

OVERVIEW of the Daf

1) A woman whose parents are from different shevatim (cont.)

A Baraisa is cited that supports the position that a woman was restricted from marrying someone from another shevet out of concern of the inheritance of her husband.

It is noted that both Baraisos agree that the phrase **ממטה למטה אחר** is a concern that property will be transferred through the husband.

After two failed attempts, the Gemara presents two explanations of how we derive this principle from this phrase.

An exposition is presented that identifies the source that a husband does not inherit his wife's prospective property.

The reason two verses were cited in this exposition is explained.

2) Sons of a sister

A Baraisa emphasizes that the Mishnah's ruling applies to the sons of a sister but not to the daughters of a sister.

R' Sheishes explains that this means the sons of a sister take precedence over the daughters of a sister.

A Baraisa is cited that presents the source for this ruling.

3) Bequeathing property by day

Rabbah bar Chanina presents an exposition that teaches that inheritances are passed on during the day but not at night.

Abaye questions the simple meaning of the exposition and begins to suggest an alternative meaning of the Baraisa. ■

REVIEW and Remember

1. How do we know that the phrase **ממטה למטה אחר** refers to transference through the husband?

2. What is the source that a husband does not inherit prospective assets of his wife?

3. What is a **ירושה שניה**?

4. What is the difference between three people visiting the sick and two people visiting the sick?

Today's Daf Digest is dedicated
 By Dr. and Mrs. Moshe Nitekman
 In loving memory of their father
ר' ראובן בן ר' אברהם הלוי, ע"ה

Distinctive INSIGHT

Declarations of inheritance have the status of a judgment
 דלמא דין נחלות קא אמרת

Rabba bar Chanina says that division of an estate among the heirs must take place during daytime hours. He derives this halacha from the verse (Devarim 21:16) which states, "And it shall be on the day that he bequeaths to his sons." The Gemara in Sanhedrin (34b) notes that the rule of Rabba bar Chanina is consistent with the general view that all judgments—**משפט**—must be decided during daytime hours. Although there are opinions that the need to make judgments during the day is learned from our verse regarding inheritance, Rabbi Meir holds that the requirement to judge during the day is determined based upon the association we find (**היקש**) between judgments and visual examination of **נגעים**—impure discolorations of plague marks on skin, clothes or on houses (see Devarim 21:5). According to Rabbi Meir, who determines the law of judgments from the law of viewing plagues, the question of the Rishonim is why there is a need for an additional verse to teach that this is the case regarding inheritance.

Rashbam explains that when partners decide to dissolve their joint ownership in any endeavor, their splitting the resources according to their agreement does not constitute a judgment, and it may be done at night. The novelty of the verse regarding inheritance is that their dividing the estate is, in fact, a judgment, and not just a financial arrangement among them. For this reason, it therefore must be done during the day, and it must also be done with the authorization of three judges who act as a court. Rabba bar Chanina learns from the verse that this is the way we view the inheritance of sons, and the Baraisa which is then cited learns that all other levels of inheritance are learned from the verse (Bamidbar 27:11) which refers to the division of inheritance as "**חוקת משפט**."

Rashi in Sanhedrin (ibid.) explains that the verse brought by Rabba bar Chanina teaches that if a person makes a declaration (**צוואה**) regarding who should receive his inheritance, if three people are standing there and hear him, and it is during the day, the wishes of the speaker must be fulfilled. It is not necessary that the three listeners be judges, as the declaration in and of itself is considered to be a ruling of judgment. The words of Rabbi Yehuda which clarify the Baraisa teach us that this is only true if the declaration is done during the day. If, however, a per-

HALACHAH Highlight

Adjudicating an incident that was witnessed on Shabbos or Yom Tov

ואמר ר' חסדא לא שנו אלא ביום וכו'

R' Chisda said that the ruling that the three could act as judges is limited to where they visited during the day etc.

Bach¹ infers from the language of Tur that dayanim who witnessed an event on Shabbos or Yom Tov are not able to adjudicate based on what they saw. The basis of this ruling is that just as our Gemara teaches that judges may not adjudicate on an incident they witnessed at night since night is not the time for convening Beis din, so too, when an incident is witnessed on Shabbos or Yom Tov, since those are not times when Beis din convenes, they may not adjudicate based on what they saw. Although the restriction against adjudicating on Shabbos and Yom Tov is only Rabbinic, nevertheless, when the rabbis formulated enactments they always patterned those enactments following Biblical precedent and their enactment will parallel the Biblical law that restricts against adjudicating based on what the judges witnessed at night.

Taz² raises an issue related to this ruling. Since it is only by virtue of a Rabbinic enactment that they cannot adjudicate based on what they witnessed on Shabbos or Yom Tov

(Insight...continued from page 1)

son makes a declaration at night, the listeners must then report that which they heard to a bona fide panel of three judges, and the ruling must be finalized by the court. ■

we should allow the judges to serve as witnesses since for Rabbinic matters we maintain **עד נעשה דיין** – a witness can serve as a judge. Therefore, although they may not convene on Shabbos or Yom Tov it would not be necessary to have other witnesses come and testify before the judges since they can testify before themselves.

Ketzos HaChoshen³ disagrees with the assertion that we could apply the principle of **עד נעשה דיין** in all cases when Rabbinic enactment requires witness testimony. The case of a Rabbinic law that allows the judges to be the witnesses is when they are certifying a document – **קיום שטרות**. Since the origin of the requirement to certify a document is Rabbinic there is a leniency that allows the judges to serve as witnesses as well. In our case we are discussing a case where witness testimony is Biblically mandated. Although Rabbinically we do allow the judges who witnessed the incident on Shabbos or Yom Tov to adjudicate the matter, nevertheless, since the testimony is Biblically mandated we do not allow the judges to serve as witnesses. ■

1. בי"ח חו"מ סי' ז' סעי' ו'.
2. ט"ז שם ד"ה אם.
3. קצות החושן שם סק"ו. ■

STORIES Off the Daf

A surprise visit

"שלושה שנכנסו לבקר את החולה..."

Today's daf mentions visiting someone who is close to death.

The love that Rav Meir Shapiro of Lublin, zt"l, demonstrated for his many students was remarkable. One time, a bochur in Yeshivas Chachmei Lublin fell ill. When the Rosh Yeshiva noticed that he was not in the beis midrash he immediately inquired as to his whereabouts, and when he heard the young man was ill he rushed to his bedside.

But when he entered the room he saw something quite shocking. Although he had heard that the young

man had a mild fever and was feeling chilled, this had not prepared him for what he saw. The student was literally trembling as if in fear or shock.

Of course, Rav Meir immediately calmed the young man and explained that he had nothing to worry about since he was suffering from only a mild ailment. He reassured him that he had simply come to visit and give the sick young man encouragement.

When the young man calmed down and began to smile, Rav Meir asked why he had been so terrified when he had first seen him enter the room.

The bochur answered, "I come from Lita and in most yeshivos the Rosh Yeshiva never visits a student who has merely taken ill. They only visit if the student is in very serious

condition which is likely to be terminal. That's why when the Rosh Yeshiva came in I was so shocked. I thought that my condition must be much more serious that I had originally understood. I thought that everyone must be hiding from me that my time had come!"

Rav Meir replied in his usually loving way. "The difference in approaches is easy to understand. In our yeshiva every student is like a son to me. Obviously, any father who hears that his son is ill rushes to his bedside even if he knows it's nothing serious. He must visit to check his condition and encourage his sickly child, to help him recover!"¹ ■

1. רבי מאיר אומר, ע"י 226 ■