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Aging and the aged in Jewish law

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AGED PARENT TO NURSING HOME

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AGED PARENT TO NURSING HOME

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QUESTION: If an aged parent who now lives with his family is feeble to such an extent that he would be much better cared for in a nursing home, but if he strenuously objects to leaving the family home, what in the light of Jewish tradition can be done under these circumstances? (Asked by Rabbi Marc Saperstein, Canton, MA)

ANSWER: There is a great deal of writing, opinion, and law in Jewish tradition as to the duties of children to a parent. The original source of all the legislation on the subject is toward the end of Chapter 1 of Talmud *Kiddushin* (31 a If.), where the reciprocal duties of parents' obligations to children and children's obligations to parents are discussed in great detail. These Talmudic discussions were continued through the centuries and are now crystallized in a complete section in the *Shulhan Arukh*, Yoreh Deah 240 and 241, under the heading, "The Laws of Honoring Father and Mother."

These laws deal with the duty of respecting the dignity of the parent, of sustaining him and providing for him, and even of enduring the unreasonableness of a parent. See, for example, 240:8: "How far must the respect for parents go?"

Even if the parent took the son's purse of gold coins and cast it into the sea, the son must not shame the parent or lose his temper in his presence, but must accept the Scriptural mandate [of respect] and remain silent." One must not even annoy a parent. The Talmud (*Kid.* 31a) says: "God says if a man vexes his parent, God does not dwell in that house because, He says, 'If I dwelt there among them, they would vex Me too.'" These are cited as exemplifications of considerable detailed law of how the commandment of honoring parents was carried out to a most reverent extreme.

All of this is, of course, well known. But these laws become especially difficult to follow in modern times. In earlier years, there was no place for a parent who was failing in health to be taken care of except in the family home, but nowadays the situation has changed. Now there are homes for the aged with hospital facilities, and there are nursing homes devoted especially to the care of the aged. If these institutions are well conducted by responsible people, there is no question that the old person can be taken care of (at least from the physical point of view) much better than he could be taken care of at home, but the difficulty is psychological or emotional. Often, or even most of the time, the parent does not wish to leave the home of his dear ones and become a stranger among strangers, and his or her unwillingness to go must be counted as at least one element in the parent's welfare. If the parent finally consents against his or her will and leaves the house in bitter resentment, there can be estrangement in the family and even the loss of the will to recover health on the part of the parent. So, basically, this situation, when it arises, is a hopeless one, and there can be no easy solution.

Does Jewish tradition give us at least a modicum of guidance in this matter? In this regard there is a discussion which is given most fully in the Yerushalmi (also toward the end of the first chapter of tractate *Kiddushin*; it is found more briefly in our Babylonian Talmud at the bottom of page 31a). The statement is as follows: "It may happen that a son will feed his father the finest of food and yet the son deserves the punishment of hell. On the other hand, it may be that the son will bind his father to the millstone to grind grain and yet that son will deserve the blessing of Paradise. How can this be? In the first case, the father asks the son, "Where did you get all these dainties, my son?" and the son

answers gruffly, "Eat and be silent like a dog eats." In the other case, the heathen king had summoned all owners of grist mills to be captured into permanent slavery, and the son says to the father (who still owns the mill), "Father, I will say that I am the owner and will go and be enslaved in your place, while you will pretend to be a mere employee who is hired to grind the grain." This son who forces his father to a miserable task in order to save him from a worse misery deserves Paradise."

Evidently this supposed case was not looked upon as a mere hypothetical situation, but was considered to be expressive of an important line of action, for not only is it found in both Talmuds, but it is embodied, one might say, as law in the *Shulhan Arukh, Yoreh Deah 240:4*, Isserles. He says, "If the son makes the father grind at the millstone but his intention is for the benefit of the father, to save him from a worse situation, then the son should talk gently to the father and convince the father that his intention is for the father's benefit, until the father finally consents to grind at the millstone. This son will inherit Paradise."

The implication of this narrative embodied in the law is clear enough. It will often happen that the idea of leaving home and going to a nursing home is as bitter a prospect to the father as grinding at the millstone, but if it is not merely to relieve the children of the burden of his care, but is really for the benefit of the father, then it is the duty of the son or daughter to try, as Isserles says, to allay the objections and to persuade the parent until he consents.

In other words, whatever guidance this gives us is as follows: First the children must be sure of their motives. If they

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are sure that their motives are not selfish, but for the good of the parent, then it is their duty to reason with him until he consents, if only reluctantly. To insist that he leave the home over his strenuous objection would be wrong. It is their duty, as Isserles says, "to speak words of kindness to the heart of the father and to show the father that his intention is for his own good," and to keep up this gentle persuasion until the father consents.

ADDENDUM: As a matter of fact, the legal literature does contain something analogous to the modern practice of sending a parent to an institution such as an old folks' home. Maimonides (*Hilt Mamrim 6:10*, based upon the Talmudic incident of Rabbi Assi, *Kiddushin 31b*), says that if a parent has become insane and it is impossible for the child to take care of him, he may leave him to the care of others.

The Rabbi to that passage disagrees with Maimonides, but Joseph Caro defends Maimonides in his *Bet Joseph* to the *Tur* (*Yoreh Deah 240*) and embodies this as a law in his own *Shulhan Arukh* (*Yoreh Deah 240:10*).

Solomon B. Freehof, *New Reform Responsa*, #22, (Hebrew Union College Press, Cincinnati, 1980).