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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

The Mishnah had stated: Or, in the case of a Kohen's wife, 'I will restore you to your city' etc.

Abaye ruled: If a widow was married to a Kohen Gadol, it is the latter's duty to ransom her, since one may apply to her: Or, in the case of a Kohen's wife, 'I will restore you to your city', but if a mamzer or a nesinah was married to an Israelite the latter is under no obligation to ransom her, since one cannot apply to her: and take you again as my wife.

Rava said: A Kohen who is the husband of a woman who is forbidden to return to him because she is a captive is obligated to redeem her, but if she is forbidden to return to him because of a different prohibition, he is not obligated to redeem her.

The Gemora suggests: Let us say that this (*argument between Rava and Abaye*) is an argument among the Tannaim. The Baraisa discusses a case of someone who vows that his wife cannot benefit from him, and she then becomes a captive. Rabbi Eliezer says: He should redeem her and honor her *kesuvah* (*marriage commitment upon divorce*). Rabbi Yehoshua states: He must honor her *kesuvah*, but does not have to redeem her. Rabbi Nassan said: I asked Sumchos the following question: When Rabbi Yehoshua said that he honors her *kesuvah* and does not have to redeem her, was it a case where he made the vow against her and she then became a captive, or was it that she became a captive and he then made the vow? Sumchos replied: I did not hear anything clearly regarding

his position. However, it seems logical that it was when he made the vow first and she then became a captive; for if she became a captive first and then he pronounced the vow, this (law) will bring a husband to engage in a deception (*and pronounce a vow as an excuse not to redeem her*).

The Gemora concludes (its suggestion): It seems that the argument above is regarding the wife of a Kohen, with Abaye holding like Rabbi Eliezer and Rava holding like Rabbi Yehoshua.

The Gemora answers: No; the case is where she vowed not to have benefit from him and he upheld that vow. Rabbi Eliezer says: He still must redeem her, as he put her finger in between her teeth (*so to speak*) by upholding her vow. Rabbi Yehoshua says: She put her own finger in her mouth, by making the vow.

The Gemora asks: This explanation seems difficult. If according to Rabbi Yehoshua she places a finger between her teeth (she is primarily looked upon as the guilty party), why does he say that the husband must honor the *kesuvah*? Additionally, Rabbi Nassan said: I asked Sumchos the following question: When Rabbi Yehoshua said that he honors her *kesuvah* and does not have to redeem her, was it a case where he made the vow against her and she then became a captive, or was it that she became a captive and he then made the vow? Sumchos replied: I did not hear anything clearly regarding his position. If she is the one who pronounced the vow, why

should it make a difference if she made the vow first and then became a captive, or became a captive and then made the vow?

The Gemora therefore answers: The case must indeed be where he made the vow. Abaye can explain the Baraisa according to his reasoning, and Rava according to his reasoning. Abaye will explain according to his reasoning in the following manner: Regarding a widow married to a Kohen Gadol, everyone will agree that he, the Kohen Gadol, must redeem his wife (although he is obligated to divorce her), and regarding an ordinary Yisroel who is married to a mamzeres (*product of an illicit relationship*) or Nesinah (*from the nation who tricked Yehoshua into letting them become Jewish*), everyone will agree that he is not obligated to redeem her (for his stipulation to take her back could not take effect at the time that he made it, nor at the time when he must fulfill it). Regarding a Kohen who vowed not to have benefit from his wife, everyone would agree that he must redeem her, for it is the same case as a widow married to a Kohen Gadol. The argument is only regarding one who made such a vow upon the wife of a Yisroel. Rabbi Eliezer follows the beginning (at the time of the stipulation, and since at that time it took effect, so does the stipulation to redeem her), while Rabbi Yehoshua follows the end (and since there was a vow in the interim, he cannot take her back, and therefore, he is not obligated to redeem her).

Rava can explain the Baraisa according to his reasoning in the following manner: Regarding a widow married to a Kohen Gadol (where there are external reasons why she is prohibited to the Kohen Gadol), and regarding an ordinary Yisroel who is married to a mamzeres or Nesinah (where she is Biblically forbidden to him), everyone will agree that he is not obligated to redeem her (for the stipulation never takes effect). The argument is only regarding a case where one pronounced a vow upon his wife, whether she is the wife of a Kohen or the wife of a Yisroel. Rabbi Eliezer follows the beginning (at the time of

the stipulation, and since at that time it took effect – either to take her back to the city, in the case of the Kohen, or take her back as a wife, in the case of the Yisroel, so does the stipulation to redeem her), while Rabbi Yehoshua follows the end (and since there was a vow in the interim, he cannot take her back, and therefore, he is not obligated to redeem her). (51b4 – 52a3)

Redeeming a Wife in Captivity

The Mishnah had stated: If she was captured, he is obligated to ransom her etc.

The Gemora cites a Baraisa: If a woman is captured while her husband is alive and he dies while she is in captivity, the halachah is as follows: If he knew about her status when he was alive the inheritors must redeem her (from his estate). If the husband did not know, the inheritors are not obligated to redeem her.

The Gemora records an incident: Levi thought to act on the Baraisa in an actual case. Rav told him that Chavivi (*Rabbi Chiya*) had told him that the halachah does not follow this Baraisa. Rather it follows the Baraisa that states that if she was captured after the death of her husband, the orphans do not have to redeem her. Moreover, even if she was captured in the lifetime of her husband and her husband died while she was in captivity, the orphans do not have to pay to redeem her, as this is not within the requirement of “and I will return you as my wife.”

The Baraisa states: If she was captured and the kidnapers sought ten times her fair value for redemption, the first time (that this happens) he must redeem her. Afterwards, if he wants, he can, and if he does not want, he does not redeem her. Rabban Shimon ben Gamliel says: We do not redeem captives for more than they are worth for “the benefit of society” (that



captors should not thereby be encouraged to demand exorbitant prices for the ransom of their captive).

The Gemora asks: This implies that for their value they must be redeemed, even if their value is more than their *kesuvah* is worth. However, a similar Baraisa states differently: If a woman is captured and the captors sought ten times the value of her *kesuvah*, the first time, he must do so, and afterwards, if he wants, he can, and if he does not want, he does not redeem her. Rabban Shimon ben Gamliel says: If the price of her redemption is that of her *kesuvah*, he should redeem her, if not, he does not redeem her!?

The Gemora answers: Rabban Gamliel has two separate leniencies in this matter (*both are true; the husband is not obligated to redeem her if the amount is more than her value, and also if the amount is more than the value of her kesuvah*). (52a3 – 52b1)

Healing a Widow from the Kesuvah

The Mishnah states: If she is stricken, he is obligated to heal her. The Baraisa states: A widow is supported by the possessions of the orphans, and her needing to be healed is akin to basic support. Rabban Shimon ben Gamliel says: If it is healing that has a limited time, then it (the money) can be obtained through her *kesuvah*, but regarding healing that does not have a limit, is akin to basic support.

Rabbi Yochanan says: In Eretz Yisrael, they treated bloodletting treatments as healing that does not have a limit.

The Gemora records an incident: Rabbi Yochanan's relative had a widow of their father who needed treatment every day. They came before Rabbi Yochanan, and he said to them: They should come to terms with the doctor on a sum that would cover treatment for the rest of her life (and since it was one lump sum, it is not

regarded as support (which is a constant), and the relatives are not obligated to pay for it).

Rabbi Yochanan said: We made ourselves like the lawyers (*based on the Mishnah in Avos 1:8: one should not act as a lawyer to aid a litigant before a judge*).

The Gemora asks: Originally what did he hold (*when he gave his advice*), and in the end what did he hold (*when he regretted it*)?

The Gemora answers: Originally he held that he should give advice that was beneficial to his relatives, as the verse states: and from your kin do not hide yourself." In the end he held that an important person like himself cannot use this leniency (*for otherwise, people may learn from him and assist even non-relatives*). (52b1 – 52b2)

Mishnah

If a husband didn't write (*in the kesuvah*), "The male sons that I will have from you - they will inherit the money of your *kesuvah* in addition to their portion with their brothers," he is still obligated (*to fulfill this*) as this is a condition stipulated by *Beis Din*.

[If he didn't write:] "The female children that I will have from you - they will live in my house and be supported by my estate until they are taken as wives by men," he is still obligated (*to fulfill this*) as this is a condition stipulated by *Beis Din*.

[If he didn't write:] "You will live in my house and be supported by my estate as long as you are living as a widow in my house," he is still obligated (*to fulfill this*) as this is a condition stipulated by *Beis Din*.

This is how the people of Yerushalayim would write (*a kesuvah, including these conditions*). The people of the Galil would write like them. The people of Yehudah would



write: “[You will live in my house and be supported by my estate] until the inheritors wish to give you the *kesuvah*.” Therefore, if the inheritors wish, they can give her the (*value of the kesuvah*) and send her off. (52b2)

Analyzing “Banin Dichrin” (“Male Sons”)

Rabbi Yochanan said in the name of Rabbi Shimon ben Yochai: Why did they establish the *kesuvah* condition (*above regarding*) of male sons? It was in order that a person should give a dowry for a daughter like the inheritance inherited by his son.

The Gemora asks: Is it possible that in a situation where the Merciful One indicated that a son should inherit and not the daughter, that the Sages would institute that a daughter should inherit (*by giving her a large dowry, avoiding the potential inheritance by the son*)?

The Gemora answers: The inheritance of a daughter also has its roots in the Torah, as it is written: *Take wives and give birth to sons and daughters, and take wives for your sons and give your daughters to men*. It is understandable that he takes a wife for his son (*as it is the father’s responsibility*), but a daughter is not normally in his hands (*to actively search out for her a husband*)!? The verse must be teaching us that a man should dress his daughter well and give her a dowry, in order that other should jump at the chance to marry her.

The Gemora asks: How much should he give her?

Abaye and Rava both say: He should give up to a tenth of his possessions. (52b2 – 52b3)

The Gemora asks: Perhaps the sons should inherit only the money given by her father for her marriage purposes, but they should not inherit the *kesuvah* money (for that belongs to their mother only if she is divorced by him or if

she lives longer than him, and in this case, that does not apply, for she died first)?

The Gemora answers: If this would be the case, her father would also refrain from pledging money.

The Gemora asks: Perhaps it is only when the father gives a dowry that the husband’s *kesuvah* money should automatically go to her sons, but if the father does not give a dowry, the husband’s pledge should also not go to her sons?

The Gemora answers: The Sages did not make a distinction between cases in their standard conditions of *kesuvah*.

The Gemora asks: Let this also be true regarding a daughter (*from this wife*) among sons (*of a different wife*) as well?

The Gemora answers: the Sages made it like the laws of inheritance regarding sons.

The Gemora asks: Let this also be true regarding a daughter (*from this wife*) among daughters (*of a different wife*) as well?

The Gemora answers: The Sages did not make such a distinction.

The Gemora asks: Let them also be able to collect from movable possessions (*unlike the Gemora implied on 50b*)?

The Gemora answers: The Sages made it have the regular laws of *kesuvah*.

The Gemora asks: Let them collect from properties that have a lien on them?

The Gemora answers: The stipulation was based on inheritance (*not seizure*).

The Gemora asks: Let this even be true when there is not a dinar worth of property?

The Gemora answers: The Sages did not institute this condition when it would conflict with a Torah law of inheritance. (52b3 – 52b4)

INSIGHTS TO THE DAF

Why do Men Live Longer?

The Mishnah (*Yevamos* 38a) states: If while a woman was awaiting yibum, she inherited property from her father, and subsequently sold it or gave it away, Beis Shamai and Beis Hillel agree that it is valid. (Although Beis Hillel rules that a woman who is an arusah may not sell property in which she inherited, the yevamah is permitted to do so.)

The Mishnah asks: If she died, what shall they do with her *kesuvah* and with the property which comes in and goes out with her? (Does the yavam inherit her in the same manner that a husband inherits his wife?) Beis Shamai says: The husband's heirs divide it with the father's heirs (the woman's inheritors). Beis Hillel disagrees: The property remains with those that presently possess it. The *kesuvah* goes to the husband's heirs. The property which comes in and goes out with her goes to the father's heirs.

Tosfos asks: Why is Beis Hillel's ruling in this case different than the case in Bava Basra? The Mishnah there (158a) states: If a house fell on him and on his mother, killing them both, and we are uncertain which one of them died first. The son's heirs claimed that the mother died first and afterwards the son died. The mother's heirs claim that the son died first and afterwards the mother died. Beis Hillel rules that the property is divided between them. Why there does he rule to divide the estate and

here he rules that the property remains with those that presently possess it?

Tosfos answers: It is more common for a mother to die before the son; the Gemora in Bava Basra (108a) considers it a tragedy when a son dies in the lifetime of the mother. It is for this reason that Beis Hillel rules that the money is divided between them and we do not award the property to the mother's heirs.

Sheorim Mitzuyanim B'halacha asks: The Gemora in Bava Basra is referring to a case where the son died from a sickness while the mother was alive; the mother is in tremendous grief and sorrow, and that is when it is regarded as a tragedy. In our case, a house fell on top of both of them, and that is a tragedy in itself. Since both of them died, the tragedy is not any more if the son died moments before the mother?

He continues that Tosfos could have said like he said in Kesuvos (52a) in the name of the Yerushalmi: It is common for women to die faster than men do. This is because women are generally weaker due to childbirth and the raising of children. (Tosfos 83b)

Maharam Schiff asks: The language of the Yerushalmi would indicate that women naturally die early and not on account of being endangered due to childbirth.

The Ibn Ezra (*Vayikra* 21:2) states that a majority of the time, a male will live longer than a female.

DAILY MASHAL

Ransoming a Captive for More than their Value

This issue had an extraordinary public application about 700 years ago. The leader of Ashkenazic Jewry at the time was Rabbi Meir ben Boruch of Rottenberg. He was imprisoned by a German ruler, Rudolph, whose voracity

knew no bounds. Rabbi Meir (known as *Maharam Mi'Rottenberg*) was imprisoned until his death, and his body was not released. The community did not ransom him, as he himself had ruled. Seven years after his death, a private member of the community paid almost all of his own money to release the body, with the stipulation that he be buried next to him.

There is a question whether according to Rabban Shimon ben Gamliel a man would be permitted to ransom his wife if the ransom exceeds her worth. The Ritva holds that he may do so and the Chelkas Mechokeik disagrees.

The *Mishnah* in Gittin (45a) had stated: We do not redeem captives for more than their true value for “the benefit of the world.”

The *Gemora* inquires: Does “the benefit of the world” (with respect to redeeming the captives for more than their worth) relate to the burden which may be imposed on the community (they will all become impoverished), or to the possibility that the bandits will take more captives? [The difference would be in a case where a private individual, such as a relative, wishes to redeem him.]

Come and hear: Levi ben Darga ransomed his daughter for thirteen thousand golden *dinars*.

Abaye asked: But are you sure that he acted with the consent of the Sages? Perhaps he acted against their will!

Rashi explains that “more than their true value” is referring to the amount that they would fetch if they would be sold in the slave market.

The Meiri writes that their value is based upon their individual wealth and prominence.

The Radvaz rules that we may ransom any captive with the amount of money that is usual to redeem other captives during that time period.

He adds: It has become the custom to redeem captive for more than their worth in the market, for an elderly person or a minor are not worth more than ten *dinars*, and nevertheless, they are ransomed for more than one hundred *dinars*. His explanation why there is no concern that the bandits will take more captives is because the captives are not being ransomed for any more than their gentile counterparts. He concludes that nothing should be told to *Klal Yisrael* about this, for they are a charitable nation, and it is better for them to remain that way.

Tosfos and the Ramban disagree regarding the *halachah* if the captive himself is allowed to ransom himself for more money than he is actually worth

Food for Thought

*** Do we make a special *kesuvah* for *Kohanim*?

*** How do we evaluate the worth of a woman or anyone that is being held captive?

*** If a wife eats certain foods that are unhealthy and because of that she falls ill, is the husband required to pay for the doctor bills?

*** Is one Biblically obligated to provide a dowry for his daughter?