



OVERVIEW of the Daf

1) Clarifying the dispute (cont.)

Rava answers that R' Meir and R' Yehudah base their positions in both cases (the case in the Mishnah related to vows and the case in the Baraisa related to inadvertently killing someone) on the context of the verse.

2) **MISHNAH:** The Mishnah explains how to give money to one's daughter when one has taken a vow against giving benefit to his son-in-law.

3) Clarifying the ruling of the Mishnah

Rav and Shmuel disagree whether the father can give money to his daughter and say, "Do what you want with the money."

R' Zeira challenges Rav's opinion that the father may not give money to his daughter and say, "Do what you want with the money."

Rava defends Rav's position.

Ravina successfully challenges Rava's explanation of Rav.

R' Ashi offers an alternative defense of Rav from R' Zeira's challenge.

4) **MISHNAH:** The Mishnah gives an example of the Torah's case of a widow or divorcee taking a vow that cannot be revoked. ■

REVIEW and Remember

1. How does one give a gift to his daughter when he has taken a vow that his son-in-law should not benefit from his property?

2. What is the dispute between Rav and Shmuel?

3. How does Rava explain R' Meir's position regarding a wife's ability to acquire property?

4. What is an example of a widow's or divorcee's vow that is irrevocable?

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 מרת חנה צירל בת אברהם, ע"ה

Distinctive INSIGHT

מודר הנאה Direct and indirect benefit for a

המדיר הנאה מחתנו והוא רוצה לתת לבתו מעות אומר לה הרי המעות האלו נתונין לך במתנה ובלבד שלא יהא לבעלך רשות בהן

The Mishnah teaches the halacha of a father who has prohibited himself from providing benefit to his son-in-law, but he wants to give money to his daughter. The rule is that in this case, the father should give the money to his daughter, and stipulate that the husband should not have any control over the funds.

The Rishonim point out that the novelty of this ruling is that although the father may state that the husband not benefit from the money, the fact is that as the woman uses this money to buy food, it is the husband who gains, as it was his responsibility to support her. This is permitted, however, because the benefit is provided only indirectly. The Mishnah earlier (38a) taught a similar lesson, where Reuven who is prohibited to provide benefit to Shimon may nevertheless support the wife and children of Shimon, as long as he does not do so as his direct agent. Once again, this is permitted because it is only an indirect benefit.

The Mishnah in Kesubos (107b) cites an argument in the case of Reuven who went overseas, leaving his wife and family unattended. In his absence, Shimon provided funds to support the man's wife and family. Chanan holds that Shimon cannot recover his outlay when Reuven returns. Bnei Kohanim Gedolim disagree and say that Shimon, who paid for the family, can take an oath to confirm how much he spent, and the husband must reimburse him. The underlying reason for the opinion of Chanan is that by paying the expenses of Reuven's family, Shimon is simply alleviating a debt or obligation which Reuven has to support his family (מבריח ארי), and we do not look upon it as if Shimon has given anything to Reuven, so there is nothing to be returned. Bnei Kohanim Gedolim see it as if Shimon did provide Reuven with a benefit, as he paid the costs for his family's welfare in his absence. This can then be recovered.

It seems from the Mishnah in Kesuvos that there is a dispute whether indirect benefit is within the realm of what Halacha considers הנאה, if it is a positive or passive benefit, whereas our Mishnah presents it as a fact that this is not a form of הנאה.

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 ר' ברוך בן אברהם עביר, ע"ה

HALACHAH Highlight

Is a wife authorized to keep the change?

המדיר הנאה מחתנו והא רוצה לתת לבתו מעות

One who takes a vow that his son-in-law should not benefit from his property and he [the father] wants to give his daughter money

There was once a man who provided his wife with a weekly stipend for household needs. After being married for a number of years the husband discovered, amongst her possessions, forty gold coins. The husband claimed that the money belongs to him whereas the wife claimed that she had shopped frugally all the years and the forty gold coins should belong to her. Mahari Assad¹ suggested that this disagreement hinges on a discussion in the Ran² to our Gemara. The Gemara Nazir (24a) discusses how it is possible for a married woman to own an animal when there is a principle that what a woman acquires belongs to her husband. The Gemara offers two answers. The first answer is that she saved small amounts of dough and the second answer is that she received it as a gift with the condition that the husband would not take possession of it. Rashi³ explains that the thinking behind the second answer is that what a woman may save from the dough will also belong to her husband. Accordingly, the two answers in the Gemara seem to debate whether a woman who saves money given to her by her husband may keep that money and the halacha in our case will depend upon which of the two answers is followed in halacha.

Mahari Assad then writes that in our case all opinions will agree that the wife has no claim to this money. The case of the woman who saved money from her dough refers to a

(Insight. Continued from page 1)

ר"ן explains that when Shimon cannot benefit Reuven due to a vow, the Mishnah (38a) permits Shimon to support the wife and children of Reuven. This is even according to Rabbanan in Kesuvos, who hold that Shimon can recover his expenses. The reason is that Shimon is not providing sustenance to the family as an agent of the husband, but as a mitzvah, on his own. The מפרש however (ibid.), explains that the case is where the husband provides the main sustenance for the family, and the outsider gives some extra items for their well-being. This is not even גרם הנאה—indirect benefit, and this is why it is permitted. This implies, however, that the מפרש holds that Rabbanan would prohibit indirect benefit in a case of neder. ■

case where Beis Din decided how much money she should receive when she is supported by a third party. Since this is considered money that is already hers, if she decides to skip some meals to save some money it is to her benefit. In our case the husband gives his wife money to buy household needs based on what seems to be a reasonable amount per week, but the money remains the husband's. Consequently, if the wife pinches pennies it is not her money she is saving, rather it is her husband's money that she is saving and she has no right to claim the money for herself. Rav Moshe Feinstein⁴, however, ruled that a wife may keep the money she saves by putting forth an effort, e.g. if she traveled a greater distance to save some money. ■

1. שו"ת יהודה יעלה ח"ב אה"ע חו"מ סי' י' אות ב'
2. ר"ן ד"ה הנדר הנאה
3. רש"י ד"ה איבעית אימא
4. שו"ת אג"מ אה"ע ח"א סי' ק"ו בסופו ■

STORIES Off the Daf

A conditional gift

המדיר הנאה מחתנו

A certain man wished to give a gift to his married daughter. However, he did not want to give a gift to his son-in-law. All sorts of legal maneuvers crossed his mind, but he was not certain how to ensure that the husband would not get it. What if the daughter died? Would not her husband then inherit? The father wanted to protect the assets and property bequeathed to his daughter. If she died why should the husband get them? In

such an unpleasant eventuality, he wished to be ensured that he would be able to redistribute the assets himself.

He decided to consult with his local Rav regarding this question, but the Rav didn't have an answer. The Rav told the father to wait a while and contacted the Rivash, zt"l. "What legal form will absolutely protect a gift to the wife so that the husband can never take possession of it under any circumstances?"

The Rivash replied, "This is spelled out at the end of Nedarim. The Mishnah discusses the case of one who vowed not to give any benefit to his son-in-law but did wish to give money to his daughter. He can say to her, 'This money is a gift

on condition that your husband has no right to it. It is only given to you to purchase food for you to eat.' Most poskim hold like Shmuel in the Gemara that even saying, 'do with it as you wish,' is enough to prohibit the money from the husband. To be on the safe side the father should say, 'On condition that your husband has no hold on it, but you do with it as you wish.' Rambam teaches that Shmuel holds that one must use both phrases for this to effectively prohibit the husband from taking possession of the gift. According to Shmuel, without both phrases the money or gift does indeed go to the husband!" ■