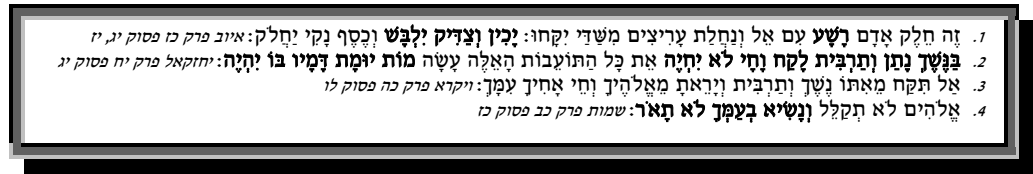


21.5.2

61b (רבינו תרבות) → 62b (רבינו מוקדמת רבית מאוחרת)



I Analysis of division of משנה – example of רבית given

- a Q: isn't everything until this point also רבית (i.e. why define "what is רבית" exclusively here)?
  - b Answer 1 (ר' אבהו – ר' אבהו): until this point ("נשך") is רבית דאורייתא, from here on (the case with the fruit) רבית רבית
    - i And: even until this point, v. 1 applies (exempting son from returning his father's רבית)
    - ii Clarification: until this point, we are dealing with רבית קצוצה; from here on – אבק רבית
      - 1 Practical difference (ר'א): only in the case of רבית קצוצה does ב"ד force him to return it
      - 2 Dissent (ר' יוחנן): even רבית קצוצה is not forcibly returned by ב"ד
        - (a) Reason for ר'א's position:
          - (i) ד' יצחק v. 2 – וחי לא יחיה indicates that רבית is only atoned for with death – not payment
          - (ii) ד' אדא בר אבהו v. 3 indicates that it is geared to fear of God, not coerced return
          - (iii) דבא v. 2 itself declares – at the end – that it is comparable to a murderer
        - (b) דנב"י reason for ר'א's position – v. 3 – make sure that he can live (by returning usury to him)
          - (i) ד' reads עמך וחי עמך as per ר'א's response to the dilemma of the single bottle in the desert (בן פטורה)
        - (c) Challenge (to ר'א): ruling that if sons inherited רבית, they aren't responsible to return it
          - (i) Implication: father himself is responsible to return it
          - (ii) Block: father also doesn't have to return it – sons mentioned in apposition to ruling if father leaves a distinct גולה – e.g. a cow – they must return to honor their father's name
            - 1. Challenge: v. 4 indicates that honor is only due someone who is ethical –
              - a. Answer: father may have demonstrated contrition before death – but didn't have time to return it before dying
  - (d) Challenge (to ר'א): גולנים (=usurers), even though they already collected, must return (the usury)
    - (i) suggestion: it is a dispute among תנאים
      - 1. מלוה and דאב"י: a מלוה and an ערב (who cooperate in a רבית-loan) are exempt (from מלקות)
        - a. Reason: they have a קום עשה (→ it is a עשה לעשה)
        - b. assumption: the עשה is returning the money
        - c. rejection: this is before it's paid – the עשה is destroying the שטר
          - i. reason: the עשה of לאו of נשך עליו נשך doesn't apply until the שטר is collected, until that point they are bound by the "עשה" to destroy it
          - ii. and: they hold that שטר העומד לגבות לאו כגבוי דמי – but it teaches that the assessment made for the loan is itself a meaningful act, generating liability (→ must tear שטר)
          - iii. support: משנה (ה:יא) rules that all of these violate: lender, borrower, ערב, and עדים
          - iv. Note: שומא מילתא היא → שומא didn't do anything except to participate in לווה
- II ר'א's rule: commitments that, in "their" court obligate payment for לווה are returned by מלוה by force of ב"ד; commitments that they don't obligate fulfillment we don't coerce be returned
  - a Challenge (ר' יוסף → ר' אב"י): סאה בסאה, which they obligate to pay, we don't obligate return
    - i Answer: they consider the סאה of wheat (e.g.) to be a פקדון, not a loan
  - b Challenge (ר' אשי → ר' בינא): a non-deducted collateral (e.g. if the לווה makes his vineyard collateral for the loan and the פירות eaten won't be deducted from the loan → רבית); they force לווה to pay to מלוה (if לווה ate), but we don't coerce payment back to לווה
    - i Answer: they consider it a (temporary) sale
  - c Question: what is the import of ר'א's statement?
    - i Payment: regular רבית קצוצה – e.g. "4 for 5"
    - ii Non-payment: pre-רבית and post-רבית (משנה י')
      - 1 Pre: sending a gift to potential lender to appease him
      - 2 Post: sending a "thank-you" to lender