

שבת קודש פרשת ויקרא | מסכת כתובות דף פ'

לע"נ שרה בת ישכר דוב

INSIGHTS FROM
OUR CHABUROS

יורשי הבעל קברי לה דקא ירתי כתובתה

The Gemara presents a query regarding burial of a **יבם**—a yevama who dies while awaiting to be either married for yibum or to be dismissed with chalitza. One possibility is that the heirs of her first husband should take responsibility of burying her. Rashi explains the uncertainty here is due to the fact that there are two families who stand to inherit her, and the obligation of burial is a function of the right of inheritance. The **גמרא** notes that while a woman is married, her husband is obligated to bury her because he is the one who stands to inherit her dowry. Now that the yevama died without a husband, those who stand to inherit her property assume this task. The question is simply which family is the principal heir.

Shitta Mikubetzes notes that according to Rashi, the question of the Gemara only presents itself when there are, in fact, two parties which stand to inherit this woman. This is where there are **נכסי מלוג** which belonged to the woman and will be taken by her heirs. However, if there are no properties which were exclusively owned by her, and the only ones to inherit anything are the heirs of the husband (the brother who died), it is clearly the responsibility of the previous husband and his family to bury her.

Shitta Mikubetzes points out that the words of the Gemara as it formulates its query are quite precise. On the one hand, it is the heirs of the previous husband who must bury her, "because they inherit her kesubah," referring to the **צאן ברזל** and her kesubah. On the other hand, it is the heirs of the woman who are responsible to bury the **יבם**, as they stand to inherit the property "which comes and goes with her," referring to the **נכסי מלוג**.

The truth is that there is a question whether or not the yavam inherits the **צאן ברזל** of the yevama. Tosafos (**ד"ה יורשי הבעל**) earlier explained Rashi that asks (**ד"ה וכתובה**) that these properties go to the heirs of the woman, as does the dowry, but the yavam inherits only the main kesubah. Accordingly, what is the reason the heirs of the husband should be the ones to bury her? Tosafos answers that the woman actually should have received her kesubah with the death of the first husband. The fact that the kesubah itself shifts to the yavam is a form of his inheriting **צאן ברזל**. Tosafos concludes by noting that according to this explanation, the question of the Gemara would also be applicable in a case where the woman became a yevama during the **אירוסין**, for here, too, the woman brings a kesubah with her from the first brother to the yavam.

PARSHA CONNECTION

In this week's daf the **גמרא** discusses a **שבועה** which is made by a husband who spent money on his wife's assets. We find a unique **שבועה** which the **הקב"ה** made regarding **עמלק** in **פרשת בשלח**. In **ויאמר כייד על-כס** "מלחמה, לה" says: שמות פרק יז פסוק טז in **פסוק** after the story of the war the **עמלק** was eradicated. Why was this **שבועה** necessary? Why wasn't **עמלק** eliminated by **משה רבינו**? To answer these questions we need to understand what is **עמלק**. The **ספרים** write that **עמלק** has the same meaning as **גמטריא** meaning doubt, which is a tool used by the **יצר הרע**, meaning that the **יצר הרע** is what **עמלק** represents. With this introduction the **הקדוש** explains why **עמלק** was not defeated by **משה רבינו**, because as long we don't do a complete **תשובה** the **יצר הרע** will exist. With this he answers a seeming contradiction between **פרשת בשלח**, where it says that the **הקב"ה** will eliminate **עמלק** and **פרשת כי תצא** (which we read for **זכור**), where it says that **WE** should eliminate **עמלק**. The answer is that we must do our part by doing **תשובה** and the **הקב"ה** is promising us that he will do his part and eliminate the **יצר הרע**. Perhaps this is why the **הקב"ה** made a **שבועה**, because it gives us comfort in knowing that **ה'** is committed to us.

STORIES OF THE DAF Who Owns the House?

"אמרין שמא תבסיף"

There was a married woman who had sole ownership in a house in Israel. She decided to make the house into property of **tzedakah**. Subsequently, she added her husband's name to the deed of ownership on the house. He decided to sell the house. A few years after the sale, the husband passed away. Several years later, the wife also passed away.

The man who had purchased the house asked Rav Naftali Nussbaum, Av Beis Din of the Ahavas Shalom Beis Din, several questions. Had he been allowed to live in the house for the duration that the husband lived? Was he even permitted to dwell in the house as long as the wife had lived? What would be the halacha about continuing to live in the house?

The Rav replied, "First of all, clearly the right to live in a house is a form of **קנין פירות**, which is the right of the husband. The charity therefore cannot take possession of the house as long as the two are married, since the husband has a lien on it. However, in **Kesuvos 80b** we find that that the husband cannot sell the **פירות** to another.

"The moment the wife allowed the husband's name to appear on the deed of this house, he obtained full rights to the **פירות**, and the husband had the right to sell this to another. So when the husband sold the house, he had every right to sell the right to live there for at least as long as the wife lives. Even if the husband outlives the wife, it would appear as though he can also live in the house. However, since the time they both passed away, you either owe back rent to the charity or else you must purchase the property from the charity. If not, you transgress the prohibition of **Me'ilah**!"

HALACHA HIGHLIGHT

The Status of a Discount

יורשי הבעל קברי לה דקא ירתי כתובתה

Do the heirs of the husband bury her since they inherit her kesubah

Reuvan, a storeowner, rented his store to Shimon at a rate of two-hundred and eighty rubles per year. After some time Shimon performed a favor for Reuvan and as an expression of appreciation Reuvan discounted the rent and only charged two-hundred and seventy rubles per year. At the end of three years Reuvan entered into an agreement to rent the store to Levi for three years. Levi wanted to pay two-hundred and seventy rubles per year which was the amount Shimon paid, but Reuvan insisted that the rate should be two-hundred and eighty rubles per year since that was the rate he charged Shimon. Levi responded, "I'll pay you what Shimon paid," and with that statement the deal was finalized. At the end of the year Levi paid two-hundred and seventy rubles since that was the amount that Shimon paid, but Reuvan responded that the rate was two-hundred and eighty rubles and the reason Shimon paid less was a favor for him.

The Maharsham¹ ruled in favor of Reuvan. The rationale is that the discount Reuvan gave Shimon has no bearing on the rate of the rent since it was done in exchange for the favor Shimon did for Reuvan. Therefore it is considered as if Shimon paid the entire two-hundred and eighty rubles and Reuvan returned ten rubles to Shimon, which obviously has no bearing on the rate for renting the property. Proof to this is found in Tosafos where he writes that since the yevama could have collected some of her kesubah and she doesn't, we look at it as if she collected the money and then gave it to the yavam. Maharsham proceeds to express uncertainty that perhaps Levi intended to pay only what Shimon paid rather than what he was charged. Since this matter is dependant upon the way people will understand the statement, "I'll pay you what Shimon paid," the burden of proof will be on Reuvan to prove that he deserves an additional ten rubles. Nonetheless, for the remaining two years of the lease Reuvan is allowed to demand two-hundred and eighty rubles with the ultimatum that if Levi will not pay the full amount the lease will be canceled.

1. שו"ת מהרש"ם ח"ג סי' כ"ה.
2. תוס' ד"ה יורשי ע"ש כל הענין.

MUSSAR FROM THE DAF

The Inside Effects the Outside

משום רווח ביתא רש"י שיכניס הפירות לביתו ויהא מזון הבית מצוי ויטיב לה

For the gain of the house, Rashi the produce will enter the house and there will be ample food and he will be good to her.

The Gemara asks if the husband can sell his rights to the produce (that he receives from his wife's צאן ברזל). The Gemara says that perhaps he can't sell the rights, because a goal of the husband getting the produce is for him to bring the produce into the house, and then there will be plenty of produce in the house and as a result the husband will be good to his wife. (Rashi)

It is משמע from this Gemara, that חז"ל instituted that the husband received the produce from his wife's צאן ברזל so that that the home should benefit. If that is the case, why can't she simply bring the produce to the home herself? Furthermore, what is Rashi teaching us when he says that the husband will be good to his wife (future tense) if there is plenty of food in the house?

Generally, if a person doesn't feel good about themselves, they tend to be overly inwardly focused. And when a person feels חסר (lacking) it is difficult for them to notice others and their needs. And the reverse is obviously true. (See Michtav M'Eliyahu Kuntras Hachessed, Perek 8) Perhaps that is the pshat in our Gemara and Rashi.

When the husband feels good about himself and he feels a sense of שלימות as a result of his success in providing ample food to his house, he now has ample space in his head to think about his wife and what he can do for her. Therefore, if she simply brought the produce home herself, the husband probably wouldn't feel as good about himself.

We learn here how our internal feelings about ourselves don't simply effect ourselves, rather they affect others around us. Therefore one has a great אחריות to work on one's self to be in a state of שלימות not only for himself, but even for others in one's life.

POINT TO PONDER

The Gemara says that a husband of a קטנה who spent money on her property can collect like someone who improved someone else's field. Is this the הלכה only if she is נטמא or even if he divorces her?

Response to last week's Point to Ponder:

The Mishna writes that if a wife she acquired old slaves, they are sold and we buy קרקע with the proceeds. Does this mean that they have to be sold, or can the husband say that he prefers keeping them?

If the husband wants to sell the old slaves the wife can't object to the sale, but she cannot insist on selling them to preserve the principle. (See רא"ש).