



Nedunya

Many of the *Mishnayot* this week (6:2-6) deal with the *Nedunya* (dowry). We shall try to understand its source.

The *Gemara* previously addressed the source when analysing the *Mishnah* that discussed the *gezeirah* of *benin dichrin* (4:10). Recall, that one of the assumed conditions in a *ketubah*, even if not explicitly stated, is that if she passes away, then in the advent of the husband's death, her sons will inherit the value of the *ketubah* including the property that she brought into the married. An important part of this clause, is that this property will be considered separate to the rest of the estate that is shared along with the sons of any other marriage.

In the *Gemara*, *R' Yochanan*, in the name of *R' Shimon ben Yochai* (52b) explains that the motivation for this decree was to encourage the father to commit to a large *nedunya* of the same magnitude that his son would inherit. It would have this effect since he would be confident that his grandchildren would ultimately be the sole beneficiaries and not be shared with children born to his son-in-law from other marriages.

The *Gemara* however asks, by *Torah* law the sons are meant to inherit the estate. This arrangement, which is presumably rabbinic, encourages equal division with the daughter, albeit while the father is alive. This therefore appears to contradict *Torah* law.

The *Gemara* answers that this law is also biblical. The *Gemara* cites the following *pasuk* (*Yermiyahu* 29:6): "Take wives and beget sons and daughters; take wives for your sons and give your daughters to men and let them give birth to sons and daughters." The *Gemara* continues that one can encourage his sons to go out and "find wives", but the same does not apply for his daughter. So what does the *pasuk* mean when it says, "give your daughter's to men"? The *Gemara* understands that the *pasuk* is instructing one to clothe and provide a *nedunya* for his daughter so that her hand is sought. The *Gemara* appears to suggest that the concept of a *nedunya* is a biblical *mitzvah*, *midivrei kabala*.

This is the position of the *Ritva*. He explains however that while it is a *mitzvah*, it is not an obligation. Indeed we have

learnt (6:5) that the father can decide not to provide his daughter with anything.

The *Gemara* (53a) however recounts an incident where *Rav Papa* was marrying off his son to the daughter of *Abba* from *Sura*. *Yehuda bar Mereimar* went to greet *Rav Papa*. However when he saw that *Rava Papa* reached *Abba's* house where they were going to finalise the matter of the *nedunya*, *Yehuda bar Mereimar* separated from him. *Rav Papa* invited *Yehuda bar Mereimar* to join them, yet he resisted. Noticing this, *Rav Papa* stressed that the meeting was not considered transferring inheritance in conflict with *Torah* law since what they were doing constituted a rabbinic decree. He cited *R' Yochanan*, in the name of *R' Shimon ben Yochai* above that it was to motivate the father to provide a large *nedunya*. The *Maharasha* notes that while that may be the case for the law of *benin dichrin*, the *Gemara* earlier implied that a *nedunya* is biblical. The *Maharsha* suggest that perhaps the law of *nedunya* is also rabbinic, with the above cited *pasuk* acting as an *asmachta*. Once the rabbinic law is in place, the transfer of funds to the daughter in this context is no longer considered as transferring the son's inheritance to the daughter and no longer a violation of the *Torah* law. In fact the *Rambam* (*Ishut* 20:1) also understands that a *nedunya* is rabbinic.

The *Chatam Sofer* however argues that if a *nedunya* is understood as being *rabbinic*, the original question of the *Gemara* still stands. How could the *Chachamim* institute a *nedunya* that conflict with the *Torah* law?

The *Chatam Sofer* explains that there are two separate laws that appear to conflict with the *Torah* law. One is that the father is portioning off part of his estate as part of the dowry. The second is that the *chatan* is agreeing to increase the size of the *ketubah* of his wife which also affectively deducts from amount the sons from another wife would inherit. Both *nedunya* and *benin dichrin* need explanation and the answer for one does not satisfy the other. Consequently, two answer are provided – one is biblical and the other rabbinic. When *Rav Papa* cited *R' Yochanan*, the beginning of the above *Gemara*, it was trigger for both answers.

Revision Questions

יבמות ה' ב' – ר' – ר'

- What is the maximum spacing allowed between *kidushin* and *nisuin*? (Include two cases.) (ה' ב')
- What happens after this time period? (ה' ב')
- Can a *bat Yisrael* who is a *shomeret yabam* to a *Kohen* eat *trumah*? (ה' ג')
- Can a husband *makdish* his wife's handiwork? (ה' ד')
- Explain the debate regarding whether the husband can sanctify *motar ma'asei yadeiha*? (ה' ד')
- What are the seven *melachot* performed by the wife and when does this change? (ה' ה')
- What are the opinions of *Beit Shammai* and *Beit Hillel* regarding how long we wait before forcing the husband to divorce his wife if he vowed against *tashmish*? (ה' ו')
- What is the *mitzvah* of *onah* for *po'alim*? (ה' ו')
- What are the opinions regarding a case where either of the spouses refuses *tashmish*? (ה' ו')
- What are the husband's obligation regarding: (ה' ח'-ט')
 - Provision of food?
 - Provision of clothing?
 - General allowance?
- To whom do the measures in the previous question apply? (ה' ט')
- What is the measure of *ma'asei yadeiha* and when does it change? (ה' ט')
- Does a husband have any right to the property a wife inherits? (ה' א')
- How does *R' Yehuda ben Beteira* divide *boshet* and *pegam* between a husband and wife? (ה' א')
- Can a father prevent a dowry from passing on to the *yabam*? (ה' ב')
- Compared to the dowry, what value is written in to the *ketubah* and in what circumstance does this calculation differ? (ה' ג')
- What else does the husband add into the *ketubah* as a proportion of the dowry? (ה' ד')
- If the father did explicitly state the value of the dowry, what is the minimum value he must provide? (ה' ה')
- What are the two opinions regarding the following case: the first daughter got married and the father gave her a particular dowry, yet when it came time for the second daughter to marry, the father had already passed away - what is the value of her dowry that is taken from the *yerusha*? (ה' ו')

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
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Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
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Reemon Neighbourhood

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
29 April י"ד אייר	30 April ט"ו אייר	1 May ט"ז אייר	2 May י"ז אייר	3 May י"ח אייר	4 May י"ט אייר	5 May כ"א אייר
Ketubot 6:7-7:1	Ketubot 7:2-3	Ketubot 7:4-5	Ketubot 7:6-7	Ketubot 7:8-9	Ketubot 7:10-8:1	Ketubot 8:2-3

