



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Bava Basra Daf Kuf Lamed Aleph

- **Q: Rava** asked, what would **R' Yochanan ben Broka** hold when it was a healthy person who made the statement (to give his estate to one of his heirs over the others)? Is it only one who is dying, who typically gives away his estate, who has the ability to choose one heir over another, or would he even say that a healthy person can do this as well? **A: R' Mesharshiya** said, we can bring a proof from the following. **R' Nossan** told **Rebbi**, you have taught a Mishna that can only follow **R' Yochanan ben Broka**. The Mishna says, if a man did not write a "kesubas b'nin dichrin" (where he agrees to "hand down as an inheritance" to the woman's sons the proceeds of her kesubah and her other properties, and that they should not have to share those assets with any brothers from another mother) in the kesubah, he is still chayuv to do this, because it is a stipulation of Beis Din. Now, it is only **R' Yochanan ben Broka** who says that a person may favor one heir over another in an inheritance, so this Mishna must follow him! **Rebbi** said, change the Mishna to read that the husband agrees to "give" it to her sons, which would mean it is being given as a gift, and therefore the Mishna could even follow the **Rabanan**. Later, **Rebbi** said that his answer was not really proper, because we pasken that a "kesubas b'nin dichrin" cannot be collected from encumbered property. However, if it is truly a gift, it should be able to be collected from encumbered property!? Rather, it must be that the proper understanding is that it is given as an inheritance, not a gift. Based on this, the Mishna must be following **R' Yochanan ben Broka**, and we see that he applies his view even to a healthy person.
 - **Q: R' Pappa** asked **Abaye**, according to the version of the Mishna that it is a gift and according to the version that it is an inheritance, we have the problem that a person cannot be makneh something that is not yet in this world. Even according to **R' Meir** who says that one can do so, that is only if the recipient already exists, and in the case of the "kesubas b'nin dichrin" the recipients are not around when the kesubah is written, so how can this be done!? Rather, we will have to say that it is a stipulation of Beis Din that allows this to happen. If so, we can say that even according to the **Rabanan** this happens as an inheritance, and the reason the person can choose one heir over another in this case is because it is a stipulation of Beis Din that allows this to happen!? **A: Abaye** said, the fact that the Mishna uses the verbiage of "inheritance" rather than "giving" suggests that it is following **R' Yochanan ben Broka**. That is why **Rebbi** said to change the verbiage to "giving" so that it can be following the **Rabanan** as well.
 - **Abaye** said, my answer is not correct. That Mishna continues and says, if a man did not write in the kesubah that the woman's daughter's from him will be supported from his estate until they are married off, he is still chayuv to do this, because it is a stipulation of Beis Din. Now, that is clearly not done as an inheritance, so this would be a case of where he is giving the sons as an inheritance and the daughters as a gift, in which case even the **Rabanan** would agree that the inheritance would be valid, and therefore the Mishna's use of the verbiage "inheritance" can fit well even according to the **Rabanan**!
 - **R' Nechumi** (or **R' Chananya bar Minyumi**) said to **Abaye**, it may be that it was 2 separate Beis Din that made these stipulations, so it is not like a case of giving an inheritance to one and a gift to another. **Abaye** said, that is not correct, because a Mishna says, **R' Elazar ben Azarya** darshened to the **Chachomim**, in the kesubah it says "the sons shall inherit and the daughters shall be supported" – this compares the two and teaches that just as the sons don't inherit until after the father's death, so too the daughters are not supported until after the father's

death. Now these two enactments can only be learned from each other if they were enacted by the same Beis Din.

- The Gemara says this is no proof. It may be that it was enacted by 2 separate Beis Din, and the later Beis Din made their enactment in a similar way to the earlier Beis Din so that they not contradict each other, and that is the reason we can make a valid comparison between the two.
- **R' Yehuda in the name of Shmuel** said, if a man writes in a will that all his possessions are to go to his wife, he only gives it to her as an apitrapis, and she is not koneh it.
 - **Q:** It is obvious that the same would be when a man gives all his possessions to his oldest son (he only gets it as an apitrapis). What if he gave it all to his youngest son? **A:** **R' Chanilai bar Idi in the name of Shmuel** said, the same halacha would apply even if he gave all his possessions to his baby son who is lying in a crib.
 - **Q:** It is obvious that if he gives all his possessions to an unrelated person, he meant to actually gift it to him. If he gave it all to his son, he meant to make him an apitrapis. If he gave it all to his arusa or to his divorcee, he meant to actually gift it to them. What about if he gave it all to a daughter when he also has sons? What if he left it all to his wife, when he had brothers who should inherit him? What if he leaves it to his wife when he has sons from another wife who should inherit him? **A: Ravina in the name of Rava** said, in all these cases the recipient is not koneh, except for the cases of the arusah and the divorcee. **R' Avira in the name of Rava** said, in all the cases the recipient is koneh, except for the cases of the wife when he has brothers, and the wife when he has sons from another woman.