

INSIGHTS FROM OUR CHABUROS

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

אשה הקנו לו מהשמים

The *Yevamos* Ch. 4, #14 writes, in the name of the Mordechai, that Rabbeinu Tam holds that in 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 *Yevamos* 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 assets of the first husband, or, if there are no assets of his remaining, the funds must be assured from the yavam.

Yevamos explains that the opinion of Rabbeinu Tam is based upon the view of Tosafos (51a, מאיר ר' מני) 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.

PARSHA CONNECTION

In this week's daf the *Gemara* writes that prior to the תקנה of שטח בן שטח people were not getting married because the women were concerned about being able to collect their כתובה. Not getting married is also one of the reasons given for ואביהווא in מיתת נדב. The question is, why is the only reason mentioned explicitly in the תורה the fact that they brought an אש זרה, if the real reason is that they didn't marry? The *Gemara* says as follows: 'וימת נדב ואביהווא לפני ה' בהקרבת אש זרה לפני ה' במדבר סיני ובנים לא יהיו להם ויכהן אלעזר ואיתמר'. (במדבר פרק ג פסוק ד) על-פני אהרן אביהם: פ. The *Gemara* makes a beautiful דיוק that the *Gemara* says בהקרבת meaning "when" they brought a foreign fire, instead of על הקרבם which would mean, "because" they brought the fire. The *Gemara* also mentions that they didn't have children. Based on this the *Gemara* explains that they died at the time in which they brought the fire but the reason was them not marrying. This observation in the *Gemara* is also what led חז"ל to try an identity the real reason for their death, because they understood that the *Gemara* is not giving the reason, but rather the time.

STORIES OF THE DAF

Sh'lom Bayis

התקינו שיהיו מניחין אותה בבית אביה ועדיין
בשהוא כועס עליה אומר לה לכי אצל כתובתיך

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. 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!"

HALACHA 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)

The Rashbash¹ 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 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 Rashbash 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.

The Mishnah Halachos⁴ challenges 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"ב.
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.

REVIEW AND REMEMBER

1. What is שְׁעִבּוּדָא דַּרְ נָתַן ?
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 yevamah rest upon the estate of the yavam?
4. Describe the evolution of the enactment of the kesubah.

POINT TO PONDER

The Gemara says that there is a difference between saying קני לאחר ל יום, and adding the word מעכשיו. Since in both cases the קנין doesn't take effect until after the 30 days, how does saying מעכשיו help?

Response to last week's Point to Ponder:

רש"י ד"ה לגבות מחיים writes that as long as the husband is alive she doesn't collect her כתובה. How does that explain why he doesn't have to pay for her burial? In every instance where the wife dies before the husband, she doesn't collect the כתובה.

In case a woman dies while her husband is alive, he inherits her כתובה. Since he inherits it, he is obligated to pay for her burial. However in this case where the יבם is concerned, he already inherited his brother's property before she died, so now when she dies he is not inheriting anything from her. This is why he is claiming that he doesn't have to pay for her burial. (See מקובצת).

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The shavua matters is published by the Daf a week program under the rabbinical guidance of Harav Meir Stern shlita and Harav Shmuel Kamenetsky shlita

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