



Violating Daat Moshe

The *Mishnah* lists certain cases where a woman can lose her *ketubah* (7:6). One group of cases is where she violates *Daat Moshe*. This consists of a number of serious biblical violation which she caused her husband to violate by lying to him, including *tevel*, *niddah* and *challah*.

Ostensibly there are two ways to understand the reason why she loses her *ketubah*. Either it is a fine for her causing her husband to transgress or it simply because he can no longer trust her and they can not live together.¹

A debate that is relevant to our discussion is what if the husband decides not to divorce his wife despite what she did? The *Rambam* rules (*Ishut* 24:16) that she has lost her *ketubah* nonetheless. He explains that *ketubah* was instituted to protect the woman so that the husband would not readily divorce her. The *Rambam* adds that it was instituted however to protect the *tznu'ot* (modest) and not the wife as described in our *Mishnah*. Put simply, the *ketubah* does not apply to her. The *Ritva* however maintains that if the husband decides to stay with his wife then she keeps her *ketubah*.

The *Rosh* states explicitly that a violation of *Daat Moshe* only causes her to lose her *ketubah* if she causes him to violate these prohibitions or any other such prohibitions, e.g. she feeds him *chelev* or blood. If however she transgressed these prohibitions herself then she does not lose her *ketubah*.

The *Chatam Sofer* understands that the reason she loses her *ketubah* is due to the loss of trust. The *Kovetz Shiurim* understands this from the *Rosh* as cited above. Since it only relates to cases where she causes him to violate, it appears to hinge on the loss of trust. He brings a further proof from *R' Meir's* ruling. One of the other violations in *Daat Moshe* is if she makes *nedarim* and does not keep them. Even though this appears to be a personal transgression, it has dire consequences on the children. *R' Meir* suggests that he should provoke her to make a *neder* and then annul it in order that he can continue to live with her. Such a solution would only be affective if the concern was regarding the future and not a past transgression.

The *Beit Yaakov* however understands that the simple understanding of the *Mishnah* is that she loses her *ketubah* regardless if we learn that she has since done *teshuva*. Furthermore, the *Rishonim* teach that she only loses her *ketubah* if she warned prior to the violation. If the reason is suspicion then the prior warning does not make sense. Furthermore the *Shulchan Aruch* rules that one cannot rely on another that is suspected of violating the prohibition themselves. Finally he argues that the fact that the *Rosh* specifically limits it to when she causes him to sin means it must be *kenas*. Adequate suspicion would be aroused if she personally violated the prohibition.²

¹ The content of this article was gleaned from *Metivta*, *Yalkut Bi'urim*, *Ketubot* 72a.

² The *Tosfot HaRid* and *Shita Mekubetzet* also understand that the loss of *ketubah* is due to *kenas*.

Revision Questions

כתובות ז': ט' א'

- When does a women lose here *ketubah*? (ז': ט')
- What is *dat moshe*? (ז': ט')
- What is *dat yehudit*? (ז': ט')
- What is a *kolanit*? (ז': ט')
- Which *mumin* are problematic if they were concealed from the husband prior to marriage? (ז': ט')
- When does the law mentioned in the previous question no longer apply? (ז': ט')
- If the family claims that the *mum* developed after *eirusin* on who is the burden of proof? (ז': ט')
- What is the law when *mumin* develop on the husband after marriage? (ז': ט')
- For which *mumin* developing on the husband is there agreement that the husband must divorce his wife? (ז': ט')
- Is there any restriction placed on a woman who inherits property: (ז': ט')
 - Prior to marriage?
 - After *kidushin*?
 - After *nisuin*?
- How does *R' Shimon* differentiate between property that, if sold by the wife after marriage, the husband may reclaim it from the buyers and property that the husband may not reclaim? (ז': ט')
- What is done with the following items that a wife inherits: (ז': ט')
 - Money?
 - Picked/detached fruit?
 - Unpicked fruit?
- Complete the following phrase and explain: (ז': ט')

” רבי שמעון אומר: מקום שיפה כוחו בכניסתה _____
 מקום שהורע כוחו בכניסתה _____ ”
- What is done with the following items that a wife inherits: (ז': ט')
 - Elderly servants?
 - Old vines?
- When can a husband claim the expenses paid on *nichsei melog*? (ז': ט')
- Are there any restrictions placed on a *shomeret yabam* on the sale of property she inherits? (ז': ט')
- Explain the opinions of *Beit Shammai* and *Beit Hillel* regarding what is done with the property of a *shomeret yabam* that dies? (ז': ט')
- What is done with the *shomeret yabam*'s original husband's: (ז': ט')
 - Money?
 - Picked/detached fruit?
 - Unpicked fruit? (Explain both opinions.)
- Can the *yabam* set aside money for the *yavamah*'s *ketubah* in order to seize possession of his late brother's property? (ז': ט')
- What is the impact of the following statements made by a husband prior to marriage: (ז': ט')
 - ”דין ודברים אין לי בנכסיד”?
 - ”דין ודברים אין לי בנכסיד ובפירותיהן”?
 - ”דין ודברים אין לי בנכסיד ובפירותיהן ובפרי ברותיהן, בחיין ובמותד”?

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Mizrachi Shul
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Friday & Shabbat

10 minutes before *Mincha*
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Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
 9:00am
Kollel Magen Avraham
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www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
12 th August כ"ד אב	13 th August כ"ה אב	14 th August כ"ו אב	15 th August כ"ז אב	16 th August כ"ט אב	17 th August ל' אב	18 th August א' אלול
Ketubot 9:2-3	Ketubot 9:4-5	Ketubot 9:6-7	Ketubot 9:8-9	Ketubot 10:1-2	Ketubot 10:3-4	Ketubot 10:5-6

