

**שבת קודש פרשת פנחס | מסכת כתובות דף מ"ג**

**IYUN ON THE DAF**

By Rabbi Yitzchok Gutterman

**T**he משנה says that a father can marry of his daughter multiple times as long as there is no נישואין and he also gets the כתובה. The יהושע פני asks how did the משנה know that the father retains his rights even after a terminated אירוסין? The only place we see this concept of her not leaving האב רשות after אירוסין is by הפרת נדרים, and by הפרת הנדרים the גמרא required a פסוק to tell you that she remains in her fathers רשות unless אירוסין was done. If so, how do we know it's true by the father marrying her off and for the כתובה? If you want to say we learn it from הפרת נדרים (as said on הוהיל ד"ה הוהיל תוספות), we still have an issue with the כתובה since we have a principle that you can't learn איסור from ממון! He answers that even though there is a rule that you can't learn ממון איסור, that is just about the הלכות. However, when it comes to just defining the details of what's considered רשות אביה we can learn one from the other.

**PARSHA CONNECTION**

**In this week's daf** the גמרא discusses what happens when a person passes away and leaves behind a widow, sons and daughters. The distribution of assets is governed by the הלכות of ירושה which are found in פרשת פנחס. Additionally, the הלכות that applies when someone passes away and leaves behind only daughters was given to משה רבינו in response to the question brought forward by בנות צלפחד. When identifying them, the תורה lists their relationship to מנשה and repeats it by saying they belonged to the family of יוסף בן יוסף. Rashi explains that this emphasis is due to the fact that משה רבינו loved ישראל and so too his great granddaughters loved ישראל. The question is how do we know that they loved ישראל? Maybe they just wanted land and would have been fine with land anywhere, just that now when משה רבינו was dividing the land they came forward to claim their father's portion. The answer is found in the פנחס on ילקוט שמעוני, which says as follows: רבי נתן אומר: יפה כח נשים: נתנה ראש ונשובה מצרימה. ונשים אומרות: תנה לנו אחוזה... ללמדך באיזה שעה עמדו לפני משה, בשעה שאמרו ישראל: נתנה ראש, אמר להן משה: והלא ישראל מבקשין לחזור למצרים ואתנה מבקשות נחלה בארץ? אמרו: וידעות אנו שסוף כל ישראל להחזיק בארץ. The מדרש is teaching us that the בנות צלפחד came forward much earlier, they came forward when the מצרים came back and many said let's go back to מצרים. At that point, their coming was clearly a sign of their love for ישראל, because nobody was talking about dividing the land at that point.

**STORIES OF THE DAF**

Healthy Diligence

שקוד אמרה

**A**vimi Bar Papi calls Shmuel "שוקד." 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.

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 overextended 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.

## HALACHA HIGHLIGHT

### Collecting One of Two Kesubos

והאתמר הוציאה עליו שתי כתובות אחת של מאתים 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...*

**W**hen 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 the Rivash<sup>1</sup> 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 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

## INSIGHTS FROM OUR CHABUROS

### The Wages of an Orphaned Girl Below Age Twelve

**T**he 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 Jewish 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 Jewish maidservant refers to a girl who is under 12. 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.

## POINT TO PONDER

**The Mishna says** that a father gets his daughter's כתובה if she had ארוסין and then and divorced. Why is the father entitled to the כתובה? We know that in the case of אנוסה or נפותרה the תורה specifically writes that it belongs to the father, but where does he get the rights to her כתובה?

### Response to last week's Point to Ponder:

The גמרא asks why our משנה is necessary, since we already know these הלכות. Why doesn't it answer that we need this משנה to tell us that צער also belongs to the father?

Although we could argue that צער should belong to her, the גמרא did not view the din that it goes to the father as a חידוש in light of the fact that the other monetary obligations also go to the father. Since בושות ופגם are paid to the father, it is no longer a חידוש that the associated צער should also be paid to him inasmuch as the father has the ability to be מצער her by giving her over to the אר"ם שחין. (See מהר"ם שי"ף)