

OVERVIEW of the Daf

1) A woman's forfeiture of her kesubah (cont.)

A third incident related to the Mishnah's discussion of a woman forfeiting her kesubah is recorded.

2) Writing over one's property to another

R' Huna rules concerning a deathly ill person who writes his property to another that if the recipient was an heir he takes the property as an inheritance and if not it is a gift.

R' Nachman questions why R' Huna did not simply state that he follows the position of R' Yochanan ben Berokah and suggests that R' Huna was referring to a specific case.

R' Huna confirms that he was referring to just such a case.

R' Ada bar Ahava suggested an explanation for the difference between receiving the estate as an inheritance and a gift.

Rava rejects this explanation and presents an explanation in the name of R' Acha bar R' Avya.

R' Nachman explains to Rava why a person cannot interrupt an inheritance.

A related incident is presented.

3) MISHNAH: The Mishnah discusses the appropriateness of disinheriting children.

4) Disinheriting one's children

The Gemara inquires whether Rabanan disagree with R' Shimon ben Gamliel or not.

An unsuccessful attempt to resolve this inquiry is recorded.

The Gemara resolves this inquiry from Shmuel's statement to R' Yehudah that he should be amongst those who disinherit their children.

A Beraisa records a related incident. ■

REVIEW and Remember

1. Why did R' Nachman accuse R' Huna of theft?

2. What is the difference between receiving land as an inheritance or a gift?

3. What is the halacha of someone who disinherits his sons?

4. What did Yonason ben Uziel do when he received property from a man who was disinheriting his sons?

Distinctive INSIGHT

The strong admonition not to assign inheritance away from children

לא תהוי בי עבורי אחסנתא

In the Mishnah, Tanna Kamma wrote that although a person may legally give all his possessions to others and leave his sons with nothing, the sages are not satisfied with such actions. Rabban Shimon ben Gamliel added that if the sons were not behaving properly then disinheriting them is acceptable.

The Gemara analyzes the opinion of Rabban Shimon ben Gamliel to determine whether Tanna Kamma disagrees with him or not. Do they agree that if the sons were not acting properly then disinheriting them is recommended, or do they hold that it is never advisable to shift inheritance from sons? The Gemara concludes that Tanna Kamma indeed disagrees with Rabban Shimon ben Gamliel, as we find that Shmuel advised R' Yehuda never to be among a group that authorizes the transfer of inheritance away from a son, even if the son being excluded is one who is acting improperly.

Sh"t writes (Klal 84:1) that no Jew should ever consider shifting his inheritance away from his sons. Rambam (Hilchos Nachalos 6:11) also seems to say that doing so is a sin, and that it is not allowed. The Yerushalmi derives the source of Tanna Kamma from a verse in Yechezkel (32:27), "על עצמותם," indicating that this is a sin which a person commits as he leaves the world, and it is something which, at that point, cannot be fixed. Sh"t elaborates to define the term "אין און נוחה הימנו," that the sages are not pleased with one who shifts inheritance away from his sons. He writes that according to Rashbam it seems that this is a serious and outright offense, and "the sages anger due to such a move."

Rashbam also suggests that shifting even portions of the inheritance and giving more to one son and less to another is also included in this restriction. This is the case even when the possessions are reassigned among the sons, and certainly if non-family members are given portions as inheritance.

Sh"t notes that the wording of the Mishnah ("והניח את בניו") suggest that the case is where the father gives all of the possessions away and leaves his sons with nothing. How does Rashbam know that shifting the property among the

(Continued on page 2)

Today's Daf Digest is dedicated
 The Bider families
 in memory of their mother and grandmother
 מרת חנה בת ר' זאב וואלף, ע"ה

HALACHAH Highlight

Disinheriting wicked children

לא תיהוי בי עבורי אחסנתא ואפילו מברא בישא לברא טבא

Do not be present when someone transfers his estate even from a wicked son to a good son

The Gemara relates that Chazal are not happy with a person who disinherits his sons, even if he bequeaths his estate to hekdesch. Accordingly, Rema¹ ruled that if someone left instructions to follow the best course of action with his estate it should be distributed to his children since our Gemara indicates that that is the ideal way for a person to distribute his estate. This leads many commentators to question how Avrohom Avinu was able to pass on his estate to Yitzchok to the exclusion of Yishmael and his other sons born to his concubines. Many different explanations for this are suggested.

Maharsha² suggests that Yishmael did not stand to inherit since he was the son of a non-Jewish maidservant and thus has no right to an inheritance. He further suggests that the restriction against disinheriting one's sons does not apply to children born from a concubine. Netziv³ explains that although Biblically sons born from a concubine do inherit their father's estate, nevertheless, there was a custom to treat them lightly as we find in Sefer Shoftim (11:2) where the brothers of Yiftach sent him away with the claim that he was merely the son of a concubine.

STORIES Off the Daf

The disinherited

"לא תיהוי בי עבורי אחסנתא..."

The Midrash recounts that although the brothers of Rabbi Eliezer ben Horkenos would plow in the plains, Rabbi Eliezer would plow mountainous land. One day the ox he used to plow with fell and broke its bones, rendering it useless for field work.

"My cow fell and broke its bones for my betterment," Rabbi Eliezer told his brothers, and he went off to learn with Rabbi Yochanan ben Zakai. But Rabbi Eliezer had no money for food, so he satisfied his hunger somewhat by chewing on clods of earth even though it gave him bad breath. Certain students re-

marked to Rabbi Yochanan ben Zakai that the odor from Rabbi Eliezer's mouth caused him suffering, yet he persevered in his unstinting Torah study in any case.

Rabbi Yochanan ben Zakai approached Rabbi Eliezer and encouraged him. "Just as you have suffered from malodorous breath for Torah, so may the pleasant smell of your teachings come to spread throughout the entire world."

Much later, Rabbi Eliezer's father, Horkenos, went to the sages to organize his estate so that his runaway son Rabbi Eliezer would not inherit his wealth. However, when he found his son expounding while the most honored people of the land sat at his feet he changed his mind.

He approached Rabbi Eliezer and said, "I came here to prohibit you from my estate, but now that I see the result of

(Insight...continued from page 1)

sons is also a problem? ש"ש answers that the Mishnah can indeed hold as Rashbam explains, and that any movement of property is not allowed. The Mishnah illustrated a case where the sons were left with nothing in order to illustrate the halacha in an extreme case, and that if a father left his sons with nothing, his actions are nevertheless valid. ■

Sefer Be'er Sheva⁴ proposes that the prohibition against disinheriting a wicked son is based on the possibility that this wicked son may have descendants who are righteous and by disinheriting the wicked son those future descendants will not receive their due portion of their ancestor's estate. Avrohom Avinu, however, was able to determine through Divine Inspiration that his other children would not have righteous descendants and therefore was correct to disinherit them.

Commentators are also troubled by the Midrash⁵ that relates that Horkanos gave his entire estate to his son R' Eliezer thereby disinheriting his other sons. Yifei Toar⁶ explains based on Pirkei D'Rebbi Eliezer that R' Eliezer's brothers asked their father to disinherit him from his estate. Accordingly, Horkanos gave them a dose of their own medicine by disinheriting them from his estate. ■

1. רמ"א חו"מ סי' רנ"ב סעי' ב'.
2. מהרש"א סנהדרין צ"א. ד"ה ויתן.
3. העמק דבר בראשית כ"ה:ו.
4. ספר באר שבע סנהדרין צ"א.
5. בראשית רבה מ"ב:א.
6. יפה תואר שם ד"ה כל נכסי. ■

your learning I hereby declare that all of my property is a freely given gift to you."

The Yefei To'ar, ז"ל, points out that the Midrash seems to contradict today's daf. "Do we not find on Bava Basra 134 that one should not transfer his property to one son, even if he is righteous and his brothers are not?"

The Yefei To'ar provides two answers: "First of all, it is possible that this prohibition does not apply to a scholar of the caliber of Rabbi Eliezer ben Horkenos. Secondly, according to the Pirkei d'Rabbi Eliezer, the other sons of Horkenos gave their father the idea to forbid his property to Rabbi Eliezer in the first place. According to this, it is fitting that they be served with what they planned for him!"¹ ■

1. בראשית רבה, פרשה מ"ב, ויפה תואר שם