

3.4.4

46a (אמר רבי יעקב) → 47b (הני כללי)

note #1: decreed that any woman who sees **דס** considers herself **טמא** for the 24 hours preceding **ראיה**.

note #2: there is a concern when a woman remarries that if she bears a child within 7 months, the patrimony will be unclear. Therefore, most **תנאים** agreed that there is a mandatory 90-day waiting period between marriages. Some **תנאים** held this to be the rule; others only applied it when the concern was real and **ר' יוסי** rejected it.

I. משנה ריב"ג follows הלכה – ר' יהושע בן לוי

a. Question (ר' זירא לר' יעקב בר אידי): was this an explicit ruling or inferred (from ריב"ל – ריב"א)?

i. Justification1: if we only had הלכה כריב"ג that we abide by it (even לחומרא)

1. And if: we only had הלכה כדברי המיקל בעירוב א, הלכה כדברי המיקל בעירוב ב (or רבים v רבים)

2. Challenge (ר'בא לאביי): in a dispute that דרבנן, shouldn't matter if it is 1v1 or 1 v רבים

a) Block (ר"פ לר'בא): even in a דרבנן we distinguish between 1 v 1 and 1 v רבים

i. Example: נדה א:ה – ר"א ruled leniently about טומאה למפרע for woman who had 3 "clean" עונות

1. And: רבי ruled like ר"א; and "after he remembered" – ruled that we can rely on ר"א for שעה"ד

a. explanation: he remembered that הלכה wasn't decided,

b. yet: ר"א was opposed by רבים → could rely on him הדחק

b) block (ר'בא לר'בא): we are only lenient per ר"ע (שמועה רחוקה) is only 1 day

i. Contra: חכמים (7/30 even for שמועה רחוקה)

ii. Reason: הלכה כדברי המיקל באבל – שמואל

1. Implication: in other areas of הלכה – even דרבנן – we follow רבים over יחיד

ii. Justification2 (ר"פ): from הלכה כדברי המיקל בעירוב, we might have only applied to עירובי הצירות

1. Per: (זכין...) עירובי תחומין (...), but not דעת w/o עירובי הצירות – עירובין ז:א

iii. Justification3 (ר'אשי): perhaps הלכה כדברי המיקל בעירוב is only after its been set up, not *ab initio*

1. Per: תוס ד"ה שלא לשכח – ר' יוסי allows minimal food if עירוב was originally sufficient (cf. תוס ד"ה שלא לשכח)

II. פסיקה Hierarchy of

a. ר' יעקב ור' זריקא: either public ruling, private instruction or favoring position

i. Always trumps any one colleague: ר' or ר"ע (הלכה כר"ע/כרבי מחבירו)

ii. Always trumps even more than one colleague: ר' יוסי (הלכה כר' יוסי מחביריו)

b. ר' עקיבא among students of ר' יוחנן

i. Hierarchy: ר' שמעון > ר' מאיר > ר' יהודה > ר' יוסי (on last matchup)

c. Rejection (ר' משרשיא): from a series of משניות

i. Source1: our משנה – we assume (from סיפא) is ר"ש and is opposed by ר' יהודה and רב explicitly ruled like ר"ש

1. Rejection: perhaps the hierarchy of פסיקה is only for cases where we don't have an explicit ruling

ii. Source2: עירובין ה:ו – regarding size of city עירוב חצרות v. ר' יהודה v. ר' שמעון: עירוב חצרות

1. Rejection: same as above – where there is an explicit ruling, that trumps the hierarchy

iii. Source3: עירובין ח:ה re: abandoned house vis-à-vis חצר v. ר' יהודה v. ר' שמעון: חצר

1. Rejection: same as above – explicit ruling trumps hierarchy

iv. Source4: עירובין ד:ט re: use of "עירוב" for non-עניים-מאיר v. ר' יהודה v. ר' מאיר (whether it is also for עשירים)

1. And: רב directed ר'אשי בר אשי (when tutoring his son) to add "הלכה כר' יהודה" to his ruling like him

a) Implying: that רב didn't otherwise accept this hierarchy

b) Answer: ר' יוחנן may have this hierarchy without רב agreeing to it

v. Source5: יבמות ד:י – dispute re: יוסי if ר' יהודה/ר' יוסי may marry (within 90 days of death of husband) or just קידושין

1. יוחנן: ר"מ ruled like ר' יוסי (even though it was only against ר"מ) → hierarchy inaccurate

a) Defense: perhaps ר' יוחנן held like שמואל – we always accept ר"מ's גזירות

vi. Source 6: ברייתא – dispute re: allowance to leave א"י for study; ר' יהודה v. ר' יוסי

1. יוחנן: explicitly stated הלכה כר' יוסי (→ no rule)

2. Defense: perhaps the rule only applies to משניות, not ברייתות

vii. Note: rule itself is not a matter of consensus; we already observed that רב doesn't accept it