

OVERVIEW of the Daf

1) The yavam's rights to his brother's estate (cont.)

The Gemara concludes its explanation of why R' Nachman did not consider the cited Baraisa to be authoritative.

Rava comments that Abaye also considered this Baraisa to be erroneous, but he did not understand why.

Another incident is presented involving two brothers who attempt to divide their deceased brother's estate before the older brother performs yibum.

Mar the son of R' Ashi ruled that a kinyan will not make the division effective if it is done before the yibum is performed.

A related possible contradiction between two rulings of R' Yochanan is resolved.

2) The validity of the sale of property by the yavam

Ulla rules that a yavam may not sell his deceased brother's property after he performs yibum nor may he sell the property before he does yibum.

R' Sheishes notes that the second ruling seems obvious in light of the first ruling.

The Gemara answers that the two rulings were issued separately.

Reish Lakish is cited as ruling along the same lines as Ulla.

The Gemara rules in accordance with Ulla and Reish Lakish.

3) Clarifying the Mishnah

The Gemara emends the ruling of Chachamim, and the produce that comes from the ground is hers rather than his.

R' Yosi the son of R' Chanina explains that the Mishnah's reference to a yevama becoming the yavam's wife for all matters indicates that he can divorce her with a גט and remarry her as well.

The novelties of these two rulings are explained.

The Gemara explains why the yevama's kesubah comes from her deceased husband's estate and notes that if the deceased husband did not leave any property her kesubah will come from the yavam.

It is explained why the Mishnah teaches that a husband may not say to his wife that her kesubah money is on the table, once the Mishnah already ruled that a yavam may not make that statement to his yevama.

A phrase of the Mishnah is understood as proof to R' Abba's earlier ruling that a yavam may not sell his deceased brother's property unless he divorces his yevama and remarries her.

The novelty of the Mishnah's ruling is explained, that if the yavam and yevama divorce and remarry her kesubah still comes from the deceased husband's estate.

4) The evolution of the kesubah

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Distinctive INSIGHT

The requirement of the yavam to write a kesubah for the yevama

אשה הקנו לו מהשמים

The **ת**he **י**ם של שלמה (to Yevamos Ch. 4, #14) writes, in the name of the Mordechai, that Rabbeinu Tam holds that in a case where a yevama is presented for the yavam due to the death of the brother, and her kesubah is collected from the assets of the brother who died, there is no need for the yavam to write a kesubah for this woman. The rule that it is prohibited to remain with one's wife without her being in possession of her kesubah does not apply in this case.

The **י**ם של שלמה asks why there should be an exception. Rambam (Hilchos Yibum, 2:2) also writes that a kesubah must be written for the yevama who is taken by the yavam. The proof from Rambam is not necessarily conclusive, though, because he might be referring to the need to have a kesubah provided for this woman, which is guaranteed either from the assests of the first husband, or, if there are no assests of his remaining, the funds must be assured from the yavam.

ארוזא דבי רב explains that the opinion of Rabbeinu Tam is based upon the view of Tosafos (51a, **ד"ה מני ר'** (מאיר) who writes that where writing a kesubah is not a legal requirement, the rule of Rabbi Meir of prohibiting remaining without a kesubah is not in effect. ■

REVIEW and Remember

1. What is **שעבודא דר' נתן**?
2. What are the laws that are taught by the Mishnah's ruling that a yevama becomes the yavam's wife for all matters?
3. Why doesn't the kesubah of a yevama rest upon the estate of the yavam?
4. Describe the evolution of the enactment of the kesubah.

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By Mr. and Mrs. Boruch Weinberg
in loving memory of their grandfather
ר' פסח בן ר' יצחק, ע"ה

HALACHAH Highlight

Where should a kesubah be stored?

התקינו שיהיו מניחין אותה בבית חמיה

They enacted that the kesubah money would be stored in her father-in-law's house (i.e. her husband's house)

Rabbeinu Shlomo ben Shimon Duran¹, the Rashbash, comments that in his opinion it is not appropriate for a woman to leave her kesubah in her husband's possession since there is the fear that if he gets angry he will take it and destroy it. Rather, it is better to store the kesubah some place outside of the husband's domain. Rav Shlomo Zalman Auerbach² also cites the position of Rashbah but adds there is no issue if the husband happens to know where the kesubah is stored as long as it is not in his domain.

Rav Moshe Feinstein³ also writes that the kesubah should be stored by the wife together with her possessions since it is a document against her husband. However, he notes that if the wife trusts that her husband will return to her the kesubah upon her request, even if it is at the time that they will divorce because of irreconcilable differences, it is permitted for the husband to store the kesubah for her. If, on the other hand, she trusts her husband to keep her kesubah only because she does not believe that they will ever divorce, it is prohibited to allow the husband to store the kesubah since she is lacking complete trust that, if necessary, her kesubah would be returned.

Rav Menasheh Klein⁴, the Mishnah Halachos, challenges

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R' Yehudah teaches that originally the kesubah did not encumber the husband's property, but this led women to refrain from marrying since their kesubah was not secure. Consequently, R' Shimon ben Shetach instituted that the kesubah must include language that encumbers the husband's property.

A Baraisa describes in greater detail the evolution of the kesubah enactment. ■

הדרן עלך האשה

the opinion of Rav Feinstein that she should store the kesubah together with her other possessions. According to this line of reasoning she would have to hide the kesubah in a place in the house that the husband does not have permission to enter because if it is stored in a place where the husband could enter the concern returns that at the time of divorce he will take the kesubah and destroy it. Even if it is stored in a location that the husband is not supposed to enter there is a concern that he will force his way in to destroy the kesubah. This would seemingly necessitate the kesubah to be stored in a location that the husband could never access and we do not find such a requirement. Therefore, he concludes that it is perfectly acceptable to store the kesubah in a location that is accessible to the husband and the wife as long as it is safe. ■

1. שו"ת הרשב"ש סי' ש"כ.
2. מובא דבריו בקונטרס תקנת כתובה עמ' ה'.
3. שו"ת אג"מ אה"ע ח"ג סי' כ"ו.
4. שו"ת משנה הלכות ח"ט סי' רצ"ה. ■

STORIES Off the Daf

Sh'lom Bayis

"התקינו שיהיו מניחין אותה בבית אביה ועדיין כשהוא כועס עליה אומר לה לך לך אצל כתובתך..."

Our daf discusses various stages of the development in the protocol of how a kesubah is paid. First, the Rabbis decreed that a man leave two hundred zuz for his wife's kesubah at her father's house. However, when the husbands got angry they would be quick to divorce their wives. Eventually, Shimon Ben Shetach enacted a lien on all of a man's property to pay his wife's kesubah so that even if he got angry, he would hesitate before divorcing his wife in anger. We can learn an important lesson from this—not to do anything which might interfere with another couple's

sh'lom bayis, no matter what the cost!

When Rav Isser Zalman Meltzer, zt"l, learned in Volozhin, there was a very great problem for virtually every boy in the yeshiva. As was the custom in much of Lithuania, most students had to take their meals on different days at the houses of different members of the local community. In Volozhin, however, there were not enough meals to go around. Unless a bochur had independent means, he would have to fast at least one day a week, and often two or three. Every bit of food was therefore very precious.

Once, the young Isser Zalman received a letter from his older sister along with some sugar cubes. Although these were a very expensive and rare commodity and Rav Isser Zalman ate nothing a couple of days a week and was very thin, he decided not to use the cubes at all.

Many months later, he returned to his

hometown of Mir and paid a visit to his sister. "I didn't use the sugar cubes though I appreciated the sentiment and sacrifice. Now that I am at our parent's house, please take them back since I have all the food I need here."

His sister was obviously distressed. "But why?" she asked.

"I was unable to verify if your husband was also willing to give away such a valuable item, so I didn't use it."

"But you could have asked me in a letter!"

"I realized that," answered the young gadol, "But I was afraid he might not have agreed. If that is true, if he were to somehow find out that you sent this to me without permission, this would undoubtedly have disturbed your sh'lom bayis. There is no advancement in Torah that is worth potentially destroying someone else's sh'lom bayis. I would rather fast!" ■

