

OVERVIEW of the Daf

1) Admitting to an obligation to pay a fine (cont.)

Rabbah concludes defending his position (namely, that it is considered as if one took an oath about money, in a case where the accuser claimed that the defendant was already convicted in another court and the defendant took an oath denying the claim and subsequently he admitted that he lied) by explaining the dispute between R' Shimon and Rabanan.

2) The earnings of a girl supported by her brothers

R' Avina asked R' Sheishes who has the right to the earnings of a girl supported by her brothers.

R' Sheishes responded that the earnings belong to the brothers.

The rationale of R' Shishes is unsuccessfully challenged.

R' Yosef unsuccessfully challenged the ruling of R' Shishes.

Rava reinterpreted R' Yosef's challenge in a more acceptable way that leads to the conclusion that a girl supported by her brothers keeps her own wages.

This conclusion is supported by a ruling of R' Yehudah in the name of Rav.

R' Kahana suggests a Biblical source that a girl's earnings do not go to her brothers.

Rabbah challenges this explanation.

Rabbah's suggested explanation is unsuccessfully challenged.

Rav is cited again as ruling that a girl keeps her earnings even if she is supported by her brothers.

Avimi bar Pappi states that Shmuel also holds that she keeps her earnings.

The Gemara rules in accordance with Rav's position.

3) MISHNAH:

The Mishnah presents a discussion of when the kesubah is paid to a girl's father and when the money is paid to the girl.

4) Establishing a presumption of danger

The Gemara infers from the wording of the Mishnah that a woman establishes a presumption of being a dangerous wife after only two husbands die, in accordance with the position of Rabbi.

5) R' Yehudah's position

Rabbah and R' Yosef suggest a rationale for R' Yehudah's position in the Mishnah.

Rava successfully challenges this explanation.

The Gemara offers an alternative version of Rabbah and R' Yosef's explanation.

6) Collecting from encumbered property

R' Huna and R' Assi dispute whether the husband's property is encumbered for the basic kesubah obligation from the betrothal or the marriage.

The Gemara unsuccessfully challenges whether R' Huna indeed maintains that the husband's property is encumbered for the basic kesubah obligation from the time of the betrothal. ■

Distinctive INSIGHT

The wages of a orphaned girl below age twelve

איתמר נמי אמר רבי יהודה אמר רב: בת הניזונת מן האחין מעשה ידיה לעצמה. אמר רב כהנא מאי טעמא? והתנחלתם אותם לבניכם אחריכם- אותם לבניכם ולא בנותיכם לבניכם. מגיד שאין אדם מוריש זכות בתו לבנו

The halacha taught by Rabbi Yehuda in the name of Rav is that the income of an orphaned girl does not go to her brothers. While he is alive, the father is the recipient of any income generated by his daughter, until she is twelve and a half years old. Generally, any assets of the father are inherited by the sons. In this case the girl keeps any income she earns for herself.

Rav Kahana explains that the source for this ruling is a verse (Vayikra 25:46): "You shall keep them in your possession for your sons..." from which we see that only slaves are to be inherited by one's sons, but the right to one's daughter's assets, including her earned wages, are not inherited by one's sons.

Tosafos notes that the fact that the father himself has the right to the monetary gains of his daughter is derived from the Torah's association between a maidservant and a daughter. The law is that the father may sell his daughter as a maidservant. Just as the productivity of a maidservant is owned by her master, so too are the earnings of a daughter owned by the father. Yet, we follow this logic and say that just as a maidservant does not work for the son of her master when the master dies, so too a daughter does not work for the sons of her father upon the death of the father (Kiddushin 17b). This being the case, asks Tosafos, why does Rav Kahana cite a special verse from Vayikra to teach this halacha? Would it not be evident based upon the source from which we learn the details of how a maidservant and daughter relate to their master/father?

Tosafos answers, in the name of רשב"א that the verse is needed to teach the law regarding a girl younger than 12. The association between a daughter and a maidservant refers to a girl who is a נערה. The fact that the wages of a girl who is under age 12 go to her father is learned from a קל וחומר. If the father can sell her as a maidservant, he certainly is in control of her earning power. Therefore, there would be no reason to assume that this privilege cannot be transferred to the sons (brothers of the girl) upon the death of the father. This, then, is the reason Rav Kahana cites a different verse to teach that even in this case, when the girl is below age twelve when the father dies, her earnings will not transfer to the brothers in inheritance. ■

HALACHAH Highlight

Collecting one of two kesubos

והאתמר הוציאה עליו שתי כתובות אחת של מאתיים ואחת של שלש מאות וכו'

But didn't we learn: If a woman produced two kesubos, one worth two hundred and one worth three hundred...

When a certain couple married, the husband wrote a regular kesubah for his wife in accordance with halacha. Additionally, he wrote a kesubah worth twice that amount as was customarily done in the Arab courts. When the husband died the widow filed to collect the kesubah worth the higher amount and Shimon, the orphan's guardian, argued that the higher-valued kesubah is not in accordance with halacha and should be dismissed. The widow's response was that she deserves to be paid the higher value since her husband accepted that obligation upon himself and this is the common practice in her community. The matter was presented to Rabbeinu Yitzchok bar Sheishes¹, the Rivash for a decision.

Rivash responded that the following principles emerge from an analysis of our Gemara. If the two kesubos are of equal value and neither one provides a stronger lien than the other the more recent kesubah nullifies the first. On the other hand, if the two kesubos were not written for the same value or if they were written for the same value but the lien that is granted to

REVIEW and Remember

1. Does a man favor his daughter or his wife?

2. Is a person obligated to support his non-Jewish slave?

3. Who was known as "the diligent one"?

4. What is the halacha when a woman produces two kesubos for collection?

the wife is different, then both kesubos are valid and the woman has the choice which of the two kesubos she wants to collect. This latter rule, continues Rivash, is the one that applies in this circumstance since the two kesubos are different in both ways. The one written in accordance with halacha is worth half the value of the Arab kesubah and the two kesubos provide different advantages concerning the collection of the kesubah. The kesubah written in accordance with halacha allows the wife to collect certain stipulated payments (תנאי כתובה) even if they were not recorded. On the other hand the kesubah that conforms to the Arab standards allows her to collect from the creditors of the husband. Consequently, she has the option to collect either kesubah she chooses. ■

1. שו"ת הריב"ש סי' קע"ד. ■

STORIES Off the Daf

Healthy Diligence

"...שקוד אמרה..."

Avimi Bar Papi calls Shmuel "שקוד." The Aruch explains that because Shmuel learned with great diligence (that he was a shakdan), the halachah follows him in money matters.

One of the most essential elements in achieving Torah greatness is learning with diligence. Of course, one must spend sufficient time sleeping, eating, and exercising, but each person's needs are entirely subjective. For example, some need more activity and some less. While Rav Yitzchak Ruderman, zt"l, was in Slobodka, his practice was to learn a certain amount and then take very long walks in the woods of Lithuania reviewing by heart and contemplating what he had learned.

During that time, many simple people didn't understand the importance of hasmadah, of dedicating as much time as one possibly can to one's studies. Such people were under the impression that there is no real difference between learning more or less time, so even if they could learn more they would stop with the little that they considered sufficient.

The truth is that hasmadah is so essential for development in learning that some gedolei Yisroel were forced to decompress for long stretches of time to recover from overexertion. It took them time before they learned how to balance their hasmadah with their limitations. Rav Yisrael Salanter, zt"l, and other great Chachamim had to take a year off from learning with intensity to recover from having overextended themselves.

Once, at an eastern European doctor's convention, the subject of the "unhealthy" intense learning of yeshiva

students came up. The doctors were troubled that some yeshiva students overexerted themselves and didn't get sufficient exercise. They decided to lobby the government to pass a law that would force all yeshiva students to spend a few hours exercising and resting in the middle of the day. They felt that it didn't matter if the students learned significantly less, since the most important issue was their health. After all, what difference does it really make if these students learn more or less?

When the Chofetz Chaim, zt"l, heard about this he proclaimed, "It says about Sinai that 'all who touch the mountain will die.' How much more so is one in danger if he tries to touch the Torah itself by disturbing these young men from their studies! Such a person will pay for this terribly!" Understandably, when the doctors heard the warning they backed down. ■

