

Business Women in the Mishnaic and Talmudic period

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Abstract

An examination of women's role in the economic life of the mishnaic and talmudic periods might lead one to assume that women were excluded from the business domain. However, evidence from the rabbinic literature demonstrates that women did participate in business and property transactions with peers and family members, and this was not perceived as a deviance requiring a special approach.

An examination of women's role in the economic life of the Mishnaic and Talmudic periods might lead one to assume that women did not participate in the business domain, and hence could not have had any economic influence. Such an assumption could be derived from the many laws that regulated the life of the ordinary woman resulting in economic dependence for most of her life. It could also be deducted from a series of sayings reflecting a worldview that excluded women from negotiations with men, and from any other business and legal matters.

Nevertheless, this assumption does not imply that women did not participate in economic life at all, since the Mishnah and the Talmud contain many examples of women's work and occupations ¹ that were common in the lower classes of Jewish society. In addition, there is evidence that wealthy, upper class women contributed their own money to public causes. ²

Until she got married, a girl was economically dependent on her father. The Mishnah states in Ketubbot 4:4: "The father has authority over his daughter in respect to her betrothals... He is entitled to anything she finds... and is not entitled in her lifetime to usufruct" (of property she may have inherited from her maternal grandfather, though if she dies unmarried the father becomes the beneficiary). Mishnah Ketubbot 4:5 continues: "She remains under the authority of her father's until she enters the authority of her husband, in marriage."

A married woman is completely dependent on her husband. Ketubbot 4:4 explains: "When she marries the husband acquires the right to the fruits in her lifetime." That is, in addition to the above-mentioned rights of her father, the husband is entitled to enjoy the fruits of the property she has acquired before and after her marriage, and to inherit these if she pre-deceased him. (Mishnah Ketubbot 8:1-5; Babylonian Talmud Ketubbot 78:2)

The arrangement between man and wife set forth in the Hebrew law does not deprive one party, because it is based on mutuality ³ that gives the husband almost complete control of his wife's property, both as to its management and the profits derived from it, while she may get complete economic security.

This is explicated by a passage in Babylonian Talmud Ketubbot 47b: “She is given maintenance in return for her handiwork, redemption from captivity in place of the fruits of her property, and burial in return for her *ketubbah*. A husband is entitled to usufruct.” The Amoraim Abaye and Raba express the wife’s abdication of her property rights within marriage. Abaye replied: “In the case of a married woman, the husband’s rights have the same force as the wife’s.” Raba said: “His rights are superior to hers.” (Babylonian Talmud Yevamot 39a and Ketubbot 83a). Moreover, R. Ilish quotes to Raba a *halakhah* that appears to have been common knowledge, but somehow escaped Raba. Said R. Ilish to Raba: “But whatever a woman acquires belongs to her husband.” (Babylonian Talmud Gittin 77b).⁴

Just as we have seen above, everything a woman owns belongs to her father and later to her husband so does any property she has acquired through inheritance or gifts. An argument between the House of Hillel and the House of Shammai is settled with the following statement “even if she has sold it or given it away, the husband may seize it from the buyers...⁵ If she came into the possession of money land should be bought therewith and the husband is entitled to usufruct... If she aged bondmen or bondwomen fell to her they must be sold and land purchased with the proceeds and the husband can enjoy the usufruct thereof.” (Mishnah Ketubbot 2:1-3)

However, the wife had some power to undertake business deals, subject to her husband’s ownership rights. This meant that in order to carry out a deal on her own property, the wife had to secure the husband’s waiver of his rights in a statement such as “He who writes to his wife I raise no objections as to your property.” (Mishnah Ketubbot 9:1) Alternatively, the husband might sell or give property to her, or she might give it to a third person in order to conceal it (Tosefta Ketubbot 9:2; Babylonian Talmud Ketubbot 79a).

Entering the business world requires a sense of individual responsibility, control over one’s own assets and the ability to act independently. Clearly the limitations imposed on women in Mishnaic and Talmudic times were designed to keep them out of the business sector, just as not letting them participate in Torah study kept them outside the learned society. Indeed, from various sayings of the Sages, one perceives a worldview that women do not engage in and do not understand business matters.

On selling to a woman land, which is adjacent to another person’s, it was said in Nahardea: “When land has been sold to a woman, to orphans or to a partner, it is not subject to the law of preemption.” (Babylonian Talmud Bava Meziyah 108b) In his commentary to this passage, Rashi explains that it is not appropriate for a woman to search for land, and therefore the first purchase she makes is valid even though it infringes on the right of preemption, under the premise of “doing what is just and right.”

With regard to pledging land as a guarantee for a creditor, or for a woman’s dowry, R. Simeon Ben Gamliel said: “While a creditor may so recover other property, a woman cannot recover the remainder because it is not seemly for a woman to keep coming to court.” (Babylonian Talmud

Gittin 41a) Rashi explains that the woman deliberately guaranteed her dowry rights with a particular piece of land, so that when she wanted to collect on these rights, she would not have to find out who the first and second buyers were, and negotiate with each separately.

Bereshit Rabbah 18:1 reinforces this attitude to women's property dealings unequivocally: "It is a woman's nature to stay within her house and a man's nature to go out into the market place and learn wisdom from people."

Despite laws that placed women in total economic dependence and a worldview that regarded negotiations with men and going to court as improper to women, both Babylonian and Jerusalem Talmuds report about women who knew the business world and showed independence and expertise in business transactions.

The possibility of discerning social and historical reality from the writings of the Sages is very limited, as already noted.⁶ While such sources may confirm historical facts, extracting the kernel of fact from the literary trappings of the moral, religious and didactic tendencies of each source could be quite difficult.

Menahem Elon⁷ notes on the importance of the case itself as a legal source in Hebrew jurisprudence. It appears that legal cases, which are not presented as a homily or an Aggadah and do not employ literary, didactic or moral principles, are more definitive with regard to the social and economic reality they portray. Examination of selected cases provides some knowledge on how women functioned in the economic sector, stood up to their male opponents and exhibited independence and freedom of action.

In the Babylonian Talmud, Bava Batra 137b, the Gemara examines a dispute between Rabi and Rabban Simon Ben Gamliel as to what is meant by "My property is yours, and after you it is another's, and the first recipient sold it and spend the money."⁸ In the course of the discussion the Gemara presents the example of a woman who gave property to Bibi Ben Abaye for his lifetime, which he then gave to his son. We are concerned with details pertaining to the way a woman negotiated a real estate deal, even though the Gemara is simply uninterested in gender issues.

A certain woman owned a palm tree on ground belonging to R. Bibi Ben Abaye. Whenever she went to cut it he showed resentment, [so] she made it over to him for life. He thereupon went and made it over to his little son.⁹ R. Huna the son of R. Joshua said: 'Because you are [yourselves] frail [beings] you speak frail words.'¹⁰ Even Rabban Simeon Ben Gamliel gave his decision only [in the case where the original owner had assigned the estate] to another [person], but not when [it is to return] to [the owner] himself.'¹¹

There are three parts to the story: the first involves the woman and Bibi Ben Abaye, the second Bibi and his son, and the third R. Huna son of R. Joshua and Bibi. The first part begins with "A

certain woman,” with no hint of her identity or family status, although there is a hint as to her occupation; the woman appears to have been the owner of a date plantation on land owned by Bibi Ben Abaye.

While “date palm” is in the singular, this form in the Mishnah and Gemara often refers to a group, as in Mishnah Bava Batra 2:7: “The tree is removed from the city.” The Gemara’s discussion of this Mishnah and the *baraita* it quotes make it clear that the subject is a group of trees. An additional example is found in Mishnah Bava Kamma 7:7: “The goat is not raised in Eretz Israel” but further on, “Chickens are not raised in Jerusalem ... Pigs are not raised anywhere.”

The steps Bibi Ben Abaye took to ensure his continued control indicate that we are dealing with a valuable property, allowing our assumption of a plantation containing a number of date palms and a case where a woman cultivates it over a period of time. This is made clear from the use of “each time” in part one to describe the woman’s work habits. Describing the work itself as “Whenever she went to cut it,” shows that the woman herself worked in agriculture or supervised such work, that is, she actively managed the property. The end of the sentence “he showed resentment” contains an additional indication of repeated confrontations between a man of position and a workingwoman. It also appears that she did not belittle herself and protected her rights.

However, part one ends stating that the woman placed the property at Bibi Ben Abaye’s disposal for “his life.” Why did she do that? Was she weary of the repeated confrontations? Did she do it for his sake, to avoid angering him? Was she tired of hard work and responsibility? Or did she simply seize a chance for a good deal that would bring worthwhile compensation for temporary transfer of rights, worthwhile perhaps because the price was high, or perhaps because “his life” did not appear to be long. Since the assumption that she seized an opportunity for a good deal is no less plausible than the others, we may be looking at a woman who is not only independent, self-respecting, hard-working, and skilled in farm work or administration, but a seasoned business woman.

Part three of the story indicates that after Bibi Ben Abaye resorted to a trick to keep “the palm tree” under his control, the woman did not hesitate to take him to the court of R. Huna son of R. Joshua. Here the latter addresses Bibi Ben Abaye in a style conducive to our understanding of the woman’s actions.

Furthermore, R. Huna’s explains to Bibi that Rabban Simeon Ben Gamliel in his dispute with Rabi on the subject under discussion “my property to you, and after you to another,” and the receiver “sold and ate,” gave judgment against the latter: he has only “what the first left over.” R. Huna, however, would not decide thus in this particular case, since the deal was worded differently. It is then reasonable to assume that the woman deliberately chose a formula that would show clearly that granting was temporary, “to be returned,” and not “You have my property and after you it reverts to me,” which is close to “My property is yours and after you

it is another's." You have my property and after you it belongs to another (and hence she might incur a loss, at least in R. Simeon Ben Gamliel's opinion). Possibly, choosing this formula was unfavorable to her from the beginning, allowing Bibi Ben Abaye to understand that she gave him all rights to the property during his lifetime, so that he could transfer it to his son.¹² Yet, in the end R. Huna determines that the property reverts to her, indirectly concurring with her wording.

Concluding, Rav Huna son of Rav Joshua reprimands Bibi severely: "Because you are frail beings you use frail words." Those very words of reproof he expressed in Babylonian Talmud Bava Batra 151a where Bibi Ben Abaye attempts to infringe on another woman's rights.

The hero in the latter story is the mother of R. Zutra Ben Tobia who tried to protect her property from a man who was to marry her by composing a deed of gift to her son. After a while she got divorced and tried to retrieve her property, but her son who held the deed refused, and Bibi judged in his favor. Here again R. Huna addresses Bibi Ben Abaye similarly to the first case we discussed; he begins with the sharp reproof "Because you are frail beings you use frail words," and afterwards explains the mistake in the earlier judgment.

We might infer that R. Huna reproaches Bibi in instances where women's rights are at stake, and thus conclude that because of his reputation as a proponent of women's rights, the protagonist of the latter account wanted to bring her case before his court. However, in four different instances in the Babylonian Talmud (Bava Mezhiah 109a; Yevamot 76a; Ketubbot 85a; Eruvin 25a), another Amora, R. Papi, lectures the same words of reproof to Bibi "because you are frail beings you use frail words". In two of these instances no women are involved, and in one of the other two cases (Yevamot 76a) Bibi actually seeks the benefit of women.

While comparing these cases, it seems that Bibi brings criticism on himself when trying to cut corners, that is, to circumvent the dictates of law, in cases not necessarily connected with women, and his critics expressed their anger in an epithet linked with his place of origin. As Rashi says, "because of their native place they are reproved" (Babylonian Talmud Yevamot 76b, beginning with 'because'). Hence we may conclude that the harsh words of R. Huna son of R. Joshua do not necessarily ascertain his opinions on women's rights. This rules out the previous suggestion that the woman with the date palms deliberately chose to bring her case before him.

In conclusion, while it is impossible to conclude from the story's end that the woman was calculating and daring enough to apply deliberately to a particular judge, the details of the story do divulge other aspects of her personality. The way she maintained the property and disposed of it reveals an independent, knowledgeable woman who interacts with men and manages her property efficiently, knows how to make business deals and does not hesitate to fight for her rights in court.

We now turn to a collection of stories in Babylonian Talmud Bava Batra 151a and b, following a discussion of the dying man who willed his entire estate to others. These accounts are not about fictitious transfers for the sake of concealment, but deal with actual transfers of property by

women to male beneficiaries. The entire collection of four cases that were brought before Rav Nahman, to which the story of Zutra Ben Tobia's mother was added, relate to mothers or sisters who transfer assets over to their sons/brothers. The stories are not presented in any chronological order: the first is about the mother of Rami Ben Hama of the fourth generation of Amoraim, the second about the mother of Amram the pious of the second generation, the third about the sister of Tobi and Ahadboi, sons of Mattenah, of the third generation, and the fourth about the sister of Dimi Ben Joseph, of the second generation.

Structurally and contextually the four accounts are quite similar. The first two stories deal with mothers. The first mother writes two different wills to her two sons, because she regretted the first one. The reason given for the judgment is "Wherever a person may retract if he recovered, he may also withdraw his gift." The second mother wills her property orally to one son and does not retract from it. The reason for the judgment given is "The instructions of a dying person are regarded legally as written and delivered," that is, the will of the dying is final.

The next two stories deal with sisters. The first sister wrote two wills for her two brothers, because she regretted the first one. The reason for the judgment reached is again "Wherever a person may retract if he recovered, he may also withdraw his gift." The second sister transferred property to one brother but regretted it and canceled the deed more than once. Once again the judgment is "He that gives instructions owing to [his expectation of] death, may retract," -- the will of the dying is conclusive.

Apart from the similar structure of the collection, it is possible that the editor had an additional motive when presenting the female image. The stories are arranged in a kind of hierarchy related to the power of the woman described. In the first story we are not told what made the mother change her mind: perhaps it was pressure from the son who did not benefit from the will. In the second case the mother wills her property to the favorite son just before she dies, possibly to avoid just such pressure to change her mind. In the third story the sister changes her decision after her brother "wept before her," which is also a form of pressure but one that she handles from a position of strength. In the fourth story the sister is clearly strong-minded and domineering, using her property to intimidate her brothers.

What concerns us, however, is not the editorial intent but the historical nucleus contained in each story, which is required in order to draw conclusions about the presence of women in the business world and their aptitude in business matters. In all four stories there are women who control property. They may have inherited property from their *ketubbot* when widowed or divorced. They may also have received the property as gifts from their husbands, or from others after their husbands died. In any case, the protagonists in these accounts are women who not only own property but also show the ability to manage it, being well aware of its inherent power and control.

Let us examine the first story closely:

The mother of Rami Bar Hama gave her property to Rami Bar Hama, in the evening; [but] in the morning she gave them in writing to R. 'Ukba Bar Hama. Rami Bar Hama came before R. Shesheth who confirmed him in the possession of the property. R. 'Ukba Bar Hama, [however], went to R. Nahman who [similarly] confirmed him in the possession of the property. R. Shesheth [thereupon] appeared before R. Nahman [and] said unto him, 'what is the reason the Master has confirmed R. 'Ukba Bar Hama in possession? Is it because she retracted? Surely she died!' He replied unto him: 'Thus said Samuel, 'Wherever a person may retract if he recovered, he may [also] withdraw his gift.' May it be suggested that Samuel said [this in the case only where the withdrawal was] for himself; did he, [however], say [this in the case where the withdrawal was in favor] of another person? He replied unto him: Samuel distinctly stated, 'whether for himself or for another.'

The protagonist of the story is a mother who changed her will in favor of one son. Rav Nahman decreed the change valid, basing his judgment on the words of R. Samuel who passed judgment that in cases where the testator clearly wished to revoke his will either in his own favor or in that of another, his wish is respected.

This story may also reveal some information about the woman's character, apart from the fact that she changed her mind swiftly. In a parallel passage in Babylonian Talmud Ketubbot 94b, R. Nahman gives another reason for his judgment. First he disallowed Rav Shesheth's claim of priority, since both wills were written on the same day. Then it seems that he used his reputation and his social rank as a judge to assess what the woman's real intent was.

The Medieval commentators Rif and Rashbam explain that Rav Nahman gave a reason different from the one cited in Babylonian Talmud Bava Batra, since the gift was made by one in good health, and the question is who was the first to receive the deed of gift from the mother. Rav Nahman felt that such a case should be decided on the basis of intent, and determined that 'Okba was his mother's favorite and therefore was given the gift first. However, the existence of two different, yet similar stories raises a doubt regarding their historical value. Perhaps Rami Bar Hama and 'Okba Bar Hama were linked to this family dispute over property because in spite of their close family ties (the two brothers had married two sisters), they did not trust each other when it came to property matters. Babylonian Talmud Bava Kamma 29b relates that the two brothers owned a handmaid in common. She worked for the first brother in the first, third and fifth year of a six-year cycle and for the second one in the second, fourth and sixth year. Each brother wanted to prevent the other from claiming possession, which would have been his right after three consecutive years. Possibly, then, the story of the mother who willed her assets to one brother and then revoked the will, was simply "attached" to these well-known brothers. The talmudic accounts may not be authentic, but serve as a means to reflect a reality where women achieved control over men in their life by using their assets arbitrarily. The Jerusalem Talmud Bava Batra 8:7 also reflects such a reality:

The sister of R. Honia deeded her property to R. Honia. She fell into need and sold the property to her husband. When she had died, he came and wanted to raise the issue with him [with the deed of gift].

He said to him, “Now why did you not lay claim on me when she was alive?”

He said to him, “I did not want to bother her.”

Even so, R. Ammi retrieved the property [and restored it to the husband, since she had the right to retract the gift].

This story appears to cover the life span of R. Honia’s sister from maidenhood to death. The most plausible explanation for deeding property to her brother was that she did so before her marriage in order to conceal it from her husband. It is unlikely that she did so while being married. The option of receiving her husband’s permission is not supported by the rest of the story. Assuming this, the story is about “concealing property,” which is highly relevant to our discussion; before her marriage R. Honia’s sister wanted to conceal her property from her husband. However, later on she needed money and sought a way to get her property back without running the risk of letting her husband gain control over it.

It seems that by selling the property to her husband, the woman wanted to release it from the concealment that immobilized it. She could not retract the gift and sell the property to a stranger, since her husband would have the right to take it away from him (and following the Usha ruling, even the capital and even after her death). Under such conditions there was no chance of finding a buyer. So the woman made her husband the buyer, and thus acquired money corresponding to the value of the property, to use as she saw fit.

There is an interesting undertone to the conversation at the end of the story between the husband and the brother. It is not clear whether it was the brother who asked, “Now why did you not lay claim on me when she was alive?” and the husband who answered, “I did not want to bother her,” (as interpreted in the collection *Shitah Mekubezet*), or vice versa (following the commentator of the Jerusalem Talmud *Pnei Mosheh*). What is clear is that neither men effectively controlled the property while the woman was alive.

The brother’s inability to do so is clear. Obviously he must have known that the gift was fictitious, concealing an asset. But why was the husband in such a helpless position? Not only should the property have been under his control since he was the husband, but he had actually bought it from his wife.

The husband explained that his wife was ill and he did not want to bother her. Quite suspiciously, this response seems appropriate; one should consider the possibility that the woman had a strong character and he wanted to avoid a confrontation with her. Whatever the case, it appears that R. Honia’s sister was an independent woman who knew how to handle her

affairs, was able to cope with the difficulties the *Halakhah* imposed on her, and restored her economic independence of which she was deprived as a married woman.

Returning to the story collection in Bava Batra 151a, we examine the story of the mother of R. Amram the pious:

The mother of R. Amram the pious had a case of notes [of indebtedness]. While she was dying she said, 'Let it be [given] to my son Amram.' Her brothers appeared before R. Nahman [and] said to him, 'Surely he did not pull [the case of documents]!' He replied to them: The instructions of a dying person [are regarded legally] as written and delivered.

The story describes an inheritance dispute between Amram the pious and his mother's brothers, where it was not clear whether the mother's words on her deathbed were accompanied by an act of purchase.¹³

Unconcerned with the legal problem, we are free to ignore questions about the words of the dying, and can concentrate on the mother who had "a case of notes." (Debts) Who was she before she lay on her deathbed?

Assuming that the notes came to her through widowhood or divorce, and that she herself did not redeem them, we must still admit that a bundle of notes in a woman's hand (The commentator *Nimukei Yosef* comments that she said, "They and all that is mortgaged in them belong to my son Amram.") indicates that at one point in her life she handled the debtors and managed her finances independently.

As mentioned above, the woman may have chosen to make an oral will on her deathbed because she wanted to leave her property to her pious son, protecting herself from the pressures of other relatives. It is possible, too, that the woman acted on the law: "The words of a dying person [are regarded legally] as written and delivered."

The next story in the collection relates that

The sister of R. Tobi Ben R. Mattenah gave her possessions in writing to R. Tobi Ben. R. Mattenah in the morning. In the evening, Ahadboi son of R. Mattenah came [and] wept before her, saying: Now [people will] say [that] one is a scholar and the other is no scholar. [So] she gave them in writing to him. He [subsequently] appeared before R. Nahman [who] said unto him: Thus said Samuel, 'Wherever a person may retract if he recovers, he may [also] withdraw his gift.'

What requires close attention here is what Ahadboi did to persuade his sister to retract the gift of her property to their brother. His manner of persuasion, "he wept before her" and the words he

employed, “People will say that one is a scholar and one is no scholar,” should provoke our interest. One should also note the brother’s weak stance. He does not demand or threaten but weeps. This makes him someone to be pitied, and puts his sister in a position of power.

Contextually, one wonders what made the sister change her mind. If both brothers were scholars, Ahadboi’s logic would indicate that if she left her property to him, people would gossip about their scholarship. Hence it is not clear what convinced her to alter her decision. If her considerations in disposing of her property were unrelated to her brothers’ learning, the reason she changed her will is still not clear.

Examination of a parallel story in the Jerusalem Talmud Peah 3: 7 enables us to show that the story in the Babylonian Talmud reveals some kernel of the historical reality:

The sister of R. Gurion deeded her property to her brother. Her older brother came to her, reconciled her and she deeded it over to him. The case came before R. Ammi. He said: Thus said R. Johanan: she can retract.

In this story the second brother does not weep, but “reconciles her.” The word “elder” hints at the essence of the reconciliation, from which one understands that this brother made the claim of seniority to convince his sister to transfer her property to him.¹⁴

In the Jerusalem Talmud Bava Mezia 9:8, the second brother, Menahem, is referred to as “the brother of Gurion.” Menahem is called by his brother’s name although he is older than him, according to the story in Bava Batra. One might conclude that since R. Gurion was a noted scholar, both his sister and his brother were referred to by using his name. Possibly in Babylonia the story of the two brothers, Gurion and Menahem, one of whom was a scholar, and their sister, may have been linked to that of two other brothers, Tobi and Ahadboi the sons of Mattenah because here too one brother, Tobi, was a noted scholar. According to Babylonian Talmud Bava Batra 23a, the famous Amora R. Joseph, who was his teacher, appreciated his knowledge and once even quoted his legal understanding and acted upon it. Ahadboi was less known; only two sayings, which he gave in the name of his father, are extant.

The last story in the collection is about a woman who uses her economic advantage to maintain the upper hand over her brother:

The sister of R. Dimi Ben Joseph had a piece of an orchard. Whenever she fell ill she transferred the ownership of it to him, but as [soon as] she recovered she withdrew. On one occasion she fell ill and sent [word] to him. ‘Come [and] take possession.’ He replied, ‘I have no desire.’ [Thereupon] she [again] sent [word] to him, ‘Come [and] take possession in whatever manner you desire.’ [Then] he went, left for her [some portion of the intended gift] and acquisition from her was [also] arranged.¹⁵ And she [again] recovered. She retracted [and] came before R. Nahman. He sent for him. He [however,] did not come, saying, ‘Why should I

come? Surely [some portion of the estate] was left to her and [symbolic] acquisition from her [also took place!”¹⁶ [Thereupon] he sent to him [the following message]: ‘If you do not come I will chastise you with a thorn that causes no blood to flow.’ He also asked the witnesses how the incident had occurred, [and] they told him [that when she sent for her brother] she exclaimed thus: ‘Alas that I am dying!’¹⁷ He said unto them: If so, the disposal [of her estate was] due to [her expectation of] death, and he that gives instructions owing to [his expectation of] death, may retract.

R. Dimi’s sister, who owned a piece of an orchard, larded it over to her brother until his patience eventually expires. The woman appears to know the law that states “If a dying man gave all his property in writing to others and left for himself some (piece of) it, his gift is valid. (If however) he did not leave (for himself) some (piece of) land, his gift is invalid” (Mishnah Bava Batra 9:6). She manipulated her brother and forced him to come to her aid. He was certain his sister was going to give him the entire orchard, knowing that this actually invalidated the gift. Even after the brother gave up the property to free himself from her, she did not stop scheming, even on her deathbed.

Finally the brother grasped the rules of the game and tried to repay his sister. She was then obliged to grant him the property in a way that made it impossible to retract the gift, but she did not hesitate to go to court, even though witnesses testified that when she did so she was mortally ill.

Indeed, from the story’s end it appears that the sister was entitled to legal support because the last transfer, even if it was legally valid, was worded so as to make it clear that it was a deathbed bequest. It is possible then, that even at death’s door, the woman was of sound mind, and chose her words in a way that would conform to the law, leaving her an option on the property. On the other hand, it is also possible that “Alas I am dying!” was a spontaneous cry of distress, with no manipulation behind it.

The story depicts a woman dependent on the male world not only because she is a woman, but also because she is physically weak. Nonetheless, mental strength, knowledge of the law and determination make up for her weaknesses, and place her in a position of strength *vis-à-vis* her brother, a healthy man who does not appear to know the business world.

Possibly, R. Nachman’s enthusiastic intervention on behalf of the woman, followed by an examination of witnesses, arose from circumstances in the life of the siblings, which is not specified in the story. When the brother refused to appear before the court, declaring: “Surely a portion of the estate was left to her, and symbolic acquisition took place!” R. Nahman threatened him with what seems like excommunication. Maybe R. Dimi’s effrontery in doubting R. Nahman’s knowledge of the law and the defiance of his judicial authority made him severe. (In Babylonian Talmud Ketubbot 91a, R. Amram sends the same threat to legatees who, seeking legal

reasons to enrich themselves at the expense of other heirs, disregard his authority to decide according to the circumstances of the case.)

On the other hand, R. Nahman's severity may show how angry he was with R. Dimi for neglecting his ailing sister, causing her to use her superior financial position to make him visit her.

Summing up, it is doubtful whether R. Dimi was responsible for the deteriorated relations with his sister. If he was not, we cannot be sure whether his sister was an incorrigible tyrant or a woman in real need. One thing is certain, however. She was knowledgeable about property laws and wills, aware of the value of her property and how to profit from it. Moreover, she had no problem going to court, considering her ailing condition.

Conclusions

We have studied the stories centered on women in Babylonia and in the Land of Israel. These women are all anonymous and called by the names of their male relations: the mother of, or the sister of. Nonetheless all display superiority and even control over their male opponents. Most of them seem to be thoroughly at home in the business world, managing their property both independently and ably. Several show an expert knowledge in the laws of business dealing and property, and are able to use these to promote their personal interests.

In the Land of Israel, Honia's ingenious sister transferred capital from her husband to herself without giving him any real return for it. In Babylonia, R. Amram's mother appears to have carried on wide-ranging business affairs in her lifetime and died with "a case of notes" in her possession. R. Dimi's sister, and the woman with the "date palm" were familiar with property laws and thanks to their knowledge made lucrative business deals. The woman who owned the date palm also knew how to run an agricultural project. Moreover, the sisters of R. Gurion and R. Dimi exercised control over their property during the talmudic period, demonstrating that women were not kept out of the business sector entirely.

Two stories in the Babylonian Talmud Bava Mezia 67a and in Bava Batra 169b depict cases in which women who wished to purchase real estate operated through male emissaries. Interestingly, a computer search in the Babylonian Talmud for the word "bought" in its male and female forms discloses 562 cases for the former as opposed to 13 for the latter! This indeed shows that the business world was a man's world.

Nonetheless, one may conclude from the judgments handed down by R. Nahman in the stories discussed here that women who appeared before him did not get special treatment because they were women. In all cases decisions were justified by regular laws worded in male gender forms, obviously also applying to the women who came before the court. Admittedly, at least in Talmudic society active businesswomen were not perceived as a deviance requiring a special treatment.

Notes

¹ The concept “her handiwork” indicates that women did work (Babylonian Talmud Ketubbot 6a). There is also a series of female professions such as “midwife” and “worker in wool” and additional occupations where women participated, like those cited in Babylonian Talmud Yevamot 15b: “One comes from the harvest, one from the olive grove and one from the vineyard” (Mishnah Yevamot 15:2).

² Queen Heleni contributed to the Temple both gold and a golden tablet inscribed with a passage from the Torah about the *sotah* (suspected adulteress). (Mishnah Yoma 3:10). There were also “women of esteem in Jerusalem” who provided wine for those condemned to death (Babylonian Talmud Sanhedrin 43a), and a fund to help raise the sons of poor women who assisted the Cohen in burning the red heifer (Babylonian Talmud Ketubbot 106a).

³ Ariel Rosen-Zvi, *The Law of Matrimonial Property*, (Hebrew) (Tel Aviv: Tel Aviv University, 1988), 122.

⁴ This law is quoted in the *stam Gemara* in Babylonian Talmud Gittin 77a, Sanhedrin 71a and Nazir 24b.

⁵ Later there were Sages who wished to apply this law to property that came to a girl who was betrothed, or property a married woman had acquired while betrothed. In Usha, the rules were notably more stringent, and stated that the husband reclaims the land itself from customers after her death. In any case, this is how the Babylonian Talmud Ketubbot 78b explains the Usha innovation regarding the Mishnah text.

⁶ Gedaliah Allon, *Toldot ha-Yehudim be-Eretz Israel be-Tekufat ha-Mishnah ve-ha-Talmud* (Tel Aviv: Hakibbutz Hameuhad, 1975), 12; A. Oppenheimer, and M.D. Herr, *Ha-historiah shel Eretz Israel be-tekufat ha-Mishnah ve-ha-Talmud ve-ha-shilton ha-Bizanti* (Jerusalem: n.p., 1985), 377.

⁷ Menahem Elon, *Ha-Mishpat Ha-Ivri* (Jerusalem: Y.L. Magnes, 1978).

⁸ The Gemara responds to the apparent contradiction between two *baraitot*. In the first Rabi says: “The second takes it away from the customers” and in the second he says, “The first goes down, sells and eats.” Rashbag says, “The first only eats the fruits.” The Gemara explains that there is no contradiction between the *baraitot*. In the first Rabi related to selling the capital, and in the second to selling its fruits. In the first *baraita*, Rashbag responds retroactively to something already done, and in the second, he responds in advance. Rav Nahman Bar Isaac explains that the difference arose since Rashbag thought that “Owning the fruits is the same as owning the capital,” while Rabi thought that “Owning the fruits is not the same as owning the capital.”

⁹ Rabbenu Gershom explains that he deeded it to his little son who could not sell it, so he could not buy it back from him, while Bibi himself could continue to enjoy its fruits in return for the maintenance of his son. However, Rabbenu Hananel offers a different version where “his son” is not described as little.

¹⁰ According to Babylonian Talmud Rosh Hashanah 18a, Abaye descended from the house of Eli who was called *mamlai*, after their place of origin. Bereshit Rabbah 58: 1 relates: “Rabbi Meir went to Mamla and saw that they all had black hair. He told them that it is written in I Samuel 2: 31: “There shall not be an old man in thine house forever.” According to Rashi, the source of the word *muliata* is Job 18:16: “and above his branch shall be cut off”, in Hebrew :”*va-ya-ma-l k-zi-ro.*” Following this argument, *mili muliata* in the Talmudic text means ‘having no real meaning.’ However, it is possible, considering Babylonian Talmud Bava Batra 54a, that this is the word for a heap of dust, a hump, so that *mili muliata* means words with a hump, or defect.

¹¹ Rashi interprets: “But if he said, ‘after you, to me,’ like the woman who specified that after the death of Bibi Ben Abaye the property was to revert to her, since she had given him the fruits only.” Hence making the property over to his little son was invalid. Rosh interprets: “to himself - since giving it to his son was the same as leaving it in his own hands, that it, he sold it to himself, which is no sale at all.” Rambam understands it in the same way, see *Hilkhot Zekhiyah u-Mattanah*, ch. 12.

¹² Ran on Rif on Babylonian Talmud Bava Batra, 137b, beginning “*Hahi iteta*”

¹³ Ran comments that the brothers’ claim was not worded precisely, since a note is purchased by raising it, not by ‘pulling’ it.

¹⁴ In a discussion following the passage in the Jerusalem Talmud, R. Zeira asks: “Does R. Johanan not admit that if it is written ‘from this day’ it cannot be withdrawn?” Two traditions that contradict R. Johanan in this matter are presented. In any case, there seems to be a clear and widely known difference between a gift made ‘from this day’ and one not so designated. Maybe that is why the Babylonian Talmud is careful to mention that the retraction took place on the same day: “... to R. Tobi Ben R. Mattenah in the morning. In the evening Ahadboi son of R. Mattenah came...”

¹⁵ Rashbam explains: “Did not want to take the whole orchard, but she kept part of it and thus he gained acquisition.” He thought that in this way she could not withdraw, since he assured his possession to some extent even in the case of a deathbed gift that if the testator recovers is not withdrawn, and also because he had made symbolic acquisition of the bequest. (Following this, the Gemara gives two contradictory traditions regarding what R. Nahman said about whether a deathbed gift requires an act of acquisition or not.) According to Rashbam, R. Dimi is the active party in leaving the remainder, while in the Gemara the verb ‘to leave’ has a female subject. Rabbenu Gershom wrote that he (Dimi) influenced her to leave part of the orchard in her own hands. This seems to be more plausible. Rashbam’s interpretation is difficult to accept, because later on in the story R. Dimi told R. Nahman: “She left [some portion of the estate] to herself and I acquired possession,” not “I left her [a portion of the estate] and acquired possession.”

¹⁶ Rabbenu Gershom’s version: “She left a remainder for herself, which shows that she truly intended to give it to him.” This appears to be a more familiar version than “they bought it from her,” since it fits in better with the message the sister sent: “Come and take possession.” It is also more congruent with the content of the story: “They bought it from her” implies that others bought it from her, for him.

¹⁷ Rashbam adds: “I will not see my brother again because he does not want to come to me.” However, Rif’s interprets: “She did not see her brother and this is why she died,” meaning that her regret over her brother’s alienation caused her death.