

## CURRENT TALMUD PASSAGE

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Posted June 19, 2010, by Rabbi Judy Abrams. Please refer to Maqom's home page for information about previous passages.

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## **RABBI YEHUDA HANASI IS A LIBERAL!**

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Rabbi Yehudah HaNasi, aka Rabbi, the Bill Gates of his day and the sage who promulgated the Mishnah, is, according to the Yerushalmi, definitively liberal. Here is the text that tells us so:

In three places Rabbi Yehudah HaNasi is referred to as “our rabbis”: in regard to divorce, oil and a malformed fetus.

Rabbi says a woman does not have to bring an offering for a malformed fetus.

Rabbi and his court permitted oil prepared by non-Jews (M. Avodah Zarah 2:6).

As to the writs of divorce, the matter is covered in the following, which we have learned there in a Tannaitic tradition:

If the husband says: This is your get (=divorce certificate), to take effect when I die.” Or he says: This is your get (=divorce certificate) if I die from illness. Or he says: This is your get (=divorce certificate), after I die, he has said nothing. The get is invalid (M. Gittin 7:3).

But our rabbis said: This is a valid get (//T. Gittin 5:3).

Who are “our rabbis”? They are Rabbi Yehudah Hanasi and his court.

Rabbi Yehudah Hanasi and his court are called a permissive court. For any court that takes a lenient position in three matters is called a permissive court. (Y. Niddah 3:4//Y. Shabbat 1:4)

These positions need some explanation to uncover their liberality.

(1) Usually, a woman has to bring an offering after she gives birth. However, if she gave birth to a partially formed fetus, Rabbi Yehudah Hanasi rules that she does not have to bring the offering.

(2) Rabbi Yehudah Hanasi also permits the use of oil prepared by non-Jews. This really is a liberal ruling because we know from archeological remains of ancient oil presses that they had altars for sacrifices associated with them. However, Rabbi is not worried that this paganism will taint the oil. It is even recorded that he'd like to be able to eat their bread, as well, though he doesn't actually permit it (B. Avodah Zarah 35b).

(3) The business about the get is a little tougher to understand. The mishnah does not want to allow these confusing divorce documents (e.g., you can't divorce someone when you're dead) to stand. But Rabbi wants women to be able to

get divorces as easily as possible and permits all these forms of divorce. Apparently he was overruled in the Mishnah...but still made his opinion heard in Tosefta.

### **Discussion Questions:**

1. We sometimes assume in our world that those with money and position (and Rabbi had plenty of both) will not care about the poor who suffer misfortune (e.g., the woman who miscarried or gave birth to a non-viable fetus). What might account for Rabbi's great sensitivity?
2. In the matter of the oil, why do you think he permitted its use but not the bread of idolaters? Is it the eating that makes the difference? Can you think of an analogous situation in modern life? In modern life we also have the opposite: Jews who restrict their access to the outside world to an extreme extent. How might Rabbi address them if he were alive today?
3. Finally, why might Rabbi have been overruled in the Mishnah about the divorce documents to the extent that his true opinion only shows up in Tosefta? And it's interesting that the liberal view here is that a woman should be able to get a divorce whenever she wants it. Could today's halachic authorities learn something from Rabbi on this issue?

P.S. On a completely different subject: I live near the Gulf of Mexico and Louisiana is our next-door neighbor. I just want to know: is the oil spill looming over your lives the way it's looming over ours? For us it is tangible and frightening...especially as the only thing that seems like it's going to stop the leak is a relief well and I have no idea how quickly that can be dug. Your thoughts are always appreciated!