

to have been a prominent donor to charitable causes. Irrespective of what the underlying reason may be, what emerges clearly from this *Sugya* is that guardians may allocate funds under their custody if and only if doing so either provides a future benefit to the orphans or counts as a commutative payment for benefits already received.

A second talmudic passage relevant to our question deals with cases of incapacity not due to being a minor (as is the case with orphans), but due to insanity and absence: ואמר רב חסדא אמר מר עוקבא מי שנשתטה בית דין יורדין לנכסיו וזנין ומפרנסין את אשתו ובניו ובנותיו ודבר אחר א"ל רבינא לרב אשי מ"ש מהא דתניא מי שהלך למדינת הים ואשתו תובעת מזונות בית דין יורדין לנכסיו וזנין ומפרנסין את אשתו אבל לא בניו ובנותיו ולא דבר אחר א"ל ולא שאני לך בין יוצא לדעת ליוצא שלא לדעת מאי דבר אחר רב חסדא (דבר אחר) is: אמר זה תכשיט רב יוסף אמר צדקה מ"ד תכשיט כ"ש צדקה מ"ד צדקה אבל תכשיט יהבינן לה דלא גיחא ליה דתינוול.⁸²¹ In order to understand the meaning and implications of this *Sugya*, its context must be taken into account. Tractate *Ketubot* deals mainly with marital rights and obligations, the Mishnah preceding the above passage rules that a husband is obligated to maintain his wife,⁸²² and the prior Gemarah discusses the husband's duty to provide his spouse with an honorable funeral. Given these marital obligations, our *Sugya* deals with the question of what occurs when a husband is no longer capable of fulfilling them himself. The first case is one in which the husband loses his sanity, thereby unintentionally becoming incapacitated. The *Beit Din* then becomes the guardian of his estate and provides for his wife and children and for the "other thing." A case in which the husband becomes

820 bKet 48a: And R. Chisda said in the name of Mar Ukba, "He who becomes insane, the *Beit Din* [rabbinic court] descends into his property [i.e., takes possession of his estate], and provides food and maintains his wife, and his sons, and his daughters, and anything else [lit. other thing]." Said Ravina to R. Ashi, "Why is this different from [the following] which has been taught, 'He who goes to a country [beyond] the sea [i.e., departs indefinitely] and his wife claims [maintenance] for food, the *Beit Din* descends into his property and provides food and maintains his wife, but not his sons nor his daughters, and neither anything else [lit. another thing].'" [R. Ashi] responded to him, "And do you not differentiate between someone who departs deliberately and someone who departs unknowingly?!"

821 Ibid.: What is [meant by] "anything else?" R Chisda responded, "This [refers to] cosmetics." R. Yosef responded, "*Tzedaqah*." He who says cosmetics, all the more so *Tzedaqah*. He who says *Tzedaqah* [limits his restriction to this], but cosmetics should be given to her because [the husband] would not be pleased if she loses her comeliness.

822 mKet 4,4. While parts of talmudic marital law can seem patriarchal by contemporary standards, it presented a progressive voice compared to the common gender inequality of its time by codifying specific, far-reaching, and binding womens' rights, alongside obligations for their spouses. For a critical and honest perspective on how the talmudic rabbis fostered gender equality alongside their patriarchal tendencies, see Hauptman, Judith, *Rereading the Rabbis: A Woman's Voice*, Boulder, CO, 1998.