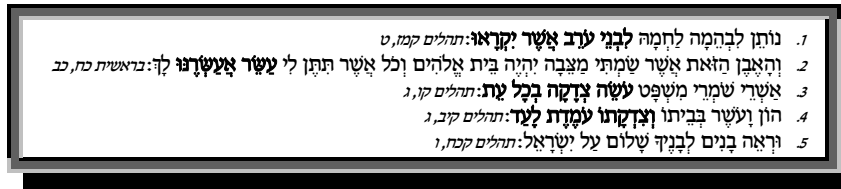


14.4.9

49a (משנה ר') → 51a (בין לפרנסה)



- I משנה ר' father is not *obligated* to feed his daughters
- a "מדרש" of ר"אב"ר in ביבנה כרם: "sons inherit and daughters are fed":
- i just as sons only inherit after father dies, similarly daughters are only fed (from estate) after father dies
 - ii implications:
 - 1 daughters: no obligation, but there is a מצוה to feed them
 - 2 sons: obligation to feed them
 - 3 challenge: doesn't fit any of these 3 opinions:
 - (a) מאיר ד' מצוה to feed daughters, ק"ו sons (they study) (but no obligation)
 - (b) יהודה ד' מצוה to feed sons (no obligation) and ק"ו the daughters (dignity)
 - (c) ד' יוחנן בן ברוקא no obligation to feed either while father is alive
 - 4 Answer: could be any of them (but we have to revisit our inference)
 - (a) מאיר ד' מצוה to feed both girls and boys (no חובה); reason " daughters" is mentioned to note that there is no חובה but there is a מצוה
 - (b) יהודה ד' no obligation to daughters – ק"ו to sons; but both are מצוה – reason " daughters" is mentioned – even regarding daughters there is no obligation
 - (c) דינ"ב: there is no obligation – not even a מצוה – regarding either (while father is alive); reason "daughters" is mentioned is because after death there *is* an obligation
- II תקנות אושא
- a A man must feed his minor sons and daughters
- i Question: do we accept this report להלכה?
 - ii Answer: anecdotal evidence that we shame him – but don't force him – to feed them (v. 1)
 - 1 Exception: if he is rich, he is forced to feed them
- b If a man writes all of his property to his sons, he and his wife are fed from the estate
- i Challenge: we already learned that even an אלמנה is fed by the estate
 - ii Answer: this ruling is less obvious – since he is alive and could work to support both of them – קמ"ל
 - iii Question: is this ruling accepted להלכה?
 - iv Answer: (from anecdote) not accepted, but דיינין may force individuals to comport
- c No one is permitted to give more than 20% to צדקה
- i Reason: he may become destitute and become a ward of the public
 - ii Support: v. 2 – עשר אעשרנו = 2 מעשרות (1/10+1/10=1/5)
 - iii Challenge: the 2nd מעשר is only 9% of the total
 - iv Answer: עשר::אעשרנו (give 10% each time)
- Interlude: mnemonic of these rulings (reported by אילעא ד', each subsequent one has fewer links in the chain of transmission): קטנים כתבו ובזבו
- d A man should be patient with his son's studies until he is 12 – after that, discipline aggressively
- i Challenge: we begin teaching him at 6
 - 1 Answer1: begin teaching – but with patience
 - 2 Answer2: at 6, he begins studying מקרא, only later moves on to משנה etc. as per אב"י's report
 - 3 Tangential reports about treatment of young children
 - 4 Note: beginning him before age 6 may lead to physical infirmity, but he will outshine his classmates
- e If a woman sells מלוג נכסי and then predeceases her husband, he may confiscate it from the buyer
- f Tangential homilies relating to vv. 3-5:
- i v. 3: "constant" צדקה is feeding your minor children, or raising an orphan in your home & marrying them off
 - ii v. 4: someone who studies and teaches תורה, or someone who writes תנ"ך and lends them out
 - iii v. 5: once you have grandchildren, there is no need for יבום וחליצה, or once there are children, no dispute over who has prior claim to the inheritance (peace for the judges)

III Analyzing "מדרש" ר'אב"ע

- a ר' המנונא taught (extension) – just as sons inherit real estate, similarly, daughters are only fed from land
- b challenge: sons certainly inherit chattel
- c answer (ר' יוסף): he was referring to כתיבת בנין דכרין⁴ (affirmative)
- d In a case where there were orphan daughters and no land, רב would feed them from עלייה
 - i Meaning of phrase:
 - 1 Possibility #1: it was פרנסה - as a dowry – and עלייה דאב means he estimated father's generosity
 - 2 Possibility #2: it was ממון – owed them – following the ruling made in the attic (עלייה) that sons and daughters are fed from מטלטלים if there is no land
 - ii Clarifying whether or not we take from דיחמי to feed the daughters
 - 1 In נהרדעא and in פומבדיתא – as well as ר' נחמן – would seize דיחמי to feed daughters
 - 2 In טבריה, they would not act on this
 - 3 ר' יוסף seemed to direct them to act on this and collect dates to feed the daughters;
 - (a) אב"י pointed out that even a regular בעל חוב could not collect from דיחמי
 - (b) ר' יוסף was referring to dates which were still connected and needed by the tree → considered קרקע
 - 4 רבא had דיחמי seized in surplus (for the son) to give to the daughter that she might serve him
 - (a) Challenge: רבא said that we only collect from קרקע for מזונות, כתובה, מונוות and פרנסה
 - (b) Answer: we would seize it to pay for his maid – here we accomplish both
- e ברייתא:
 - i רבי: land or chattel can be seized from sons to feed widow and daughters
 - ii רשב"א:
 - 1 if there is land and sufficient funds, it may be seized in either direction
 - (a) however, if the estate is small, it may not be seized from daughters to give to sons
 - 2 if there is no land, it may be seized from all except from sons to feed daughters
 - iii ruling: we follow (against usual procedure) רשב"א, following רבא's dictum that מזונות, כתובה, מונוות and פרנסה are never taken from דיחמי

⁴ just as the תקנה of feeding the daughters, similarly there is a תקנה of כתיבת בנין דכרין which is automatic (דאי) – to wit, the sons that this wife has will be the sole heirs of her כתובה, such that if there have been several wives in this house and their כתובות have varied in value, the sons of each will have exclusive rights to inheriting their own mother's כתובה