי אליעזר: אבא אומר: "השקיני מים" ואימא אומרת: "השקיני מים", איזה מהם קודם? אמר ליה: הנח כב ד אמר ועשה כב ד אבך, שאתה ואמ חייבים בכבוד אבך. בא לפני רבי יה ש, אמר לו כך</p>	<p>The son of a widow asked Rabbi Eliezer: If my father says, "give me water to drink", and my mother says, "give me water to drink", which of them comes first? He said to him, set aside your mother's honor, and perform your father's honor, because you and your mother are obligated in honoring your father. He came before Rabbi Y'hoshua, he said to him thus.</p>
<p>אמר ל : רבי, נתגרשה מהו? אמר ליה: מבין ריסי עיניך ניכר שכן אלמנה אתה. הטל להן מים בספל וקעקע להן כתרגולין</p>	<p>He said to him, Rabbi, if she is divorced, what then? He said to him, from the lashes of your eyes, it is known you are the son of a widow. Lift up water in a bowl for them, and cackle at them like a rooster.</p>

The Gemara addresses this question through the perspectives of three *Tannaim*. First is Rabbi Yehuda HaNasi's *Baraita*, commenting on the sequence of father and mother from *kibbud* and *yireh*. Simply put, Rabbi Yehuda sums up the so-called 'common wisdom' that a child tends to revere their father and be inclined more favorably to his

mother. Thus, God reversed their order in the respective commandments: father comes first in *kibbud* since a child is more favorably inclined to his mother, while mother comes first in *yirah*, since a child is initially inclined to revere his father. So, Rabbi Yehuda appears to give weight toward equal treatment of the two.

However, the *Gemara* then brings in Rabbis Eliezer and Y'hoshua to underscore the observation discussed previously: when push comes to shove, father precedes mother unless they are divorced, in which case they are equal. Rabbi Eliezer's example is pragmatic and matter-of-fact, while Rabbi Y'hoshua's appears to be somewhat irreverent. The anecdote regarding cackling like a rooster appears to be in response to the questioner's appearance, which marks him as a widow. Rabbi Y'hoshua offers a sarcastic response, suggesting that the questioner is merely acting provocative. Indirectly Rabbi Eliezer's comment implicitly recognizes that bringing one parents water to drink is within the scope of *kibbud*.

Further on in the sugya, the *Gemara* opens a conversation with a litany of anecdotes that addresses the scope of *kibbud* and *yirah*. In the middle of this conversation, the *Gemara* answers the question directly and succinctly:

Kiddushin 31b

<p>תנו רבנן: איזהו מורא ואיזהו כיבוד? מורא – לא עומד במקומו, ולא יושב במקומו, ולא סותר את דבריו, ולא מקריע. כיבוד – מאכיל ומשקה, מלביש ומכסה, מכניס ומוציא</p>	<p>Our sages taught [in a <i>Baraita</i>]: what is reverence and what is honor? Reverence - do not stand in his place, and do not sit in his place, and do not contradict his words, and do not choose sides. Honor - feed him and give him drink, dress and cover him, help him enter and exit.</p>
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These standards appear just as relevant now as they were in that era: do not take your parents' place; follow their lead in matters of debate; feed, clothe, and shelter them; and help them get from place to place. Among the discussion of what *kibbud* and *yirah*

entail, the Gemara appears to be probing the boundaries of these commandments, searching to see if there are exceptions that delineate how far a person must go in these obligations. In general, the examples suggest the Gemara believes the commandments oblige children with a vast duty toward their parents:

Kiddushin 31a

<p>בְּעוֹ מִיְּנִיָּה מֵרַב עוֹלָא: עַד הֵיכָן כִּיבוֹד אָב וָאֵם? אָמַר לָהֶם: צְאוּ וּרְאוּ מָה עָשָׂה נֹכְרִי אֶחָד בְּאַשְׁקֶלֶן, וְדָמָא בֶן נְתִינָה שֵׁם . פַּעַם אַחַת בִּקְשׁוּ חֻכְמִים פְּרָקְמֻטָּיָא בְּשִׁשִּׁים רִיבּוֹא שֶׁכֶר, וְהָיָה מִפְּתַח מוֹנָח תַּחַת מְרֻאָשׁוֹתָיו שֶׁל אָבִיו, וְלֹא צִיעְרוּ</p>	<p>They asked of Rav Ulla: to what extent must one honor one's father and mother? He said to them: go out and see what one foreigner did in Ashkelon, and his name is Dama Ben N'tinah. One time, the sages asked for goods for six-hundred thousand profit, and the key rested underneath his father's headrest, and he did not disturb him.</p>
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Kiddushin 31b

<p>יֹמָא חַד אָמַר לִיה: אֲשֶׁקִּיין מִיָּא. אֲדַאֲיִיתִי לִיה נִמְנָם. גָּחִין קָאִי עָלֶיהָ עַד דְּאִיתֵּרַר</p>	<p>One day, he said to him, bring me water to drink, and before he brought it to him, he fell asleep. He bent over him until he awoke.</p>
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Kiddushin 31b

<p>רַבִּי טַרְפוֹן הָיָה לִיה הָיָה אִמָּא אֲמַר דְּכָל אִימַת דְּהוֹת בְּעֵיָא לְמִיסָק לְפוּרְיָא גָּחִין וְסָלִיק ל , וְכָל אִימַת דְּהוֹת נְחִית, נְחִתָּת עָלֶיהָ. אֲתָא וְקָא מִשְׁתַּבַּח בִּי מְדֻרְשָׁא. אָמַר לִיה: עָדִיין לֹא הִגַּעְתָּ לְחֻצֵּי כִיבוֹד. כְּלוּם זִרְקָה אֲרֻנְקִי בְּפִנְיָ לִים וְלֹא הִכְלַמְתָּהּ</p>	<p>Rabbi Tarfon had a mother, that every time she was asking to go up into her bed, he bent over and cause her to go up, and always when she wanted to go down out [out of bed], she descended onto him. He came and he praised himself in the <i>Beit Midrash</i>. They said to him, you have still not reached half the honor. Has it happened that she threw a coin-purse into the water before you and you did not rebuke her?</p>
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Interestingly, the example where someone meets with the Gemara's full approval features a gentile. This may stem from how "the Rabbis teach that the exemplars of *kibbud av* are to be found in the gentile rather than Jewish world", since gentiles are not commanded and do these actions of their own volition (Bildstein, 35). The theme that spans these examples is that acts of service require going above and beyond.

Moreover, nestled among these examples are two edge-cases which emphasizes that the commandment stretches very far, indeed:

Kiddushin 32a

תא שמע: שאלו את רבי אליעזר עד היכן כיבוד אב ואם? אמר להם: כדי שיטול ארנקי ויזרקנו לים בפניו ואינו מקלימו	Come and hear: they asked Rabbi Eliezer, how far honoring one's father and mother? He said to them: as though he takes a money-purse, and throws it into the water before him, and he does not rebuke him.
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We are not to rebuke our parents, even if they do the early 1st millennium equivalent to setting our money on fire. This example recalls the story of Rabbi Tarfon, whose *Beit Midrash* colleagues rhetorically asked him about this scenario involving his mother.

Refraining from rebuke is a refrain that appears in another relevant example from the prior page:

Kiddushin 31b

כי אתא רב דימי אמר: פעם אחת היה לבוש סירקן של זהב, והיה ישב בין גדולי רומי. ובאתה אמו וקרעתו ממנו, וטפחה ל על ראש, ויזקה לו בפניו, ולא הקלימה	As Rav Dimi came, he said: one time, he was wearing gold-embroidered silk, and was sitting among the great ones of Rome. And his mother came, and tore it from him, and struck him on the head, and spat in his face, and he did not rebuke her.
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The *Gemara* presents two examples of egregiously disrespectful behavior, each with the same conclusion that neither warrants a rebuke. Taken together, they appear to suggest that the limits of parental transgression know almost no bounds. However, there are parts of the conversation which affirm that a child's duty does have limits.

Nestled among the aforementioned examples is the curious case of *Ravi Asi* and his mother, which appears to simultaneously condone and caution against limits to *kibbud* and *yirah*:

Kiddushin 31b

רב אסי הנה ליה ההיא אמה זקינה. אמרה ליה: בעינא תכשיטין. עבד	Rav Asi had an elderly mother. She said to him, "I desire jewelry." He made [it] for her. "I desire a
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<p>לה. בעינא גברא: ניעיין לה. בעינא גברא דשפיר כות, שבקה ואזל לארעא דישראל</p> <p>שמע דקא אזלה אבתריה. אתא לקמיה דרבי יוחנן, אמר ליה: מהו לצאת מארץ לחוצה לארץ? אמר ליה: אסור. לקראת אמא מהו? אמר ליה: איני יודע. אתרח פורתא, הדר אתא. אמר ליה: אסי, נתרצית לצאת – המקום יחזירך לשלום</p> <p>אתא לקמיה דרבי אלעזר. אמר ליה: חס ושלום, דלמא מיתתח רתח? אמר ליה: מאי אמר לך? אמר ליה: המקום יחזירך לשלום. אמר ליה: ואם איתא דרתח – לא הוה מברך לך. אדכהי וכהי שמע לארונ דקאתי. אמר: אי ידעי לא נפקי</p>	<p>husband.” I will search for you. “I desire a man who is as handsome as you.” He left her and went to <i>Eretz Israel</i>.</p> <p>He heard that she was coming after him. He came before Rabbi Yochanan. He said to him “What about going out from <i>Eretz</i> [Israel] to outside <i>Eretz</i> [Israel]?” He said to him, it is prohibited. “What about [going to] greet one’s mother?” He said to him, I do not know. He waited a little, then he came and returned. He said to him, Asi, You wish to leave - may [God] return you in peace.</p> <p>He came before Rabbi Elazar. He said to him: God forbid, perhaps he is surely angry? He said to him: What did he say to you? He said to him, may [God] return you in peace. He said to him, if it is that he was angry, he would not have blessed you. In the meantime, he heard that her coffin was coming. He said, if I knew, I would not have left.</p>
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The story revolves around multiple commandments. Insofar as *kibbud* and *yirah* are concerned, the example appears to condone Rav Asi’s departure. “גברא דשפיר כותך”/“a man as handsome as you” appears to signal some sort of signal that his mother is not well of mind, and it is clear this is his reason for leaving her. Yet the story’s conclusion renders this hypothesis unclear. In other words, it is possible that Rav Asi regrets leaving *Eretz Israel* to accompany his mother’s coffin or had he known she had died, he would not have had to leave *Eretz Israel*. However, it is equally if not more possible that Rav Asi regrets leaving Babylonia in the first place. That his mother passes away seems a strong suggestion that his regret reflects the latter. In which case, rather than endorsing limits on *kibbud* and *yirah*, it may well be the opposite: a forewarning to continue one’s duty even if one’s Parent exhibits signs of madness.

Shortly thereafter, the Gemara offers a straightforward principle that the duty is, in fact, subject to limits, at least in the sense that a parent can exempt their children from acts of honor that were previously routine, but might no longer be warranted.

Kiddushin 32a

<p>אמר רב יצחק בר שילא אמר רב מתנה אמר רב חסדא: האב שמחל על כבודו – כבוד מחול</p>	<p>Rav Yitzchak bar Shayla said that Rav Matna said in the name of Rav Chisda: the father who forgoes honor due to him, his honor is forgone.</p>
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Here the *Gemara* helpfully clarifies that parents can limit the scope of honoring them if circumstances warrant. If a father forgoes honor due to him, then a son does not transcend his duty by following his father's direction. For example, one's father might give permission for his son to refrain from rising when he enters the room. Per the *Gemara*, a son can follow this direction and maintain his obligation to *kibbud* and *yirah*. Later, we will see Maimonides elaborate on when a parent should forgo honors they may have previously been due. Meanwhile, the *Gemara* suggests caution when it outlines how a child should observe that one's Parent is not following the *Torah*:

Kiddushin 32a

<p>אמר ליה שמואל לרב יהודה: שינא, לא תימא ליה לאבוקי הכי. דתניא: הרי שהיה אביו עובר על דברי תורה, אל יאמר ל "אבא עברת על דברי תורה", אלא אומר לו: "אבא כך כתוב בתורה". "כך כתוב בתורה" – צעורי קא מצער ליה! אלא אומר לו: "אבא, מקרא 'כתוב בתורה כך'"</p>	<p>Shmuel said to Rav Yehuda: "Keen scholar, do not speak to your father thusly". As it is taught [in a <i>Baraita</i>]: in a case where one's father was transgressing matters of <i>Torah</i>, do not say to him "father, you transgressed matters of <i>Torah</i>", rather say to him, "father, thus it is written in the <i>Torah</i>". "thus it is written in the <i>Torah</i>" - this will surely cause him to suffer! Rather, say to him "father, this verse is written in the <i>Torah</i>"</p>
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Correcting one's parents when they are missing the mark should be done through a suggestion that enables them to save face. Point them toward the proof text, and let them reach their own conclusion that they transgressed.

Taken together, the Gemara envisions *kibbud* and *yirah* as service and deference. It catalogs myriad examples illustrating that these commandments imply a far-reaching duty: one that would take most people to their metaphorical last straw. (Who hasn't been tempted to rebuke our Parents when one of them embarrasses us in front of our version of the nobles of Rome?). As we will soon see, Maimonides is more explicit, both about the scope and about the limitations of *kibbud* and *yirah*.

Maimonides

Maimonides addresses *kibbud* and *yirah* in *Mishneh Torah, Hilchot Mamrim* (Laws of Rebels), Chapter Six, which he opens by reaffirming their importance:

Mishnei Torah, Hilchot Mamrim, Chapter 6

<p>כבוד אב ואם מצות עשה גדולה וכן מורא אב ואם. שקל אותן הכתוב בכבוד ובמורא כתוב (שמות כ"ב) "כבד את אביך ואת אמך" (כתוב) משלי ג ט) "כבד את ה' מהונך"</p>	<p>Honoring one's father and mother is a great, positive mitzvah, as is revering one's father and mother. It equates the honor and reverence of one's Parents with the honor of God. It is written [Exodus 20:12] "honor your father and your mother", and it is written [Proverbs 3.9] "honor Adonai from your wealth"</p>
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Maimonides refers to the commandment as "גדולה", "great", and cites as proof the same textual references as the *Mishnah*, *Exodus 20:12* and *Proverbs 3:9*. Following this introduction, Maimonides proceeds to recount the same criteria outlined in the *Mishnah* and the additional detail from tractate *Kiddushin* in the *Gemara*: that *Yirah* means "do not stand in his place", etc., and *Kavod* means "bringing them food", etc. After this recapitulation, Maimonides reiterates the *Gemara's* perspective on how parents should not be excessively demanding of honor from their children:

Mishnei Torah, Hilchot Mamrim, Chapter 6

<p>אף על פי שבכך נצט ינו אסור לאדם להכביד עלו על בניו ולדקדק בכבודו עמהם שלא יביאם לידי מכשול. אלא ימחל ויתעלם שהאב</p>	<p>Even though we are commanded thusly, a person is prohibited to put a heavy yoke upon his sons and to be strict with them in honoring him lest he cause them to stumble. Rather, he should cede [his honor] and</p>
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שְׁמַחַל עַל כְּבוֹדוֹ כְּבוֹדוֹ מִחַ ל	not pay attention [to any offense], because the father who cedes his honor, his honor is ceded.
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Specifically, he emphasizes the *Gemara*'s guidance regarding a father who father who "puts a heavy yoke upon his sons", such that he "will bring a stumbling block near" their efforts to honor him. I.e., parents should release their children from excessively burdensome acts of honor, and children do not violate the commandment in obeying such instruction from their parents. In his paraphrasing of the story of Rav Asi from the *Gemara*, however, Maimonides goes further:

Mishnei Torah, Hilchot Mamrim, Chapter 6

מִי שֶׁנִּטְרָפָה דַּעְתּוֹ שֶׁל אָבִיו אוֹ שֶׁל אִמּוֹ מִשְׁתַּדֵּל לְנַהֵג עִמָּהֶם כְּפִי דַּעְתָּם עַד שֶׁיֵּרָחַם עֲלֵיהֶן.	When one's mother or father has their knowledge torn away, one should make an effort to conduct oneself with them according to their capacity, until God has mercy upon them.
וְאִם אֵי אֶפְשָׁר לוֹ לַעֲמֹד מִפְּנֵי שֶׁנִּשְׁתַּטּוּ בְּיוֹתֵר יְנִיחֵם וְיִלָּךְ לוֹ וְיִצָּה אַחֲרֵיהֶם לְהַנְהִיגֵם כְּרָאוּי לָהֶם	And if it is not possible to bear it, because they are extremely demented, one may go and charge others with caring for them as is suitable for them.

He officially condones Rav Asi's departure from his mother, clarifying that dementia is the criteria that enables this, coupled with the caveat that one must arrange for a caregiver. i.e., his obligations remain; Maimonides grants him permission to arrange for someone else to fulfill them instead. Much like the *Gemara*'s explicit answer to the question of what *kibbud and yirah* mean, this perspective remains as pertinent now as it was then, given the prevalence of dementia in the modern era. Maimonides' final comment of the chapter adds parameters to who counts as mother and father:

חַיֵּב אָדָם לְכַבֵּד אֶת אִשְׁתּוֹ אָבִיו אֶף עַל פִּי שְׂאִינָהּ אִמּוֹ כָּל זְמַן שֶׁאָבִיו קַיָּים שָׁזָה בְּכָלֵל כָּבֵד אָבִיו. וְכַבֵּד בַּעַל אִמּוֹ כָּל זְמַן שֶׁאִמּוֹ קַיָּמָה. אֲבָל לְאַחַר מִיתָתָהּ אֵין חַיֵּב.	A person is obligated to honor his father's wife, even if she is not his mother, while his father lives, because this is part of honoring his father. And thus, he honors his mother's husband, while his mother lives, but after she dies, he is not obligated. And, it is a Rabbinical
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<p>ומדברי ספרים שיהיה אדם חייב בכבוד אחיו הגדול ככבוד אביו</p>	<p>mandate that a person is obligated to honor his older brother like honoring his father.</p>
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Explicitly, step-parents are in-scope, as long as one's biological-parent is alive.

However, whereas Maimonides notes that one's obligation toward his step-father ceases if his mother passes away, he does not explicitly do the same for one's father and step-mother, perhaps implying that there may be an obligation to caring for one's father's widow. Maimonides also reports that there is a Rabbinic judgement that an older brother must be honored akin to honoring one's father.

Overall, Maimonides concisely recapitulates the *Mishnah* and *Gemara* with regards to *kibbud* and *yirah*. He affirms its prestige, calling it a “מַצְוַת עֲשֵׂה גְדוֹלָה”/“great positive mitzvah”. He makes it explicit that a parent should release their children from excessively burdensome means of honoring them. He gives explicit permission to put others in charge of caring for Parents with dementia, and he includes step-parents and the oldest-brother in the category of Parents.

Gerald Bildstein

As one might imagine, the Medieval codes, Responsa, and commentary since Maimonides contain an exponential increase in observations on *kibbud* and *yirah*. This brief examination will conclude by discussing some of modern scholar Dr. Gerald Bildstein's perspectives from his book, *Honor Thy Father And Mother*. To begin, Bildstein contextualizes how the commandment's deep import stems from factors outside the commandment itself:

“the intensity of *kibbud av* must not be sought in biblical statements, declarative sentences simply considered. It lies elsewhere: in the patriarchal narratives that presuppose the graceful subordination and loyal service of children to parents; in the power and meaningfulness of God's

self-description as “father” of his people Israel’ in the strategic location of filial piety in the Ten Commandments, where it is the first of the ‘social commands’ and indeed the *only* positive demand in the Decalogue made upon every man in society” (xi)

Bildstein’s reasoning is threefold: first is the extensive tradition of prominent patriarchal themes that manifest in the biblical narratives. Second, within the same text, is the also-prominent theme of analogizing God as a Father to Israel. The third speaks to the sequence and phrasing of the *kibbud* commandment within the Decalogue. Bildstein elaborates on the latter, saying: “The pivotal statement in the Ten Commandments, the one that moves man from contemplation of the divine to human society, is the fifth. But it is pivotal only because it dwells in both of these worlds, and celebrates the transient maker as a reflection of the Creator” (6). Bildstein’s perspectives seem apt, especially the notable exception that *kibbud* is the sole positive commandment concerning relationships among humans within the Ten Commandments.

Commenting on the *Mishnah* and *Gemara*’s exegesis, Bildstein recognizes that on the surface, “‘honor’ would seem to demand behavioral concretization, while ‘reverence’ might primarily describe an inner feeling” (37), yet both sources provide at least some concrete behaviors for both. These examples underscore how both sources conceive of “personal service” as a “major component of ‘honor’” (50). They are further augmented by the myriad examples of filial service throughout the biblical narratives.

Bildstein also observes that love is neither demanded nor suggested amidst the commentary on *kibbud* and *yirah*. “[t]he tradition is, in fact, concerned with guaranteeing the reverence and honor due parents; these are necessary whether the son loves his parents or not ... the son is given the tools with which he may fashion a filial relationship ... without forcing the flow of the relationship into the channel of filial love”

(56). Bildstein's perspective is pragmatic while leaving room for optimism. On a practical level, most people can appreciate that love is not always a facet of filial relationships. Yet by not requiring love, the tradition enables it as an aspiration, something to strive for.

Taken as a whole, all these sources cover a vast amount of ground yet offer a simple approach to implement what itself is a simple pair of commandments: to honor and revere your parents is to serve them and to follow their lead. Correcting them should be done indirectly, by referring to a scriptural source and letting them realize themselves that they missed the mark. The parents are the one who set the terms of what honor and reverence specifically entail, but they should release their children from obligations that become excessively burdensome. Implicit in this framework is that the commandment is *relative* to each person's situation. What is a burden for some is not for others. What a parent asks of one person might be enough to make them leave like Rav Asi, and the same ask, to another person, might be trivial, akin to what Dama Ben N'tinah can shrug off without concern. Such simplicity combined with the complexity of the human condition produces rich layers of meaning that scholars and laypeople alike have contemplated over the millennia.

Chapter Two: Exploring Rabbinic Texts' Perspectives on Children in Betrothal and Marriage.

Introduction

In this chapter, I will explore how the *Mishnah*, *Gemara*, and Maimonides view children within the context of marriage. The *Tanakh* and Rabbinic texts employ a variety of terms to refer to children. Before someone is an *ish* or *isha*, they could be:

ע ל	A baby, or literally, suckling
בן בת	son, daughter
ילד, ילדה	A child: a boy or a girl
נער, נערה	A lad or a damsel [less antiquatedly, a young man or young woman]

Each of these except, עול/סול - a suckling, occurs in rapid succession during the narrative Abraham, Sarah, Hagar and Ishmael from Genesis 21. Initially, in verses 9, 10, and 12, the text refers to Ishmael as *ben*:

Verse	Term(s)	Translation
9	אֶת־בֶּן־הָגָר	Hagar's son
10	וְאֶת־בְּנָהּ	Her son
10	בֶּן־הָאֲמָה	The son of the Handmaid
11	בְּנוֹ	His son

Then, in verses twelve and thirteen God refers to Ishmael using both *ben* and *na-ar*, and in later verses, when God hears' Ishmael's cry and rescues him and Hagar, "*na-ar*" is used exclusively in references to Ishmael:

Verse	Term(s)	Translation
12	עַל־הַנֶּעַר	Over the Lad
13	אֶת־בֶּן־הָאֲמָה	The Son of the Handmaid

17	אֶת־קֹל הַנָּעַר אֶל־קֹל הַנָּעַר	The Cry of the Lad (x2)
18, 19, 20	אֶת־הַנָּעַר	The Lad (x3)

As Marcus Jastrow describes in his dictionary, in the Rabbinic era, the term *na'arah* has a legal connotation, referring to a girl who is twelve to twelve and a half years of age.

Whereas in the Tanakh, the legal connotation is not yet present, hence: *na'ar / na'arah* means lad or lass / young man or young woman. Furthermore, amidst these verses, the biblical narrator refers to Ishmael using yet another term, *yeled* - boy or child:

Verse	Term(s)	Translation
14, 15, 16	וְאֶת־הַיֵּלֵד הַיֵּלֵד	The Boy (x3)

Within the course of 11 verses, no fewer than three terms refer to the same, static person, which suggests that they are not necessarily indicators of age. Moreover, at least one of the terms, *ben/bat* son/daughter, isn't limited to young people. After all, one never stops being someone's *ben* or *bat*, no matter one's age. Each mention of Ishmael reflects his standing through the eyes of the person encountering him: Abraham and Sarah who see Ishmael as a Son; God sees him as a Lad and as a Son; and, the biblical narrator, who refers to Ishmael as a boy. We will see that these terms' connotations regarding the age of majority informs the perspectives of the *Tannaim* and *Amoraim*.

Mishnah

Since this exercise concerns the extent to which children arise in Rabbinic perspectives concerning betrothal and marriage, I will briefly summarize the main *Tannaitic* parameters in this area without delving deeply into the source texts. Perhaps

unsurprisingly, most of the Mishnaic perspectives on marriage emanate from *Seder Nashim*, Tractates *Kiddushin* and *Ketubot*, where *Kiddushin* refers to betrothal, and *Ketubot* refers to the marriage contract governing the relationship between spouses. Marriage itself is a two-stage process: betrothal followed by consummation, or *nisuin*. The first Mishnah in *Kiddushin* outlines how a man acquires a woman: via remuneration, via a contract, or via sexual intercourse. A married woman is released from marriage when her husband dies, or if she obtains a *get*, a writ of divorce.

Mishnah *Kiddushin* 1.2, explains how indentured servants are liberated, and it reflects the *Tannaitic* perspective on agency for female servants:

Mishnah Kiddushin 1:2

... יתרה עליו אמה העבד'ה, שקונה את עצמה ... בסמנים	There is another for a handmaid than the Hebrew-slave, because she acquires herself via signs of puberty
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For a female indentured servant, servitude ends when she becomes shows signs of puberty, i.e., becomes a woman, although this does not apply to male servants/slaves.

Shortly thereafter, the Mishnah speaks to how betrothals are arranged. An *Ish*, a man, is the one who arranges betrothals, which he can do himself or via a third party:

Mishnah Kiddushin 2:1

... האיש מקדש את בתו כשהיא נערה, בו ... ובשלוחו	... a man betroths his daughter when she is a young woman, or via one whom he sends [a third-party]
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While a woman remains a נערה / *na'arah*, her father can arrange for her betrothal. As referenced previously, in this context, *na'arah*, legally connotes a woman who is 12 to 12.5 years old. We might imagine a father would remain involved in betrothing a woman older than a *na'arah*, but in legal terms, it is something he can no longer do

independently. Similarly, the Mishnah clarifies that it is, in fact, an adult man who betroths, and not a minor:

Mishnah Kiddushin 2:6

... אינה מקדשת ... וכן קטן שקדש	... she is not betrothed, ... and thusly for a young man who betroths
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As with a *na'arah*, Jastrow highlights that in a legal sense, a קטן / *katan*, is someone who has not reached the legal age of majority, i.e., a boy who is not yet thirteen years old. The Mishnah directly states that such a boy cannot betroth. The Mishnah also clarifies that in a situation where a man simultaneously attempts to betroth two women whom cannot both be his wife, neither betrothal is valid:

Mishnah Kiddushin 2:7

המקדש אשה ובתה או אשה ואחותה, כאחת, אינן מקדשות	One who betroths a woman and her daughter, or a woman and her sister at once, they are not betrothed.
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There is no workaround to the biblical prohibition to marrying women who are close relations. Were a man to attempt to betroth more than one related woman at a time, none of the betrothals are effective. E.g., he cannot seek to betroth a group of sisters, hoping that one will remain valid – all such attempts are void.

The Mishnah proceeds to outline a variety of scenarios where a betrothal does not take effect, because some precondition is not met. One such scenario concerns a man who makes a declaration of betrothal conditional on his father's approval:

Mishnah Kiddushin 3:6

... על מנת שירצה אבא, רצה האב, מקדשת. ואם לאו אינה מקדשת. מת האב, הרי זו מקדשת. מת הבן, מלמדין האב לומר שאינו רוצה	... on the condition that father wills it, if the father so wills, she is betrothed. And if not, she is not betrothed. If the father dies, in this case, she is betrothed. If the son dies, they instruct the father to say he does not will it.
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In this example, the betrothal depends on the father's approval. If the father passes away, the betrothal is valid. Furthermore, if the bridegroom, the son, passes away, the father is advised to exempt the woman from the obligation. The Mishnah proceeds to outline a few scenarios involving the betrothals of daughters, starting with one where a father's memory fails him:

Mishnah Kiddushin 3:7

<p>קדשתי אֶת בְּתִי וְאִינִי יוֹדֵעַ לְמִי קִדְּשָׁתִיהָ, וְכֵן אָחֵד וְאָמַר אֲנִי קִדְּשָׁתִיהָ, נֶאֱמַר.</p> <p>זֶה אָמַר אֲנִי קִדְּשָׁתִיהָ וְזֶה אָמַר אֲנִי קִדְּשָׁתִיהָ, שְׁנֵיהֶם נֹתְנִים גֵּט. וְאִם רָצוּ, אָחֵד נֹתֵן גֵּט וְאָחֵד כּוֹנֵס:</p>	<p>I betrothed my daughter, and I do not know to whom I betrothed her, and one came and said, "I betrothed her", it is deemed credible.</p> <p>One says, "I betrothed her", and another says, "I betrothed her", the two of them grant a get. If they wanted, one grants a get and one marries.</p>
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Here the Mishnah appears pragmatic – if a suitor appears, he is believed, but if two suitors appear, the woman is granted a *get* from both suitors, although if the two reach consensus, then one can marry her. That the woman not only receives a *get* at all, but not only one but two *gitim*, speaks to how important it is to the Rabbis that she be able to marry without any cloud of uncertainty regarding whether she is legally divorced. The proceeding Mishnah is something of a catch-all for a variety of scenarios:

Mishnah Kiddushin 3:8

<p>קדשתי אֶת בְּתִי, קדשתי וגרשתי קשהיא קטנה, והרי היא קטנה, נֶאֱמַר.</p> <p>קדשתי וגרשתי קשהיא קטנה, והרי היא גדולה, אינו נֶאֱמַר.</p> <p>נשכית ופדיתיה, בין שהיא קטנה בין שהיא גדולה, אינו נֶאֱמַר.</p> <p>מי שאמר בשעת מיתתו, יֵשׁ לִי בָנִים, נֶאֱמַר.</p>	<p>I betrothed my daughter, I betrothed her and I obtained a get when she was a minor, and she is still a minor. It is credible.</p> <p>I betrothed her, and I obtained a get when she was a minor, and now she is grown. It is not credible.</p> <p>She was taken captive, and I redeemed her, whether she was a minor or whether she was grown, it is not credible.</p> <p>One who said at the time of his death, I</p>
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<p>יש לי אחים, אינו נאמן. המקדש את בתו סתם, אין הבוגרות בכלל :</p>	<p>have sons, it is credible. I have brothers, it is not credible. One who betroths his daughter without naming her, the women of age are not included.</p>
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The upshot of these scenarios is that a man is believed when he says he did something he has the power to do, but not believed when he claims to have done something that he can't usually do. At the same time, these same scenarios indirectly affirm that the rights afforded to children remain in force. For example, a grown daughter cannot be betrothed without her consent, and this still cannot happen via a generic or anonymous betrothal. We see something similar in Mishnah 4.13, where it describes:

Mishnah Kiddushin 4:13

<p>לא ילמד אדם רוק סופרים, ולא תלמד אשה סופרים.</p>	<p>A bachelor will not train as schoolteachers, and a woman will not train as schoolteachers.</p>
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Single men should not be primary teachers, for fear that they would develop inappropriate relationships with their students' mothers, and women should not be schoolteachers, lest they develop inappropriate relationships with their male students.

All told, Mishnah Kiddushin does not afford children agency, but it does afford them limited protection from potentially perilous scenarios. Simultaneous betrothal is not a way around the biblical prohibition for a daughter to be married to a man who is also married to her close relative. Daughters cannot be betrothed by a young man who has not reached the age of majority. When their betrothal happens, it must occur with the approval of their father. Betrothals cannot be indeterminate; an identifiable, named individual must be the one betrothed or must come forth to validate a betrothal. Legally,

a woman who reaches the age of majority cannot be betrothed without her consent, but her father still arranges the betrothal.

We see similar themes in *Mishnah Ketubot*, where minors do not have agency, but they are afforded legal protection.

Mishnah Ketubot 1:3

<p>הַגָּדוֹל שֶׁבָּא עַל הַקְטָנָה, וְקָטָן שֶׁבָּא עַל הַגָּדוֹלָה, וּמֵכֶת עֵץ, כְּתֻבָּתָן מֵאֵתִים, דְּבַר רַבִּי מֵאִיר.</p> <p>חֲכָמִים אוֹמְרִים, מֵכֶת עֵץ, כְּתֻבָּתָה מֵנָה :</p>	<p>The grown man who has sexual relations with a minor-girl, and the minor-boy who has sexual relations with a grown woman, or one who lost her hymen through an accidental lesion, their <i>ketubahs</i> are 200. These are the words of Rabbi Meir. And the sages say, one who lost her hymen through an accidental lesion, her ketubah is 100.</p>
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Mishnah, 1.2., sets a baseline of 200 *zuz* in a *Ketubah* for a virgin bride. This payment occurs when a husband dies or seeks to divorce his wife. In Mishnah 1.3, the Tannaim describe situations where virginity is lost either due to underage sexual relations or rupture of a woman's hymen. The first is when a *k'tana* / *minor-girl* loses her virginity to a man, and the second is when a grown woman has sexual relations with a minor-boy. For a woman whose hymen is ruptured without sexual intercourse, Rabbi Meir proposes payment equivalent to a virgin, while his contemporaries propose ½ such payment, equivalent to that of a widow. The relevance of virginal-status of young girls to marriage contracts arises again later in chapter one:

Mishnah Ketubot 1:10

<p>אָמַר רַבִּי יוֹסִי, מַעֲשֶׂה בְּתִינוּקָת שְׂיָרְדָה לְמִלֵּאת מַיִם מִן הָעֵין, וְנֶאֱנָסָה.</p> <p>אָמַר רַבִּי יוֹחָנָן בֶּן נוּרִי, אִם רַב אֲנָשֵׁי הָעִיר מְשִׁיאִין לְכַהֲנָה, הֲרִי זֹאת תִּנָּשָׂא לְכַהֲנָה :</p>	<p>Rabbi Yosi said, it happened that a young girl was going down to fill water from the spring, and she was violated. Rabbi Yochanan ben Nuri said, if most of the people in the city marry into the priesthood, here she is married into the priesthood.</p>
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In the event a young woman is raped, Rabbi Yochanan ben Nuri says she is eligible to be married into the priesthood. Given the sensitivity regarding priestly lineage (Feinstein), it is an affirmation that Rabbi Yochanan states that the status of the person who violated her should be assumed to be the status equivalent to most men in the community, and this should not impact her eligibility to marry a priest.

The Mishnah also delves into parameters regarding the status of the witnesses who sign a *Ketubah*. In the event someone acts as a witness before they have reached the age of majority, such an act is not valid:

Mishnah Ketubot 2:3

הַעֲדִים שֶׁאָמְרוּ כָּתֵב יָדֵינוּ הוּא זֶה, אֲבָל אֲנוֹסִים הָיִינוּ, קֹטְנִים הָיִינוּ, פְּסוּלֵי עֵדוּת הָיִינוּ, הֲרִי אֵלֵינוּ נֶאֱמָרִים	The witnesses who say, “this is the writing of our hand”, but we were under threat of compulsion, we were not yet of the age of majority, or we were disqualified witnesses, this case these are deemed credible.
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In the second example, a child who acted as a witness, needs but say that they were a child when they witnessed, and they are to be believed. Since they were children when they signed the document, their witnessing is invalid. Later in the same chapter, the Mishnah expands upon what adults can credibly attest to something they observed while they were children:

Mishnah Ketubot 2:10

וְאֵלֵינוּ נֶאֱמָרִין לְהַעֲדִי בְּגִדְלָן מָה שֶׁרָאוּ בְּקֻטָּנָא. נֶאֱמָר אָדָם לֹמֵר, זֶה כָּתֵב יָדוֹ שֶׁל אָבִי, וְזֶה כָּתֵב יָדוֹ שֶׁל רַבִּי, וְזֶה כָּתֵב יָדוֹ שֶׁל אָחִי	And these are deemed credible to witness in adulthood what they saw in childhood. A person is deemed credible to say, this is the writing of my father’s hand, the is the writing of my teacher’s hand, and this is the writing of my brother’s hand.
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As an adult, one can testify to their father's, teacher's, or brother's handwriting that they saw as a child. While one cannot testify as a child, once the same person is an adult, he or she can say that they recognize the handwriting of the people they were close to as children. Memories from childhood can be trusted, but only through the lens of adulthood. In addition, the Rabbis appear to be moved by the fact that a document is often written in the hand of its author, since handwriting tends not to change over the course of one's life.

Mishnah Ketubot 3:1

אלו נערות שיש להן קנס. הבא על הממזרת, ועל הנתינה, ועל הכותית	These are the young women who are owed a fine. One who has sexual relations with the <i>mamzer</i> , the <i>n'tinah</i> , and the <i>kutit</i> .
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Each of these types of young woman is someone whom Jewish are forbidden to marry: the *mamzer*, offspring from a couple who are forbidden to marry; the *n'tinah*, a Gibeonite; and the *kutit*, a Samaritan. Men who rape or seduce such women still owe them fines, even though they are halachically off-limits.

The following chapter, chapter four, speaks explicitly to a daughter's agency while in her father's household:

Mishnah Ketubot 4:4

האב זכאי בבתו בקדושיה, בכסף בשטר ובביאה, וזכאי במציאתה, ובמעשה ידיה, ובהפדת נדריה. ומקבל את גטה, ואינו אוכל פרות בחייה...	The Father has authority over his daughter in betrothal, via money, via a document, or via sexual relations, and authority over what she finds, and the fruits of her labor, and nullifying her vows, and in obtaining her writ-of-divorce, but he does not consume the usufruct during her lifetime.
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Mishnah Ketubot 4:5

לעולם היא ברשות האב, עד שתתקנס לרשות	Forever she is under her father's
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הבעל לנשואין ...	authority, until she enters her husband's authority in marriage
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A father controls his daughter's betrothal, owns the fruits of her labor, and can nullify her vows. He does not, however, consume the *usufruct*, the income from her property (which she may own from her family or via a previous divorce, etc.) while she lives. A father's authority over his daughter transfers to a husband once she is married.

A later chapter's discussion of dowries reveals some exceptions to these standards:

Mishnah Ketubot 6:5

המשיא את בתו סתם, לא יפחות לה מחמשים זוז. ... וכן המשיא את היתומה, לא יפחות לה מחמשים זוז. אם יש בכיס, מפרנסין אותה לפי כבודה	One who marries his daughter undefined, he should give her no less than 50 <i>zuz</i> ... And similarly, one who marries off the orphan should give her no less than 50 <i>zuz</i> . If there is enough in the fund, they endow her according to her dignity.
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Any betrothed woman, even if she is an orphan, receives no less than 50 *zuz*, and if communal funds are sufficient, an orphan receives additional remuneration commensurate with her social status.

Mishnah Ketubot 6:6

יתומה שהשיאתה אמה או אחיה מדעתה, וכתבו לה במאה או בחמשים זוז, יכולה היא משתגדיל להוציא מידן מה שראוי להנותן לה...	An orphan who is married by her mother or her brothers with her consent, and they wrote for her 100 or 50 <i>zuz</i> , she is able when she reaches the age of majority to extract from them what she was entitled to.
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If a young woman receives a lesser dowry, when she becomes an adult, she is to be made whole from either her mother or her brothers' families, commensurate with what she would have deserved. What appears most striking is the phrase "מדעתה", or "with her consent". Moreover, only a father can legally betroth his minor daughter. Where her father is no longer present, the Tannaitic Rabbis factor a minor orphan girl's consent is

something into their *halachic* framework. On a practical level, like other provisions, this serves as legal protection to young orphan women that their worth as a bride should be equivalent to other brides whose fathers were alive.

When it comes to funds that a father has earmarked for his daughter, the Mishnah does not appear to arrive at a conclusive answer:

Mishnah Ketubot 6:7

<p>הַמְשָׁלִישׁ מַעוֹת לְבִתּוֹ, וְהִיא אוֹמֶרֶת נֶאֱמַן בְּעָלִי עָלַי, יַעֲשֶׂה הַשְּׁלִישׁ מִה שֶׁהַשְּׁלִישׁ בִּידּוֹ, דְּבַר רַבִּי מֵאִיר.</p> <p>רַבִּי יוֹסִי אוֹמֵר, וְכִי אֵינָה אֶלָּא שְׂדֵה וְהִיא רוֹצָה לְמַכְרָהּ, הֲרִי הִיא מְכֹרֶה מֵעַכְשָׁיו. בְּמָה דְּבָרִים אֲמֹרִים, בְּגִדּוּלָהּ. אֲבָל בְּקֻטְנָהּ, אֵין מַעֲשֶׂה קֻטְנָה כְּלוּם:</p>	<p>One who appoints a third party to give money to his daughter, and she says “my husband is credible to me”, the trustee executes what has been paid into his hand; these are the words of Rabbi Meir. Rabbi Yosi says, and if it were a field and she wanted to sell it, in this case it is sold immediately. For what is it said for these matters? For a grown woman. But for a minor-girl, none of her actions have legal force.</p>
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This case concerns where a father appoints a third-party, a trustee, to oversee funds he intends for his daughter. Rabbi Meir indicates the trustee follows the father’s will, irrespective of what the daughter wants (even if daughter says she trusts her husband). On the other hand, Rabbi Yosi suggests that the grown daughter’s assessment impacts what happens with the entrusted funds. Even if the trustee follows the father’s wishes and purchases a field for the daughter, if the daughter wants the field sold, it is sold immediately, and she, then ultimately her husband, receives the proceeds. His logic may reflect the practical reality that still occurs in many estate-situations in the present. Parents can gift their homes or other assets to their children, but once those bequests occur, children can then do what they will with the same assets, including sell them. I.e., Rabbi Yosi’s perspective may be less about a daughter’s intent and more about what she and her husband have the legal right to do once assets belong to them. Rabbi Yosi

also appends that his perspective only applies to a grown woman, not a minor girl, although there is no disagreement between the two with regards to the minor girl – the trustee follow's the father's will.

Later, the Mishnah outlines protocol in situations where a woman with a daughter marries, or marries, divorces, and remarries:

Mishnah Ketubot 12:1

<p>הַנוֹשֵׂא אֶת הָאִשָּׁה וּפְסָקָה עִמּוֹ כְּדִי שְׂיִזּוֹן אֶת בִּתּוֹ חֲמֵשׁ שָׁנִים, חַיֵּב לְזוֹנָה חֲמֵשׁ שָׁנִים.</p> <p>נָשְׂאת לְאַחֵר וּפְסָקָה עִמּוֹ כְּדִי שְׂיִזּוֹן אֶת בִּתּוֹ חֲמֵשׁ שָׁנִים, חַיֵּב לְזוֹנָה חֲמֵשׁ שָׁנִים.</p> <p>לֹא יֹאמֶר הָרִאשׁוֹן לְקַשְׁתָּבֵא אֶצְלִי אֶזְוִנָה, אֶלֶּא מוֹלִיךְ לָהּ מִזְוֹנוּתֶיהָ לְמָקוֹם אֲמָהּ.</p> <p>כֵּן לֹא יֹאמְרוּ שְׁנֵיהֶם הֵרִי אֲנִי זָנִין אוֹתָהּ כְּאַחַד, אֶלֶּא אַחַד זָנָה וְאַחַד נוֹתֵן לָהּ דָּמֵי מִזְוֹנוֹת :</p>	<p>One who marries a woman, and she stipulated with him that he will sustain her daughter for five years, he is obligated to sustain her for five years.</p> <p>If she marries another, and she stipulated with the second man that he will sustain her daughter for five years, he is obligated to sustain her for five years.</p> <p>The first cannot say, when she comes to me, I will sustain her; rather, he goes to her and he gives sustenance to her in the her mother's place.</p> <p>Also, the two of them cannot say, we will sustain her together; rather one sustains her, and the other gives her compensation for sustainment.</p>
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The upshot of this Mishnah is that in the case of multiple marriages containing stipulations for providing for daughters, the stipulations are additive, rather than substituting for one another. A daughter who is owed sustenance from two stepfathers, one current and one from a previous marriage, is entitled to sustenance from both. Be it because of a vow or because of a contract (i.e., the *ketubah*) or otherwise, the *Tannaim* insist that what a wife and daughter are promised, they shall receive. The theme of protecting a daughter's right to sustenance continues when the Mishnah discusses cases of estates:

Mishnah Ketubot 13:3

<p>אדמון אומר שבעה.</p> <p>מי שמת והניח בנים ובנות, בזמן שהנכסים מרובין, הבנים יורשים והבנות נזונות. ובנכסים מעטים, הבנות יזונו והבנים יחזרו על הפתחים.</p> <p>אדמון אומר, בשביל שאני זכר הפסדתי. אמר רבן גמליאל, רוצה אני את דברי אדמון:</p>	<p>Admon says seven. [Note: this is a reference to a prior Mishnah, which explains Admon issued seven dissensions, of which this is one]</p> <p>One who dies and leaves sons and daughters, when the estate is large, the sons inherit and the daughters are sustained. And with a small estate, the daughters will be sustained and the sons will go around upon the doors.</p> <p>Admon says, because I am male, I was disadvantaged? Raban Gamliel says, I see Admon's point.</p>
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Admon's dissention implies the *halacha* is that the maintenance owed to daughters takes precedence over their brothers' right to inherit; in the event that a man leaves a small estate, it is sons who have to make their own way. The Sages appear to reflect the practicality of their surrounding reality. Sons have the legal ability and the practical means to pursue their own path: to lift themselves up by their bootstraps, so to speak, whereas daughters do not. Even in scenarios where daughters gain agency, such as by becoming divorced or a widow, in practical terms, such women could not realistically pursue a trade or otherwise accumulate wealth on their own terms. Even still, Admon calls this judgment into question, pointing out that this puts sons at a disadvantage. Moreover, Admon may be suggesting that the *halacha* should be the reverse: sons should inherit be counted upon to sustain their sisters.

Like *Mishnah Kiddushin*, *Mishnah Ketubot* articulates legal protections for daughters and minor daughters, emphasizing they are provided with assets sufficient to sustain themselves. Notably, we also catch a glimpse of agency for an orphan girl, less in a legal sense, and more in a practical sense that perhaps her consent is sought when her mother or brothers seek to marry her.

We also find, in *Tractate Niddah*, a single Mishnah that discusses how a child's age affects the credibility of their vows.

Mishnah Niddah 5:6

<p>בת אחת עשרה שנה ויום אחד, נדריה נבדקין. בת שתיים עשרה שנה ויום אחד, נדריה קיימין. ובדקין כל שתיים עשרה.</p> <p>בן שתיים עשרה שנה ויום אחד, נדריו נבדקים. בן שלש עשרה שנה ויום אחד, נדריו קיימין. ובדקין כל שלש עשרה.</p> <p>קדם לזמן הזה, אף על פי שאמרו יודעין אנו לשם מי נדרנו, לשם מי הקדשנו, אין נדריהם נדר ואין הקדשן הקדש.</p> <p>לאחר הזמן הזה, אף על פי שאמרו אין אנו יודעין לשם מי נדרנו, לשם מי הקדשנו, נדרן נדר והקדשן הקדש.</p>	<p>A girl who is 11 years and one day old, her vows are examined. A girl who is twelve years old and one day, her vows are confirmed. And they examine the whole twelfth year.</p> <p>A son who is twelve years and one day old, his vows are examined. A son who is thirteen years and one day old, his vows are confirmed. And they examine the whole thirteenth year.</p> <p>Preceding this time, even though they said they know in whose name we vowed, in whose name we consecrated, their vows are not a vow, and their consecrations are not a consecration.</p> <p>After this time, even if they said I do not know in whose name I vow, in whose name I consecrate, their vows are a vow, and their consecrations are a consecration.</p>
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A girl reaches the age of majority at 12 and a day, and for a boy it is 13 and a day. Despite being an adult, whatever vows they take the year after that are still examined for validity, i.e., presumably: whether they understand what they are vowing and the consequences involved were they not to follow through. This ancient analogy to “coaching” begins the year prior, which in theory, gives them time to prepare for the responsibilities of the commitments they will soon make.

In the final chapter of *Pirkei Avot*, Yehuda Ben Tema, a 4th generation *Tannaim*, speaks to the appropriate age for marriage for men:

Mishnah Pirkei Avot 5:21

<p>הוא היה אומר, בן חמש שנים למקרא, בן עשר למשנה, בן שלש עשרה למצות, בן חמש עשרה</p>	<p>He used to say: five years old, scripture; ten years old, Mishnah; thirteen years old,</p>
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לתלמוד, בן שמונה עשרה לחפה...	<i>mitzvot</i> ; fifteen years old, Talmud; eighteen years old, the <i>chuppah</i> ...
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“*Chuppah*”, wedding canopy, implies that ideally marriage – for males - waits until five years past the rabbinic age of majority - near the outside range of the modern conception of childhood, but well past the conception of childhood in the Rabbinic eras. It is notable, that Yehuda Ben Tema suggests that a child (i.e., a boy) should start studying scripture, because this parallels the same age in the modern era that children start learning to read. Presumably, most of what a boy studies would be the oral tradition (across the *Tanakh*, *Mishnah*, *Mitzvot*, and *Gemara*); even then, this sequence was likely aspirational. But for the *Tanakh*, at least some of his studies would involve reading. Ben Tama also appears to portray this learning sequence as a ladder, leading up to marriage. It implicitly reflects how the *Tannaitic* ideal of a husband is one who is both learned and practiced.

Gemara

In analyzing the *Gemara*’s perspective on these *Mishnayot*, I will focus on perspectives that substantially differ or offer additional perspectives relevant to children’s agency. For example, the *Babylonian Talmud* tractate on *Ketubot* offers additional context related to Yehuda Ben Tema’s opinion, indirectly revealing an avenue wherein sons can exert their preferences related to studying:

Babylonian Talmud, Ketubot, 50a

אמר רב יצחק, באושא התקינו שיהא אדם מתגלגל עם בנו, עד שתים עשרה שנה. מכאן ואילך, יורד עמו לחייו. איני?	Rav Yitzchak said, in Usha, they enacted that a person encourages his son, until he is twelve years old. From here afterward, he administers his life for him. Is it so?
והאמר ליה רב לרב שמואל בר שילת: בציר מבר שית — לא תקביל. בר שית — קביל וספי	But Rav said to Rav Shmuel Bar Shilat, less than six, you will not receive him; six

<p>ליה כתורא!</p> <p>אין, ספי ליה כתורא, מיהו אינו יורד עמו לחייו עד לאחר שתים עשרה שנה.</p> <p>ואיבעית אימא, לא קשיא: הא למקרא, הא למשנה</p>	<p>years old, receive and feed him like an ox</p> <p>Yes, feed him like an ox. However, do not administer his life until he is older than twelve years old.</p> <p>But if you want, say, there is no difficulty. This is per scripture and that is per the Mishnah.</p>
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Given the contrasting perspectives, it is not conclusive, but one of the two perspectives suggests a child could resist Torah before until he is twelve years old without incurring serious punishment. At the same time, I could imagine this perspective is less intended to speak to a son's preferences, and more intended to speak to a parent's assessment of their son's readiness to learn. Furthermore, it is useful to remember that these exhortations are what the Rabbis aspired to, not what fathers necessarily carried out.

As another example, the *Babylonian Talmud* tractate on *Kiddushin* refines and expands upon a father's ability to betroth his young daughter:

Babylonian Talmud, Kiddushin, 41a

<p>האיש מקדש את בתו כשהיא נערה.</p> <p>כשהיא נערה – אין,</p> <p>כשהיא קטנה – לא.</p> <p>מסייע ליה לרב, דאמר רב יהודה אמר רב</p> <p>ואיתימא רבי אלעזר:</p> <p>אסור לאדם שיקדש את בתו כשהיא קטנה, עד שתגדל ותאמר: "בפלוגי אני רוצה".</p>	<p>"a man betroths his daughter when she is a young woman"</p> <p>When she is a young woman – yes.</p> <p>When she is a minor – no.</p> <p>This supports the opinion of Rav, as Rav Yehuda says in the name of Rav:</p> <p>And some say Rabbi Elazar:</p> <p>It is prohibited for a man to betroth his daughter when she is a minor, until she grows and says, "with so-and-so, I want"</p>
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As we saw earlier, *Mishnah Kiddushin* 2.1 explicitly says a father can betroth a *na-arach*, and 3.8 does not explicitly say but strongly implies that a Father can betroth a *k'tanah*. The *Gemara* opposes this implication, citing Rav, a first-generation *Amora*, and as others say, Rabbi Elazar a fifth generation *Tanna*: a father does not betroth his daughter

while she is a minor. Moreover, Rabbi Elazar says a daughter's consent should be reflected in her father's choice of betrothal, which she can only legally do once she is no longer a minor. It may still be the father who chooses the daughter's husband, but marriage requires consent, lest, as Rabbi Adin Steinsaltz says, "נמצאת נשואה לאדם שאינו כלבה", "she is married to a man she does not like".

The *Gemara* perceives and addresses a similar uncertainty regarding Mishnah 3.6, which discusses a betrothal that is conditional on a Father's approval:

Babylonian Talmud, Kiddushin, 63a

מאי "על מנת שיִרְצֶה אָבִא"?	What does it mean, "Upon the condition that my father wants"
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As discussed earlier, the Mishnah in question specifies that the betrothal be dissolved should the father pass away. The *Gemara* correctly perceives that it's unclear what the condition implies, because if a father approves a betrothal, then it should occur whether he lives or dies. I.e., given the conclusion on the event of death, it cannot be the case that "my father wants" means: "my father explicitly said he wanted this". Rather, the *Gemara* concludes that the condition means "my father doesn't object":

Babylonian Talmud, Kiddushin, 63b

רב יוסף בר אמי אָמַר: לְעוֹלָם חָד טַעְמָא הוּא, וּמַאי "עַל מְנַת שְׂרִיצָה אָבִא" – עַל מְנַת שְׁלֹא יִמְחָה אָבִא מִכָּאן וְעַד שְׁלִשִּׁים יוֹם	Rav Yosef bar Amay said, the entire is one reason, and what does it mean, "Upon the condition that my father wants" "Upon the condition that my father does not protest from here until thirty days"
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This may be sophisticated legal reasoning that applies to an unusual "edge case" scenario, but it serves to solidify the commitment that a father's will is carried out. A father's lack of protest is taken as acceptance.

The Mishnah made its stance clear that unmarried people are prohibited from being schoolteachers. The Gemara asks a clarifying question – what about a male teacher whose wife doesn't reside with him?

Babylonian Talmud, Kiddushin, 82a

<p>... איבערצוגעבן: מי ש'אין ל' אשה כלל, או דלמא בשאינה שרויה אצלו?</p> <p>תא שמע: אף מי שיש לו ואינה שרויה אצלו לא ילמד סופרים</p>	<p>A dilemma was asked of them: one who does not have wife at all, or perhaps when she is not dwelling with him?</p> <p>Come and hear: if one who has, and she is not dwelling with him, he will not train as a schoolteacher.</p>
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Such a person cannot be a schoolteacher either. The *Gemara* affirms that it's not just having a spouse that is necessary to prevent inappropriate relationships between teachers and the mothers of their students, the physical proximity of one's spouse is also necessary.

Regarding the case of a young girl's eligibility to marry into the priesthood after she was violated, the *Gemara* appears to be uncomfortable with this conclusion. In the midst of an extended search for proof, the *Gemara* offers an observation from Rabbi Zera, a fourth generation amora who studied in Babylon then moved to Eretz Israel:

Babylonian Talmud, Ketubot, 15a

<p>גופא, אמר רבי זירא: כל קבוע — למחצה על מחצה דמי, בין לקולא בין לחומרא.</p>	<p>Returning to our subject, Rabbi Zeira said, anything fixed, as half and half compared, between leniency and between restrictiveness</p>
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I.e., Rabbi Zeira suggests that in a fifty/fifty scenario (a.k.a., *chetzi/chetzi*, or half and half), evaluating the ritual purity of any given item about which we're uncertain should be balanced between a lenient judgement and a restrictive judgement. So, if half the men in a community have lineages that allow their female relatives to marry priests, it is acceptable to assume that one who rapes a minor girl comes from this half of the

community. Thus, she, the victim, remains eligible to marry into the priesthood. Given how sensitive the Rabbis are to preserving the purity of priestly lineage, it came as a surprise to this author to see this conclusion. Although, it is important to note that this criteria (going with leniency when it's 50/50) applies only in situations where the probability is "קבוע"/"fixed", a.k.a., concretely known. The other scenarios that the *Gemara* discusses involve some degree of uncertainty regarding the population from which the perpetrator comes from and thus, this principle does not apply (e.g., what if the victim was traveling, or there were a group of travelers visiting at the time of her violation).

Perhaps unsurprisingly, the *Gemara* appears to be concerned with *Mishnah Ketubot 2.10*, indicating that adults can testify to certain handwriting that they witnessed as minors:

Babylonian Talmud, Ketubot, 28a

אָמַר רַב הוּנָא בְּרִיה דְּרַב יְהוֹשֻעַ: וְהוּא שֵׁישׁ גָּדוֹל עִמּוֹ.	Rav Huna son of Rav Y'hosua: and it is when a grown person is with him
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In other words, Rav Huna clarifies that the *Mishnah* is speaking about how a minor is only confirming the testimony of someone who was already an adult. I.e., when the *Mishnah* says a minor's father, teacher, or brother, each of these would have been someone who was already an adult doing their own witnessing or testimony via their own handwriting. Thus, when an adult speaks to what they saw as a minor, they are merely re-confirming the already presumably valid testimony from an adult. So, while the *Gemara* emphasizes this technicality, it still allows that the confirmation of what someone saw as a child can carry some weight.

Concerning the case from *Mishnah Ketubot* where a father transfers money to his daughter, the *Gemara* presents two slightly different perspectives from two fifth generation *Tannaim*, Rabbi Meir and Rabbi Yosi:

Babylonian Talmud, Ketubot, 69b

<p>תנו רבנן: המַשְׁלִישׁ מַעוֹת לַחֲתָנוּ לִיקַח מֵהֵן שָׂדֶה לְבִתּוֹ, וְהָיָא אוֹמְרָת: יִתְּנֵנוּ לְבַעְלִי,</p>	<p>Our sages taught [in a <i>Baraita</i>]: one who pays money to his son-in-law, to purchase a field for his daughter, and she says: it will be given to my husband</p>
<p>מִן הַנִּשְׁוּאִין — הָרְשׁוֹת בִּידָה, מִן הָאִירוֹסִין — יַעֲשֶׂה הַשְּׁלִישׁ מָה שֶׁהוֹשֵׁלֵשׁ בִּידוֹ, דְּבַר רַבִּי מֵאִיר.</p>	<p>From the marriage, the authority is in her hand, from the betrothal, the trustee does what he was instructed to do, this is the statement of Rabbi Meir.</p>
<p>רַבִּי יוֹסִי אוֹמֵר: הַגְּדוּלָּה, בֵּין מִן הַנִּשְׁוּאִין וּבֵין מִן הָאִירוֹסִין — הָרְשׁוֹת בִּידָה. קִטְנָה, בֵּין מִן הַנִּשְׁוּאִין בֵּין מִן הָאִירוֹסִין — יַעֲשֶׂה הַשְּׁלִישׁ מָה שֶׁהוֹשֵׁלֵשׁ בִּידוֹ.</p>	<p>Rabbi Yosi says: the adult woman, from the marriage or the betrothal, the authority is in her hand. A minor girl, from the marriage or the betrothal the trustee does what he was instructed to do.</p>

Rabbi Yosi affords an adult daughter the power to execute the purchase from the betrothal onward, whereas Rabbi Meir confers this power starting at the marriage. Rabbi Yosi's perspective implies that a father's intention for bequeathed-funds is reflected in his choice of betrothed, whereas Rabbi Meir sees the same intent as beginning once the marriage occurs.

Maimonides

The initial portion of Maimonides' Laws of Marriage reads like a legal contract, which devotes a great deal of effort defining terms. In fact, he concludes the second chapter by saying:

Mishnei Torah, Ishut, 2:27

<p>נִמְצְאוּ כָּל הַשְּׁמוֹת שֶׁבִּאָרְנוּ עִנְיָנָם בְּשְׁנֵי פָּרָקִים ...</p> <p>שִׁים כָּל הַשְּׁמוֹת הָאֵלּוּ לְעִמְתָּךְ תִּמְיֵד וְאַל יִלּוּזוּ</p>	<p>All the names we brought to light are found as subjects in the two chapters</p> <p>Mind each of them closely always, and do</p>
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מְעִינֵךְ כָּל עֵינֵיהֶם כְּדִי שֶׁלֹּא נִהְיָה צְרִיכִין לְבַאֵר כָּל שֵׁם מֵהֵן בְּכָל מְקוֹם שֶׁנֶּזְכֵּיר אוֹתוֹ	not turn your eyes from any of the subjects, in order that it's not needed to make clear any name from them in any place where they are mentioned
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Notably for our purposes, Maimonides draws explicit boundaries around the terms

Tinok, *Katan*, and the definition of the age of majority:

Mishnei Torah, Ishut, 2:1

הַבֵּת מִיּוֹם לִדְתָהּ עַד שֶׁתִּהְיֶה בֵּת י"ב שָׁנָה גְּמוּרוֹת הִיא הַנְּקֻרָּאת קְטָנָה וְנִקְרָאת תִּינוּקָת	The daughter from the day of her birth until she finishes twelve years old is called a " <i>k'tanah</i> " or called a " <i>tinoket</i> ".
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Mishnei Torah, Ishut, 2:10

הֶבֶן מִשְׁיּוֹלֵד עַד שֶׁיִּהְיֶה בֶּן שְׁלֹשׁ עָשָׂרָה שָׁנָה נִקְרָא קָטָן וְנִקְרָא תִינוּק	The son from when he is born until he is thirteen years old is called a " <i>katan</i> " or called a " <i>tinok</i> ".
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It is not germane to this examination, but Maimonides surrounds these definitions with copious criteria, summarized from the *Mishnah* and *Gemara*, that indicate whether a girl or a boy has reached puberty. Like the *Mishnah*, Maimonides affirms that a father can betroth his daughter, adding that a father can do so even when she is between 12 and 12 and a half.

Mishnei Torah, Ishut, 3:11

הָאָב מְקַדֵּשׁ אֶת בָּתּוֹ שֶׁלֹּא לִדְעוּתָהּ כָּל זְמַן שֶׁהִיא קְטָנָה. וְכֵן כִּשְׁהִיא נַעֲרָה רְשׁוּתָהּ בְּיָדוֹ שֶׁנֶּאֱמַר "אֶת בָּתִּי נָתַתִּי לְאִישׁ הַזֶּה לְאִשָּׁה"	The father betroths his daughter without her consent at all times while she is a minor. And likewise when she is a <i>na-arah</i> , he still has this power, as it is written (Deuteronomy 22:16), "I gave my daughter to this man"
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We will see in a moment that Maimonides is uncomfortable with betrothals before a woman reaches the age of majority and can give her consent, but he allows that it is

legally permissible. He also makes explicit that a father's ability to legally betroth his daughter independent of her consent ceases once she's an adult:

Mishnei Torah, Ishut, 3:12

בגרה הבת אין לאביה בה רשות והרי היא כשאר כל הנשים שאינם מתקדשות אלא לדעתן	For a daughter of age, her father does not have authority, and indeed, she is like all women, who are not betrothed without their consent.
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Above and beyond the *halacha*, Maimonides echoes Rabbi Elazar, suggesting that fathers shouldn't betroth their daughters without their consent, and nor should potential suitors betroth minors, or women with whom they aren't familiar.

Mishnei Torah, Ishut, 3:19

<p>...ואף על פי שיש רשות לאב לקדש בתו כשהיא קטנה וכשהיא נערה לכל מי שיירצה אין ראוי לעשות כן</p> <p>אלא מצות חכמים שלא יקדש אדם בתו כשהיא קטנה עד שתגדיל ותאמר לפלוני אני רוצה.</p> <p>וכן האיש אין ראוי לקדש קטנה. ולא יקדש אשה עד שיראנה ותהיה כשרה בעיניו שמא לא תמצא חן בעיניו ונמצא מגרשה או שוכב עמה והוא שונאה...</p>	<p>...Even if the father has authority to betroth his daughter when she is a minor or a <i>na'arah</i>, to any person he wishes, it is not worthy to do thus;</p> <p>rather, it is a command of the sages for a man to not consecrate his minor daughter, until she grows and says "I want so-and-so"</p> <p>And thus, it is not worthy for a man to betroth a minor. And a woman should not be consecrated until he sees her and she is fitting in his eyes, lest she not find grace in his eyes, and he is divorced from her, or lies down with her and he hates her. ...</p>
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Maimonides' rationale is quite practical: neither a father nor a suitor should betroth a woman until they assess whether they are compatible, lest they break up, or perhaps worse – grow to hate each other! Consent is required, but betrothal remains in the father's power. I.e., here, consent should be taken less as a sign of agency, and more as a sign of partnership: a father should find someone fitting for his daughter, and his daughter should consent to a fitting spouse.

Maimonides also delves into cases where an adult man betroths a minor girl who is not under a father's authority, indicating that whether such a betrothal is valid depends on the girl's maturity:

Mishnei Torah, Ishut, 4:7

<p>קָטַן שֶׁקִּדַּשׁ אֵין קִדּוּשׁוֹ קִדּוּשִׁין. אֲבָל גְּדוּל שֶׁקִּדַּשׁ אֶת הַקֵּטָנָה הֵיטוּמָהּ. אוֹ קֵטָנָה שֶׁיִּצְאָה מִרְשׁוֹת אָבִיהָ.</p> <p>אִם הָיְתָה פְּחוּתָה מִבֵּת שֶׁשׁ אָף עַל פִּי שֶׁהָיָא נְבוֹנָת לַחֹשׁ בְּיוֹתֵר וּמִלְכָּרֵת וּמִבְּחִנֵּת אֵין כָּאֵן שֶׁם קִדּוּשִׁין וְאִינָה צְרִיקָה לְמַאֵן.</p> <p>וְאִם הָיְתָה מִבֵּת עֶשֶׂר שָׁנִים וּלְמַעַלָּה אָף עַל פִּי שֶׁהָיָא סְכָלָה בְּיוֹתֵר הוֹאִיל וְנִתְקַדְּשָׁה לְדַעְתָּהּ הָרִי זֶה מְקַדְּשֵׁת לְמַאֵן.</p> <p>הָיְתָה מִבֵּת שֶׁשׁ וְעַד סוֹף עֶשֶׂר בּוֹדְקִין אֶת יָפִי דַּעְתָּהּ אִם מִלְכָּרֵת וּמִבְּחִנֵּת עֲסָקִי הַנְּשׂוּאִין וְהַקִּדּוּשִׁין צְרִיקָה לְמַאֵן.</p> <p>וְאִם לֹא אִינָה מְקַדְּשֵׁת לְמַאֵן וְאִינָה צְרִיקָה לְמַאֵן.</p>	<p>A minor who betroths, his betrothal is not a betrothal. However, an adult who betroths the minor orphan girl, or a minor girl who is no longer under her father's authority:</p> <p>If she is younger than age six, even if she shows understanding and apprehension in excess, and can decide and can distinguish, there is no betrothal here, and it is not necessary to annul the marriage.</p> <p>And if she is older than 10 years, even if she is excessively foolish, since she became betrothed with her consent, indeed she is betrothed, and to annul the marriage.</p> <p>If she is from six to 10 years old, they check the elaborateness of her knowledge, if she decides, and if she distinguishes engaging in marriage and betrothal, it is necessary to annul the marriage.</p> <p>If not, she is not betrothed, and she does not need to annul the marriage.</p>
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While she does not have rights, a minor girl who has been betrothed only remains betrothed if she is over age 10, or if she between 6 and 10 and she comprehends what betrothal signifies. This appears to be a compromise, where Maimonides strives to hold with the law, while reflecting his principles on the matter at hand. I.e., as noted above, Maimonides deems it “fitting” for betrothals to occur once a woman can consent, but a father remains legally empowered to betroth his daughter while she is a minor. Thus, for a minor girl without a father, “בּוֹדְקִין אֶת יָפִי דַּעְתָּהּ” they check the elaborateness of her knowledge, to ascertain whether she understands what she is getting into.

Later in chapter 7, Maimonides addresses a scenario where a man seeks to betroth a friend's child who is still in utero, assuming the child is a girl.

Mishnei Torah, Ishut, 7:16

<p>הַאֹמֵר לְחֵבְרוֹ אִם יֵלְדָה אִשְׁתּוֹ נִקְבָּה הָרִי הִיא מְקֻדָּשֶׁת לִי בְּזֶה לֹא אָמַר כָּלוּם.</p> <p>וְאִם הִיְתָה אִשְׁתּוֹ חֵבְרוֹ מִעֲבָרָת וְהִכָּר הָעֶבֶר הָרִי זֶה מְקֻדָּשֶׁת.</p> <p>יִרְאֶה לִּי שְׂצָרִיךְ לְחַזֵּר וּלְקַדֵּשׁ אוֹתָהּ אַחֵר שֶׁתֵּלֵד עַל יְדֵי אָבִיהָ כְּדִי שֶׁיִּכְנִיס אוֹתָהּ בְּקִדּוּשֵׁין שְׂאִין בָּהֶן דְּפִי :</p>	<p>The one who says to his friend, if your wife gives birth to a girl, behold, she is betrothed to me with this; he didn't say anything [i.e., his statement has no legal force]</p> <p>But if his friend's wife is pregnant, and the pregnancy is visible, behold she [the unborn child] is betrothed.</p> <p>It appears to me that he needs to return and to betroth her after she is born, via her father's power, so that she will enter into an untainted betrothal.</p>
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Here Maimonides seems to try to have his cake and eat it, too. He concludes that an unborn girl can be betrothed, but her suitor needs to repeat the betrothal after the child is born, so that there is no “דְּפִי”/“reproach”. “Returning to the topic of betrothing minor girls, Maimonides appears to offer the girl or her father the option to change their minds:

Mishnei Torah, Ishut, 10:16

<p>הַמֵּאֲרֵס אֶת בִּתּוֹ קֹטְנָה וְתִבְעָה הַבֶּעַל לְנִשְׁוֹאִין.</p> <p>בֵּין הִיא בֵּין אָבִיהָ יְכוּלִין לַעֲכֹב שְׁלֹא תִנָּשֵׂא עַד שֶׁתִּגְדִּיל וְתַעֲשֶׂה נַעֲרָה וְאִם רָצָה לְקַנְסָה כּוֹנֵס. וְאִין רְאוּי לַעֲשׂוֹת כֵּן :</p>	<p>The one who betroths his minor daughter and the husband requests the marriage [take place while she is still a minor]. Either she or her father can prevent the wedding until she grows up and becomes a <i>na-arah</i>, and if he [still] wants to marry her, he marries her. It is not suitable to do thus.</p>
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Her suitor can still proceed with the wedding. We have already seen how Maimonides looks down upon betrothing minors, even though he recognizes that it doing so is legal. So, he reiterates that while it is “רְאוּי”/“unfitting”, it is legally permissible.

Commensurate with his penchant for detail, Maimonides outlines detailed *halacha* for inheritance rights, conjugal rights, and while doing so, he comments on a man's responsibility to provide for his children:

Mishnei Torah, Ishut, 12:14

<p>כָּשֶׁם שֶׁאָדָם חַיֵּב בְּמִזְוֹנוֹת אִשְׁתּוֹ כִּךְ הוּא חַיֵּב בְּמִזְוֹנוֹת בְּנָיו וּבָנוֹתָיו הַקָּטָנִים עַד שֶׁיְהִיוּ בְנֵי שֵׁשׁ שָׁנִים.</p> <p>מִכָּאן וְאֵילָךְ מֵאֲכִילָן עַד שֶׁיִּגְדְּלוּ כְּתִקְנַת חֲכָמִים.</p> <p>וְאִם לֹא רָצָה גּוֹעֲרִין בּוֹ וּמְקַלְיָמִין אוֹתוֹ וּפּוֹצְרִין בּוֹ. וְאִם לֹא רָצָה מְקַרִּיזִין עָלָיו בְּצַבּוֹר וְאוֹמְרִים פְּלוֹנִי אֶכְזָרִי הוּא וְאִינוֹ רוֹצֶה לְזוֹן בְּנָיו וְהָרִי פְחוֹת הוּא מַעוֹף טֶמֶא שֶׁהוּא זֶן אֶת אֶפְרוֹחָיו. וְאִין כּוֹפִין אוֹתוֹ לְזוֹנָם אַחֵר שֵׁשׁ :</p>	<p>Just as a person is obligated to sustain his wife, so he is obligated to sustain his minor sons and daughters, until they are six years old.</p> <p>From here and afterward, he provides them with sustenance until they grow, as the sages established.</p> <p>And if he didn't want to, they rebuke him and they shame him, and they urge him. And if he didn't want to, they announce about him in public, and they say, "so-and-so is cruel; he does not want to sustain his sons, indeed he is less than an impure bird, which feeds its fledglings". They do not force him to sustain them after six.</p>
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Here, we see a parallel toward Maimonides' attitude toward conducting a wedding before a girl reaches the age of majority. While it is a great moral failing deserving of grand public rebuke, a man is not legally obligated or forced to sustain his sons or daughters after they are six years old. Clearly Maimonides is confident that the escalating degrees of rebuke will be sufficient to coerce a father to fulfill not just his legal, but his moral obligation.

Shortly afterward, Maimonides elaborates on precisely what "sustaining" entails:

Mishnei Torah, Ishut, 13:6

<p>וְלֹא הָאִשָּׁה בַּלְבֵּד אֲלָא בְנָיו וּבָנוֹתָיו הַקָּטָנִים בְּנֵי שֵׁשׁ אוֹ פְחוֹת חַיֵּב לָתֵן לָהֶם כְּסוֹת הַמַּסְפָּקָה לָהֶם וְכֵלֵי־תַשְׁמִישׁ וּמִדּוֹר לִשְׁכֹּן בּוֹ.</p> <p>וְאִינוֹ נוֹתֵן לָהֶם לְפִי עֲשָׂרוֹ אֲלָא כִּפִּי צָרְכָן בַּלְבֵּד. זֶה</p>	<p>Not only for his wife, rather, his minor sons and daughters, ages 6 or less, he is obligated to give to them sufficient clothing, and household utensils, and lodging to dwell in.</p> <p>He does not give them according to his</p>
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הַכֵּל כֹּל מִי שֵׁשׁ לוֹ עָלָיו מְזֻנוֹת בֵּין בְּחַיָּו בֵּין אַחֵר מוֹתוֹ יֵשׁ לוֹ כְּסוּת וְכֵלֵי בֵּית וּמִדּוֹר	riches, rather, according to their needs alone. This is the general rule, any who have to sustain, whether he is alive or deceased, he has to: clothing, utensils, and a dwelling.
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“Sustaining” is not just comestible sustenance; it is the trifecta of food, clothing, and shelter. Interestingly, what a father owes is proportionate to his children’s needs “alone”, opposed to “עֲשָׂרוֹ”/“his own riches”. Presumably, children of higher station may have greater needs than those of lower social status, but irrespective, the lens is what the children need, not how wealthy the father himself is.

The Mishnah addressed how to handle small estates involving sons and daughters, and Maimonides expands the *halacha* to address such an estate with a widow and a daughter:

Mishnei Torah, Ishut, 19:21

הָנִיחַ אֵלְמָנָה וּבֵת מִמֶּנָּה אוֹ מֵאִשָּׁה אַחֶרֶת וְאִין בְּנִקְסִים כְּדִי שְׂיִזְוֹנוּ שְׁתֵּיהֶן הָאֵלְמָנָה נְזֻזָּת וְהַבֵּת תִּשְׁאַל עַל הַפִּתְחִים ...	He left a widow and a daughter from her or from another wife, and the estate cannot sustain the two of them. The widow is sustained, and the daughter begs at doors.
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The daughter is the one with the primary obligation to beg for sustenance, while the widow reaps what the estate can offer. The Ketubah serves as a creditor on the estate, one that takes precedence to the daughter’s inheritance. This is a striking parallel to the modern era, where many children, sons and daughters alike, see their inheritances reduced based on prenuptial agreements, their parents’ debts, or any other creditor with a legitimate claim on the estate.

Maimonides also addresses a variety of inheritance scenarios involving sons and daughters, each of which appears to be aligned with the *halacha* of the Mishnah. While doing so, he addresses the obligations of a suitor to a poor man's daughter:

Mishnei Torah, Ishut, 20:2

<p>פִּירֵשׁ עַל הַבֶּעַל שֶׁאֵין לָהּ כְּלוּם וְשִׁכְנִיסָנָה עֲרָמָה אֵין לָהּ כְּלוּם. וְלֹא יֹאמַר הַבֶּעַל כְּשֶׁתְּבוֹא לְבֵיתִי אֶכְסְנָה אֶלֹא מְכֻסָּנָה וְהִיא בְּבֵית אָבִיהָ ...</p>	<p>[The father] explicitly says to the husband that she has nothing, and he will marry her "naked", she has nothing. The husband will not say, when she comes to my house, I will clothe her, rather, he clothes her while she is in her father's house.</p>
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The suitor of the bride without a dowry clothes her while she remains in her father's house, before the marriage. This protects the bride from shame at the time of the marriage; she can go to her wedding with proper clothing and ornaments.

Custody is a common issue that arises from divorce, and Maimonides' *halacha* reiterates the primary theme we have seen thus far: articulating rights for children, without envisioning them playing a role in decision-making:

Mishnei Torah, Ishut, 21:18

<p>... הִיָּה הָאָב רָאוּי לְצַדָּקָה מִמֶּנּוּ הֲרָאוּ לוֹ בְּעַל כִּרְחוּ וְזָנִין אוֹתָהּ וְהִיא אֶצֶל אִמָּה וְאִפְלוּ נִשְׂאת הָאָם לְאַחֵר בֵּתָהּ אֶצֶלָהּ וְאָבִיהָ זָן אוֹתָהּ מִשּׁוּם צַדִּיקָה עַד שְׁיָמוּת הָאָב וְתִזְוֹן מִנְּכָסָיו אַחֵר מוֹתוֹ בְּתִנְאֵי כֶּתֶבָהּ וְהִיא אֶצֶל אִמָּה. וְאִם לֹא רָצְתָה הָאָם שְׂיִהְיוּ בָנֶיהָ אֶצֶלָהּ אַחֵר שֶׁגִּמְלָתָן אֶחָד זָכָרִים וְאֶחָד נְקִיבוֹת הֲרָשׁוֹת בְּיָדָהּ וְנוֹתְנָת אוֹתָן לְאָבִיהָ אוֹ מִשְׁלָכֶת אוֹתָן לְקָהָל</p>	<p>... The father was suitable for <i>tzadakah</i>, they collect from him what is suitable from him, even against his will, and they sustain her at her mother's place. Even if the mother is married to another, and her daughter [stays] with her, her father sustains her because it is <i>tzadakah</i>, until the father dies. She will be fed from his estate after his death as via a stipulation of the ketubah, even though she is with her mother. And if the mother does not want her children to be with her after they are weaned, males or females, it is her right to choose, and she can give them to their father, or she casts them off to the community.</p>
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אם אין להן אב והן מטפלין בהן:	If they do not have a father, then they [the <i>Kahal</i>] attend to them.
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The children themselves don't decide whose care they wind up in; that is their mother's prerogative. But like in the *Mishnah*, a girl's father is obligated to sustain her even if her mother remarries. Rabbi Steinsaltz clarifies that "הַיָּהּ הָאֵב רָאוּי לְצַדָּקָה" "the father was suitable for *Tzedakah*" refers to: "בעל ממון שיכול לתת מכספו לצדקה" / "a husband of wealth who can give from his funds to *Tzedakah*", i.e., a wealthy man. For such a person of means, they collect what is suitable for his daughter's sustenance, even if she remains in her mother's custody.

Following this, Maimonides describes how the special status of a bride or groom to be obviates the need for witnesses to contracts involving them:

Mishnei Torah, Ishut, 23:13-14

<p>וְכֵן הָאֵב שֶׁפָּסַק עַל יְדֵי בְנוֹ וּבִתּוֹ כְּמָה אֶתָּה נוֹתֵן לְבִנְךָ כָּךְ וְכָךְ וְכְּמָה אֶתָּה נוֹתֵן לְבִתְּךָ כָּךְ וְכָךְ וְעָמְדוּ וְקִדְּשׁוּ קֶנֶס אוֹתָן הַדְּבָרִים וְאִפּי עַל פִּי שְׁלֹא הָיָה בֵּינֵיהֶן קֶנֶס. וְאֵלּוּ הֵן הַדְּבָרִים הַנִּקְנִים בְּאֻמְרָה</p>	<p>... Similarly, a father negotiates for his son or his daughter. How much would you give to your son? Such and such; How much would you give to your daughter? Such and such They stand and they are betrothed. These matters are contracted. And even if there is not a contract between them. And these matters are established through speech [without a written agreement].</p>
<p>בְּמָה דְּבָרִים אֲמֹרִים בְּשִׁפְסָק הָאֵב לְבִתּוֹ בֵּין קֶטְנָה וּבֵין גְּדוּלָּה וּפָסַק הָאֵב לְבָנוֹ [בְּ:] וּבְנָשׁוּאִין רִאשׁוֹנִים שֶׁדַּעְתּוֹ שֶׁל אָדָם קְרוֹבָה אֶצֶל בְּנוֹ וּמֵרֵב שֶׁמִּחָתוֹ בְּנָשׁוּאִין הָרִאשׁוֹנִים גָּמַר וּמִקְנָה לוֹ בְּאֻמְרָה</p>	<p>In what case is this true? When the father promises for his minor or grown daughter, or the father promises for his son and for a first marriage Because a person is close to his son, and from an abundance of his happiness in the first wedding, he concludes and makes a contract orally.</p>

Betrothal not something children play a part in, but in a first marriage,

“הדברים הנקנים באמירה” “these matters are established through speech”. I.e., a Father can make a betrothal via an oral contracts. It is interesting to examine what elevates a father’s ability to do so: “שְׂדֵעְתוֹ שֶׁל אָדָם קְרוֹבָה אֵצֶל בְּנוֹ וּמֵרֵב שְׂמֻחָתוֹ בְּנִשְׁוֹאִין הָרָאשׁוֹנִים” / “because of a man’s close knowledge of his son, and from an abundance of his happiness in the first wedding”. There is something special about a father and his son, and his son’s first wedding that so moves the father, his words are sufficient to constitute a contract. There is an earnestness in this situation ensures a father’s integrity when betrothing his son.

Conclusion

The overwhelming theme across the Rabbinic perspective from the *Tannaim* through Maimonides is that children have rights in betrothal and marriage, but not agency. It is fitting to solicit a minor daughter’s consent for her marriage, but her consent is not required. The Mishnah indicates that adults can claim that they recognize handwriting of close relatives from childhood, but the *Gemara* clarifies this is only in circumstances where they are affirming the testimony of someone who witnessed the same handwriting while an adult. Otherwise, children – daughters, in particular – have rights regarding betrothals and marriage, intended to ensure that they receive the legal baseline for dowry or marriage settlement, and that divorce or other extenuating circumstances did not leave them trapped in a relationship or without sustenance. The *Gemara* and Maimonides go beyond the Mishnah, in the sense that they extend the same principles to additional cases of law. In addition, Maimonides confirms the *halacha* concerning obtaining a woman’s consent for betrothal, and how a father is not

obligated to sustain his children past the age of six, but he adds rationale for how going beyond the letter of the law is the moral thing to do.

Works Cited:

Blidstein, Gerald J.. *Honor Thy Father and Mother: Filial Responsibility in Jewish Law and Ethics*. United States, KTAV Publishing House, 2005.

Brown, Francis, et al. *The Brown-Driver-Briggs Hebrew and English Lexicon: With an Appendix Containing the Biblical Aramaic : Coded with the Numbering System from Strong's Exhaustive Concordance of the Bible*. Germany, Hendrickson Publishers, 1996.

Feinstein, Eve Levavi, "Purity of Priests: Contamination through Marriage" *TheTorah.com* (2017). <https://thetorah.com/article/purity-of-priests-contamination-through-marriage> Accessed 8 February, 2025.

Jastrow, Marcus. *A Dictionary of the Targumim, the Talmud Babli, and Yerushalmi, and the Midrashic Literature: Lamed-Taf, Index of scriptural quotations*. United Kingdom, Luzac & Company, 1903.

Steinsaltz, Rabbi Adin. *The Koren Talmud Bavli: Tractate Kiddushin*. Israel, Toby Press LLC, 2010.