Insights from the Meshech Chochma

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פָּרָשַׁת וַיֵּצֵא תשפ"ז

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כִּי כָל הָעשֶׁר אֲשֶׁר הִצִיל אֱלֹקִים מֵאָבִינוּ לָנוּ הוּא וּלְבָנֵינוּ... (פרק לא' טז)
Rochel and Leah tell Yaakov: "Of our father's property we have nothing at all. *But, all the wealth that G-d has taken away from our father belongs to us and to our children...*"

The context, as per the Artscroll Stone Chumash Edition editors: "After twenty years of labor in *Charan*, Yaakov left with his family to return to *Eretz Yisrael*. The decision was precipitated by the clear perception that Lavan's family was resentful of Yaakov's success. Like Pharoah and Avimelech before them-and countless others since-they were convinced that the Jew was an interloper, and that whatever he achieved was at their expense. In a prophecy, G-d instructed Yaakov to leave and with sensitive concern for their feelings, the Patriarch informed his wives and sought their consent, which they gave wholeheartedly."

No doubt, whatever assets Yaakov accumulates will be inherited by his sons- כִּי כָל הָעשֶׁר אֲשֶׁר הִצִיל אֱלֹקִים מֵאָבִינוּ ...לְבָנֵינוּ. But what did Rochel and Leah mean with כִּי כָל הָעשֶׁר אֲשֶׁר הִצִיל אֱלֹקִים מֵאָבִינוּ **לָנוּ הוּא**? We know that any "עשֶׁר" that a husband accrues *after* the marriage, even it comes from his father-in-law or his wife, remains with him, so what did they mean by "it *belongs to us*"?

Rav Meir Simcha provides us with an answer which first requires background information. A husband must provide his wife with a כְּתוּבָּה which contains various financial obligations should they divorce or should he predecease her. Included in this is the return to her of any assets that she brought into the marriage as part of her dowry/נְדוּנְיָא. With regards to his estate, his sons inherit it, with the בְּכוֹר receiving a double portion. What if she predeceases him? From a Torah standpoint, he inherits her כְּתוּבָּה and נְדוּנְיָא. However, the Mishna in כתובות נב: tells us: "If the husband did not write for her in her כְּתוּבָּה, 'Any male children you will have from me will inherit the money of your כְּתוּבָּה in addition to their portion of the inheritance that they receive together with their brothers,' he is nevertheless obligated as though he had written it, as it is a תְּנַאי בֵּית דִּין and therefore takes effect even if it is not explicitly stated." So that although upon her death, he inherits all her possessions, including her כְּתוּבָּה and נְדוּנְיָא, later, when the husband passes, her כְּתוּבָּה and נְדוּנְיָא are transferred to her sons. This arrangement is known as the כְּתוּבַּת בְּנִין דְּכָרִין i.e., the marriage contract concerning (her) male children. Why was this established? R' Yochanan said in the name of R' Shimon ben Yochai: "So that a man will be willing to take the initiative and write an agreement to give his daughter a dowry equal to the portion of his possessions that his son will receive as an inheritance." The כְּתוּבַּת בְּנִין דְּכָרִין ensures that even if one's daughter dies and her husband inherits her possessions, the נְדוּנְיָא will eventually be inherited by *her* sons when her

husband dies. Since the father of the bride knows that his grandchildren will inherit the נְדוּנְיָא, he will give her a larger one.

In a situation where the כְּתוּבַּת בְּנִין דִּכְרִין is applied, how is it enacted i.e., what is the mechanism through which her sons receive her כְּתוּבָּה and נְדוּנְיָא? This was touched upon earlier but requires further elaboration. There is no question that upon a wife's death, all of her נְכָסִים are inherited by her husband. When he dies and her son(s) take back her assets via the כְּתוּבַּת בְּנִין דִּכְרִין, is it through an inheritance from their father or are those assets somehow transferred first to their deceased mother and they inherit it from her? This חֲקִירָה comes with ramifications, for if it is an inheritance from the father, and one of the sons is a בְּכוֹר, then he will take a double portion of the כְּתוּבָּה and נְדוּנְיָא also. If כְּתוּבַּת בְּנִין דִּכְרִין works via a transfer and then inheritance from their mother, we know from the Mishna in בבא בתרא קכב: that "the בְּכוֹר takes a double portion of the property of the father but does not take a double portion of the property of the mother." Rav Meir Simcha refers us to Yerushalmi כתובות י' ב where he interprets the Gemara there as telling us that the כְּתוּבַּת בְּנִין דִּכְרִין works, as he puts it, דְּהַוֵי כְּנוֹחַל. Interestingly, the standard מפרשי ירושלמי there understand this Yerushalmi as telling us the opposite i.e., that the כְּתוּבַּת בְּנִין דִּכְרִין originates as an inheritance from the father and the בְּכוֹר *would* take a double portion, **מִן הָאֵם**, דְּאֵין הַבְּכוֹר נוֹטֵל פִּי שְׁנַיִם עַיִין שָׁם. (In brackets is written עַיִין בְּאוֹר שַׂמֵּחַ , משנה תורה הלכות נחלות ב' א. I do not know if this was a later addendum by our author or an anonymous editor/publisher, but there too, Rav Meir Simcha appears to be interpreting the Yerushalmi as the other מפרשי ירושלמי i.e., that the כְּתוּבַּת בְּנִין דִּכְרִין originates as נַחֲלָה from the father. וְצָרִיךְ עִיוּן.)

We can now return to our pasuk and Rav Meir Simcha's approach to it. He proposes that what Rochel and Leah meant by כִּי כָל הָעֹשֶׁר אֲשֶׁר הִצִּיל אֱלֹקִים מֵאָבִינוּ was in fact referring to the כְּתוּבָּה and נְדוּנְיָא that they entered their marriages with. Clearly not the way Rashi explains this phrase but then again, the words לָנוּ הוּא, according to Rav Meir Simcha, are very מַתְאִים because whether through an inheritance via the father or the mother, the assets in the כְּתוּבַּת בְּנִין דִּכְרִין belong to Rochel and Leah and therefore, after the *petira* of Yaakov, will truly be לְבָנֵינוּ!

Once again, עַל פִּי דֶּרֶךְ הַגר"א and as one of the overriding motifs in his sefer Meshech Chochmah, Rav Meir Simcha has found a Biblical רֶמֶז (as he puts it,) for a totally Rabbinic ordinance!

לזכ נשמת אבי מורי ר' ישראל מנחם בן ר' שלום ז"ל
לזכר נשמת אמי מורתי רחל בת ר' אלחנן אביגדור ע"ה
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