

# “אל תאמר מחר - פן יהיה מאוחר”

## סיכום השיעור

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### Why write a will in the first place?

#### A. We tend to postpone preparing our estate plan:

1. It seems far off and impractical (until 120!)
2. We refrain from dealing with uneasy issues (especially death)

#### B. Disadvantages of being passive and not writing a will (intestate):

1. The default situation in Israel (50% to spouse and 50% to children in equal shares) isn't practical. No one wants assets belonging simultaneously to the spouse and kids. It complicates matters and becomes a platform for dispute.
2. Great recipe for family tumult. "Nature abhors a vacuum". If you don't specify your wishes clearly, someone else (or more) is bound to guess what you would've requested...

### Ok, I'm convinced I need a will. But what's the Halachic Supplement all about?

#### 4 differences between the Jewish Law and the Israeli Inheritance Law:

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| 1. Halacha: 1 <sup>st</sup> born boy receives double | Israel Law: He gets equal amount to siblings  |
| 2. Halacha: Husband inherits wife; not vice-versa    | Israel Law: Spouses receive 50% from estate   |
| 3. Halacha: Girls don't inherit (if there are boys)  | Israel Law: Girls receive equal share to boys |
| 4. Halacha: Only biological heirs inherit            | Israel Law: Adopted children receive equally  |

### So?? I wrote a will that says my wife inherits and my children receive equal shares?

#### 3 major problems with a legal will that doesn't have a Halachic Supplement:

1. **Halachic Prohibition:** According to many Poskim, one who bequeaths against the law of the Torah is cancelling the Torah Inheritance Law ("מצוות דיני נחלות") – see *Chinuch, Mitzva 400*
2. **It's not valid:** According to the Halacha, a standard legal will is not valid, since one cannot bequeath after he is dead. Monetary legal transactions have to be done while we're still alive.
3. **Heavy risk of Family Dispute:** When a will is Halachically not valid, there is a high probability that the Halachic heirs (i.e. boys) will sue the rest of the family, in order to receive a larger piece of the estate. Would you want your family torn apart, G-d forbid, in a family lawsuit?

### How do we bridge the gap?

#### 2 Halachic Solutions, implemented via 1 supplement which Halachically validates your legal will:

1. **Gift:** Your assets are given to the beneficiaries of your will as a gift while you're alive. The realization of the gift is only practically possible when you pass away.

This solution applies only to assets that we own at the time of signing. One cannot give assets he does not own yet as a gift. Therefore the above solution doesn't apply to assets which will be purchased in the future. To solve this issue, another clause is added to the supplement: "*Shtar Chatzi Zachar*":

2. **Conditional debt:** A large conditional debt to the *non-halachic heirs* (i.e. wife and daughters), that would kick in only if the *Halachic heirs* (=boys) would challenge the will. If that were to happen they would lose their whole share in the estate, and that way it doesn't pay them to fight.

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