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Bava Basra Daf 109

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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

Order of Inheritance

The *braisa* had stated: “His relative” -- *she’eiro* refers to the father. [The *braisa* continued: This teaches that a father is before brothers when it comes to inheritance. One would think that he is even before the deceased’s son. This is why the verse states, “The close.” This teaches us that the closest one inherits.]

The *Gemora* asks: Perhaps we should expound the verse as follows: “His relative” -- *she’eiro* refers to the father. This teaches that a father is before the daughter when it comes to inheritance (for she never takes the place of the father). One would think that he is even before the deceased’s son. This is why the verse states, “The close.” This teaches us that the closest one inherits. [It would emerge that the following is the order of precedence with respect to inheritance: son, father, brother and daughter.]

The *Gemora* answers: Since with respect of *yibum*, a son and a daughter are the same; so too with regards to inheritance, a son and a daughter are the same as well.

The *Gemora* asks: Perhaps we should expound the verse as follows: “His relative” -- *she’eiro* refers to the father. This teaches that a father is before the father’s brothers when it comes to inheritance. One would

think that he is even before the deceased’s brothers. This is why the verse states, “The close.” This teaches us that the closest one inherits. [It would emerge that the following is the order of precedence with respect to inheritance: son, daughter, brother and father.]

The *Gemora* answers: A verse is not necessary to teach us that the father’s brothers do not precede the father, for the father’s brothers only inherit his son by virtue of the father. Is it logical to assume that if the father is alive, his brothers would inherit before him? [Obviously not!]

[It emerges that the order of inheritance is as follows: son, daughter, father, brother and father’s brothers.] The *Gemora* notes that this is the correct order of precedence even though the verses are not written in that order.

The *Gemora* cites another *braisa* that teaches us that the father precedes the brothers with respect to inheritance. It was taught: Rabbi Yishmael the son of Rabbi Yosi expounded: It is written: *If a man dies and he has no son, [then you shall “pass” his inheritance to his daughter]*. This implies that where there is a daughter, the inheritance is “passed” from the father (to the daughter), but the inheritance is not passed from the father where there are only brothers. [The father inherits before the deceased’s brothers.]

The *Gemora* asks: But perhaps we should expound in the following manner: Where there is a daughter, the inheritance is “passed” from the brothers (*to the daughter*), but the inheritance is not passed from the father even where there is a daughter. [*It would emerge that a father would inherit his son even where the deceased has a daughter!?*]

The *Gemora* answers: If so, the Torah should not have written “you should pass” at all. [*This wording is not necessary to teach us that the daughter inherits before the brothers, for the simple reading of the verse would tell us that. The words, “you shall pass” must be teaching us that when the daughter inherits, someone, namely the father, is being passed over. This teaches us that the father is passed over only when there is a daughter, not when there are only brothers.*]

The *Gemora* notes: The one who derives it (*that the father precedes the brothers*) from “you should pass” uses “his relative” -- *she’eiro* for that which was taught in the following *braisa*: “His relative” -- *she’eiro* refers to his wife. This teaches us that a husband inherits his wife.

The *Gemora* notes further: The one who derives it (*that the father precedes the brothers*) from “his relative” -- *she’eiro* uses “you should pass” for that which was taught in the following *braisa*: There is no one who passes an inheritance from one Tribe to another except a daughter, for her son and husband inherit her. [*If, for example, someone’s mother from a different tribe inherited her father (for she was an only child); when she dies, he will inherit her – causing an*

inheritance to transfer from one Tribe to another.] (109a – 109b)

Maternal Relatives are not Family

Rava explains why “his relative” -- *she’eiro* is referring to the father and not the mother (*although there is another verse where we see she’eiro is referring to the mother*). It is because it is written: *of his family*, and we know that only paternal relatives are called family; not maternal relatives.

The *Gemora* asks: Is it true that maternal relatives are not called family? But it is written: *And there was a young man out of Beislecham in Yehudah, of the family of Yehudah — who was a Levi, and he lived there*. Now, this is self contradictory, for it is said, *who was a Levi*, which clearly shows that he descended from Levi, and right before that it says, *of the family of Yehudah*, which clearly indicates that he descended from Yehudah!? Must it not then be concluded that his father was from the tribe of Levi and his mother was from Yehudah, and nevertheless, the verse speaks of him as the family of Yehudah!?

Rava the son of Rav Chanan replied: It is no proof, for he may have been a man whose name was Levi.

The *Gemora* asks: Micah said: *Now I know that Hashem will do good for me, seeing that I have a Levi as my priest*. Would he offer this praise because his name was Levi?

The *Gemora* answers: Yes! He was happy that he happened to obtain a priest whose name was Levi.



The *Gemora* persists: But was Levi actually his name? Surely his name was Yehonasan, for it is written: *And Yehonasan the son of Gershom the son of Menasheh - he and his sons were priests to the tribe of Dan!*?

The *Gemora* replies: But even according to your opinion we can ask: Was Gershom the son of Menasheh? Surely he was the son of Moshe!?! You must say that because he performed wicked deeds like Menasheh (son of Chizkiyah the king of Yehudah, who worshipped idols), the Scriptural text attributes him to Menasheh, so here also, it may be said that because he performed wicked deeds like Menasheh, who descended from Yehudah, the Scriptural text attributes his descent to Yehudah.

Rabbi Yochanan said in the name of Rabbi Shimon ben Yochai: One may infer from here that Scripture connects corruption to the corrupt. The *Gemora* cites another example of this.

Rabbi Elozar said: One should always attach himself to good people (*marry into their families*), for behold, from Moshe, who married the daughter of Yisro, there descended Yehonasan, while from Aharon, who married the daughter of Aminadav, there descended Pinchas.

The *Gemora* asks: But did not Pinchas descend from Yisro? Surely it is written: *And Elozar the son of Aharon took one of the daughters of Putiel as a wife!* Does this not mean that he descended from Yisro who fattened calves for idol worship?

The *Gemora* answers: No! It means that he descended from Yosef who overcame his passions.

The *Gemora* asks: Didn't the tribes scoff at him (*when he killed Zimri*) and say: Have you seen this Puti-son? Have you seen this youth whose mother's father fattened calves for idol worship; should he be the one to kill the Nasi of a tribe in Israel!?

The *Gemora* answers: Rather, if his mother's father descended from Yosef, his mother's mother descended from Yisro, and if his mother's father descended from Yisro, his mother's mother descended from Yosef. The *Gemora* adduces proof to this from the Scriptural text. (109b – 110a)

HALACHOS OF THE DAF

Order of Inheritance

When one dies, his estate gets inherited. There is a specific order or hierarchy as to who inherits the deceased's property.

- 1) His son.
- 2) If the son is not alive, then his children (*sons and daughters*) inherit. If they died, then their offspring inherits, if they too died, then *their* offspring inherits. We continue searching down the generations until we find living offspring (*until the end of generations*).
- 3) If no offspring of the son can be found (*or more commonly, the deceased never had a son*), then the daughter inherits.
- 4) If the daughter is not alive, then her offspring inherits, until the end of generations.
- 5) If no offspring of the daughter can be found, then the next in line is the deceased's father.

- 6) If the father died, then the inheritance goes to the father's sons (*i.e. the deceased's brothers*).
- 7) If there aren't any brothers that are still alive, then it goes to their offspring until the end of the generations.
- 8) If there aren't any of their offspring that are living, then it goes to the deceased's sisters.
- 9) If they are no longer alive, then it goes to their offspring until the end of generations.
- 10) If all those offspring died, then it goes to his paternal grandfather.
- 11) If he too died, then it goes to his sons (*i.e. the deceased's uncles*).
- 12) If they too died, then it goes to their offspring until the end of generations.
- 13) If all of them died, then it goes to the paternal grandfather's daughters.
- 14) If they too died, then it goes to their offspring until the end of the generations.
- 15) If all of them died, then it goes back up a generation to the paternal grandfather's father.
- 16) If he too died, then it goes to his sons. If they died, then it goes to their offspring. If they too died, then it goes to the paternal grandfather's father's daughters. If they died, then it goes to their offspring. If all of them died, we continue to back it up a generation; father, sons, offspring, daughters, offspring. Previous generation - father, sons, offspring, daughters, offspring. Previous generation - father etc. etc.

The mother was not given a place in the order of the inheritance. The reason being, the Torah does not recognize the mother as part of the family in regard to inheritance.

Therefore, a mother cannot inherit her son or daughter. Nor can the mother's sons (*i.e. the deceased's step-brothers*) inherit. However a man can inherit his mother, and if there aren't any of his offspring that are alive, then a woman can also inherit her mother.

DAILY MASHAL

Disgrace with a Profit

Our *Gemora* relates that the people began to insult Pinchas after he killed Zimri. The Chasam Sofer explained that this did not occur for no purpose.

Avos deRabbi Nasan (Ch. 38) recounts that when Rabban Shimon ben Gamliel, the leader of all Israel, and Rabbi Yishmael ben Elisha, the *kohen gadol*, were being brought to their deaths, Rabban Shimon ben Gamliel wondered why they were being killed as if they had desecrated Shabbos or worshipped idols. Rabbi Yishmael told him, "Maybe when you taught on the Temple Mount and all the people were before you, you became proud."

We thus see that pride resulting from a good deed, even if done for a holy purpose, causes a person to lose his merit. Hashem therefore caused the people to insult Pinchas after he killed Zimri so that he would not lose any portion of his reward. *Midrash Rabbah* thus interprets the verse "I give him my covenant in peace" (Bemidbar 25:12) as meaning that he **rightfully** took his reward.