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DAF Notes
Insights into the Daily Daf
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Kesuvos Daf 43

Daf Notes is currently being dedicated to the neshamot of

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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 Daughter's Earnings

Rabbi Avina inquired of Rav Sheishes: If the daughter is being supported by her brothers (*as stated in the kesuvah; all daughters will be supported from the father's estate until they marry or become a bogeres*), who has the rights to her earnings? Do the brothers take the place of their father, and just as her earnings would have belonged to the father, so too now, they belong to the sons? Or, perhaps, we should not compare the brothers to the father. The father is entitled to her earnings because he supports her, but the brothers are not supporting her from their money; they are supporting her from their father's estate, and therefore, they should not be entitled to her earnings.

Rav Sheishes responds: We have learned in the following *Mishnah*: A widow is supported from the property inherited by the orphans and they are entitled to her earnings (*proving that the brothers should be entitled to the daughter's earnings*).

The *Gemora* objects to this proof: How can the two cases be compared? The reason that the orphans are entitled to the widow's earnings is because the husband (*when writing the kesuvah*) does not desire that his widow should profit at the expense of the sons. However, in respect to the daughter, the father does desire that she should profit (*and keep her earnings*) even at the expense of the brothers (*because this way, she will have a larger dowry and will be more desirable to marry*).

The *Gemora* asks: Do you mean to say that the man has preference for his daughter over his widow? But Rabbi Abba said in the name of Rabbi Yosi: The relationship between a widow and her daughter, in the case of a small estate (*which does not suffice for the maintenance of the dependents of the deceased man for a period of twelve months*), has been put on the same level as that of the relationship between a daughter and her brothers. Just as in the case of the relationship between a daughter and her brothers, the daughter is supported while the brothers can go begging at people's doors, so also in the case of the relationship between a widow and her daughter, the widow is supported and the daughter can go begging at people's doors (*this proves that there is a preference to the widow over the daughter*).

The *Gemora* answers: As regards against degradation (*begging for money*), a man gives preference to his widow; as regards to profiting, he gives preference to his daughter.

Rav Yosef asks on the ruling of Rav Sheishes (*that the earnings of the daughter belong to the brothers*) from our *Mishnah* which states: Her earnings and what she finds, even though she did not collect them, and the father died, they then belong to the brothers. It would seem that the reason the brothers are entitled to her earnings is because they originated while the father was alive; however, if they originated after his death, they would belong to her. Isn't our *Mishnah* discussing a case where

the brothers were supporting her (*and still the earnings belong to her*)?

The *Gemora* answers: No! The *Mishnah* is referring to a case where the brothers are not supporting her (*there was no inheritance from the father*).

The *Gemora* asks: If the *Mishnah* is discussing a case where the brothers are not supporting her, what was the *Mishnah*'s necessity to state this case? For even according to the one who ruled that a master is entitled to say to his slave, "Work for me, but I will not maintain you," this ruling applies only to a Canaanite slave concerning whom "*for it is good for him with you*" was not written in the Torah, but not to a Hebrew slave concerning whom "*for it is good for him with you*" was written in the Torah. How much more so that he cannot say this to his daughter?

Rabbah bar Ulla answers: The *Mishnah* is discussing a case where the brothers are not supporting her, but the *Mishnah* is teaching us that even the extra income that she is earning (*if it exceeded the cost of her maintenance*) belongs to her and not to the brothers.

Rava asked: Could it be that such a great man as Rav Yosef did not know that the *Mishnah* may be referring to a case of an extra income when he raised his objection?

Rather, Rava explains: Rav Yosef raised his objection from our very *Mishnah*, for it was stated: Her earnings and what she finds, even though she did not collect the. From whom is she to collect anything she finds? Consequently it must be conceded that it is this that was meant: Her earnings is similar to anything that she finds; just as anything she finds belongs to her father, if she finds it while he is alive, and she may keep her findings if she finds it after his death. So too, in the case of her earnings; if it was done while her father was alive, it belongs to her father, but if it was done after his death, it belongs to herself. Thus, it may be proven that she may keep her earnings even if she is being supported by the brothers.

It was also stated: Rav Yehudah said in the name of Rav: Even if a daughter is being supported by the brothers, she is entitled to keep her earnings.

Rav Kahana asks: what is the reason for this?

He answers: It is written: *And you will bequeath them to your sons after you*. This implies that only they (*Canaanite slaves*) are passed on as a heritage to your children, but your daughters are not to be passed on as a heritage to your children. This proves that a father does not bequeath to his sons the rights to his daughter's earnings.

Rabbah asked: Perhaps the Torah speaks of fines in connection with the seduction of one's daughter, fines (for violation) and for bodily injury (but her earnings belong to her brothers)? And so did Rabbi Chanina teach in a braisa: The Torah speaks of fines in connection with the seduction of one's daughter, fines (for violation) and for bodily injury.

The Gemora interrupts with a question: Isn't bodily injury something that is physical pain (and the money generated by the daughter's person pain does not belong to the father)!?

Rabbi Yosi bar Chanina said: We are referring to a case where she was injured in her face (and since that depreciates her value, the compensation for it belongs to her father).

Rav Zeira stated in the name of Rav Masnah who said it in the name of Rav; others assert that it was Rabbi Zeira (after he ascended to Eretz Yisroel and was Rabbinically ordained with semichah) stated in the name of Rav Masnah who said it in the name of Rav: A daughter who is maintained by (the estate inherited by) her brothers –

her earnings belongs to herself, for it is written: *And you will bequeath them to your sons after you*. This implies that only they (*Canaanite slaves*) are passed on as a heritage to your children, but your daughters are not to be passed on as a heritage to your children. This teaches us that a father does not bequeath to his sons the rights to his daughter's earnings.

Avimi bar Pappi said to him: The diligent one made this statement!

The Gemora asks: Who is the diligent one? It is Shmuel; but surely, was it not Rav who made this statement?

The Gemora answers: Say that the diligent one also made this statement.

Mar the son of Ameimar said to Rav Ashi: The Nehardeans have laid down: The law is in agreement with the ruling of Rav Sheishes (when the daughter is supported by her brothers – her earnings belong to them). Rav Ashi, however, said: The law is in agreement with Rav (that her earnings belong to her).

The *Gemora* concludes that the *halachah* is indeed according to Rav. (43a1 – 43b1)

Mishnah

The *Mishnah* states: If a man gives his daughter (*who is a minor or a na'arah*) in betrothal, and he divorced her, and then, the father gave her in betrothal again, and she was widowed, her *kesuvah* (*from both marriages*) is his. If he gave her in *nisuin*, and he divorced her, and then, the father gave her in *nisuin*, and she was widowed, her *kesuvah* (*from both marriages*) belongs to her. Rabbi Yehudah says: The first *kesuvah* belongs to the father. They said to him: After he gave her in *nisuin*, her father has no authority over her. (43b1)

Two Occurrences

The *Gemora* comments: By the fact that the *Mishnah* stated a case where she was married and divorced, and married again and widowed, this would imply that had the case been that both her husbands had died, she would be labeled a *katlanis* (*a woman that kills her husbands*), and she would not be permitted to marry again. It emerges that there is an anonymous *Mishnah* that is following Rebbe's opinion, for Rebbe maintains that we can establish a chazakah (*a presumption that something will happen*) based on two occurrences (*and it is not necessary to have three occurrences*). (43b1 43b2)

Rabbi Yehudah's Reason

The Mishnah had stated: Rabbi Yehudah says: The first *kesuvah* belongs to the father.

The *Gemora* asks: What is Rabbi Yehudah's reason?

Rabbah and Rav Yosef both say: The father acquires the right to her kesuvah from the moment of her betrothal (erusin).

Rava asks from a braisa: Rabbi Yehudah said: The first *kesuvah* belongs to the father. And Rabbi Yehudah admits that if the father gives his daughter in erusin when she is a minor, and then she became a bogeres, and afterwards she is taken in nisuin, - that her father has no authority over her (and he does not get her kesuvah). Why is this? Here also, let Rabbi Yehudah say that the kesuvah should belong to the father because he acquires the right to her kesuvah from the moment of her betrothal?

Rather, if it was stated, it was stated as follows: Rabbah and Rav Yosef both say: The father is entitled to her *kesuvah* even after *nisuin* because the *kesuvah* was written while she was still under her father's jurisdiction

(*since most kesuvah's are written immediately prior to the nisuin; at that time, if she is a minor or a na'arah, the father has jurisdiction*). (43b2)

From When May She Collect?

The *Gemora* inquires (a*ccording to Rabbi Yehudah*): As to the collection of the *kesuvah*, from which date may she collect (*the properties sold by her husband between the date of the betrothal and that on which the kesuvah was written; do we say she may collect the property from the purchasers because the husband becomes Rabbinically liable for the kesuvah at the time of erusin or do we say that she may only collect properties sold by the husband after the kesuvah was actually written*)?

Rav Huna replied: The hundred or the two hundred *zuz* (*the regular obligation of the kesuvah*), she may collect the properties sold from the date of the betrothal (*since the lien took effect from then*) and the additional amount of the *kesuvah* (*which varies according to their specific arrangement*) she may collect from the properties sold after the *nisuin*. Rav Assi, however, replied: Both amounts may be collected only from the date of the *nisuin* (*having accepted the written hesuvah that bore the later date on which her nisuin took place, the woman is assumed to have waived her rights to the original lien, which she had acquired earlier on betrothal, in favor of her new advantages as well as any disadvantages that were conferred by the written document*).

The *Gemora* asks: How could Rav Huna have issued such a ruling? Has it not been stated: If a wife produced against her husband two *kesuvos,* one for two hundred, and one for three hundred *zuz*, she may, said Rav Huna, collect the properties sold from the earlier date if she wishes to collect the two hundred *zuz*, but if she desires to collect the three hundred *zuz,* she may only collect properties sold after the later date. Now, if the ruling were as stated, she should be entitled to collect property two hundred *zuz* from the earlier date and property worth one hundred from the later date?

The *Gemora* replies: But even according to your understanding, it might equally be challenged that she should be able to collect for all the five hundred *zuz*, two hundred from the earlier date and three hundred from the later date? What then is the reason why she cannot do so? It is obviously because the man did not write in the *kesuvah*, "I willingly added to you three hundred *zuz* to the two hundred." He must have therefore meant: "If you desire to collect from the earlier date, you may collect no more than two hundred, and if you desire to collect from the later date, you may collect three hundred."

Here also, the reason why she cannot collect two hundred from the first date and one hundred from the second date is because he did not write in the *kesuvah*, "I have willingly added a hundred *zuz* to the two hundred," she, having accepted the *kesuvah* obviously is waiving her right to the first lien. (43b2 – 44a1)

INSIGHTS TO THE DAF

Delayed Chupah

Rashi explains the *Gemora* Kesuvos (43b) according to the one that maintains that an *arusah* is entitled to a *kesuvah*, and that she may collect from the properties sold by her husband afterwards since there was a lien on his property. The Rambam, however, disagrees and holds that an *arusah* is never entitled to collect from the property that her husband sold, even if he wrote for her a *kesuvah*. This document is inferior to all other documents. Shulchan Aruch (E"H, 55:6) rules like this, as well.

There are many times that a *kesuvah* is written by day, but the *chupah* does not occur until past sunset. In order that the document should not be regarded as an "early

document (*if the date written is earlier than when the event took place*)," it is customary for those arranging the marriage (*mesader kiddushin*) to have the *choson* make a *kinyan* before sunset that he is obligating himself to all that is written in the *kesuvah* from now. In this manner, the *kesuvah* will be valid.

Rav Elyashiv writes that it is preferable to draw up a new *kesuvah* with the later date, for according to the Rambam, the woman will not be able to collect from properties sold by the husband since a *kesuvah* written prior to *nisuin* is an inferior one.

DAILY MASHAL

SHMUEL

In our Gemora, Shmuel is referred to as "Shakud," the diligent one. Rashi explains: This is because Shmuel was extremely careful to speak the true halachah. In Bava Metzia, he is dubbed "yarchaniah," because of his astronomical knowledge. This is based on the word "yarei'ach" meaning "moon."

Why is Shmuel referred to as King Sh'vor in other places? Rashbam explains that King Sh'vor was a king of Persia. The halachah is according to Shmuel in all monetary cases, so it is fitting to refer to him as a king. Rashi in Pesachim adds that Shmuel was an expert in monetary law. We therefore follow his opinion in this area, and his word is treated as law just as if it would be a ruling issued by a king. The Aruch explains that Shmuel earned this title because he was well respected and revered, just as King Sh'vor was revered among the nations. Seder HaDoros rejects this approach, as it would not be an honor to compare the erudition of Shmuel and the respect he earned to the honor of a gentile king. Rather, Shmuel was given this title because he was held in high esteem by King Sh'vor, and he was often invited to visit and consult with the king, as we find on several occasions.

We find in Bava Metzia that Rebbe wished to confer Shmuel with rabbinic ordination, but he was never successful in doing so. Shmuel told Rebbe that he found a reference in Sefer Adam HaRishon that he, Shmuel, was to be a wise man, but would never be granted semichah. Because it is inappropriate for a student to call his rebbe by his first name, and Shmuel could not be called Rebbe, there was a need to use other titles for his students to use when addressing him. This could explain why sometimes he is referred to as "Mar," meaning "master."

It emerges that although Shmuel himself was content to be known simply as Shmuel, his colleagues looked for other titles to describe their extraordinary contemporary.

Daf Digest and History of the Jewish People