

15.3.8

30a → 31b (לא מזבין ליה) (משנה ר')

Note: *detail the meaning of particular targets of a נדר and who is included in this group; this always follows local meaning*

1. ועתה שני בְּנֵי הַנּוֹלָדִים לָךְ בְּאֶרֶץ מִצְרַיִם עַד בְּאֵי אֵלֶיךָ מִצְרַיִם לִי הֵם אֶפְרַיִם וּמְנַשֶׁה כְּרֵאוֹבָן וְשִׁמְעוֹן יְהִי לִי: בְּרֵאשִׁית פֶּרֶק מִחַ פְּסוּקָה  
 2. וַיִּקְרָא עַל הַמַּזְבֵּחַ בְּדָבָר הַזֶּה וַיֹּאמֶר מִזְבֵּחַ מִזְבֵּחַ כַּה אָמַר ה' הִנֵּה בֶן נוֹלָד לְבֵית דָּוִד יִשְׁעִיָּהוּ שְׁמוֹ וְזָבַח עֲלֶיךָ אֶת כֹּהֲנֵי הַבְּמֹת... מַלְכִים אִם פֶּרֶק יִג פְּסוּקָה ב  
 3. וַיֹּאמֶר אֱלֹהִים אֶל אַבְרָהָם אֵל יָרַע בְּעֵינַיִךְ עַל הַנְּעוּר וְעַל אֲמִתְּךָ כֹּל אֲשֶׁר תֹּאמַר אֵלֶיךָ שָׂרָה שָׁמַע בְּקִלְהָ כִּי בִצְחָק יִקְרָא לָךְ זָרַע: בְּרֵאשִׁית פֶּרֶק כֹּא פְסוּקָה יב

- I 'משנה ר' banning "seafarers" excludes those who live on land; "those who live on land" includes seafarers
  - a note: משנה ends with mention of "not those who go from Jaffa to Acre, rather serious seafarers"
    - i Possibility 1: it is an addendum to רישא – only serious seafarers are included
    - ii Possibility 2: it is an addendum to סיפא – even serious seafarers are included among "those who live on land" – because they do, as do all humans
- II 'משנה ז' banning "those who see the sun" includes the blind – intent is "those for whom the sun shines"
  - a excluding fish, embryos
  - b argument: it doesn't state "those who see"
- III 'משנה ח' banning "those with blackened heads" includes the bald and elderly
  - a reason: intent is to include all men (men were thus called)
  - b excluding: women and minors
- IV ילודים vs. נולדים: משנה ט'
  - a banning "those who are born" (ילודים) doesn't include those yet to be born
  - b "those who will be born" (נולדים) includes those already born:
    - i dissent: ר"מ says that ילודים doesn't include the נולדים
    - ii Response: חכמים – his intent was to include all who reproduce (excluding fish and fowl)
    - iii Observation: נולד is an equivocate (v. 1 contra v. 2) but colloquy defines נדרים – and people mean "to be born" (as v.2)
- V 'משנה י' defining ישראל and כותים by religious norms and practices<sup>1</sup>
  - a banning "those who observe שבת" includes both (they are both commanded and keep שבת)
  - b banning "those who eat garlic [on Friday night]" includes both
  - c banning "those who make pilgrimage to Jerusalem" includes only ישראל (since כותים don't revere ירושלים)<sup>2</sup>
- VI משנה יא' banning בני נח includes all non-Jews and excludes all Jews
  - a note: even though all humanity is descended from נח, once we entered the ברית, we became known as אברהם
- VII משנה יב' banning "seed of אברהם" includes Jews only
  - a note: in spite of ישמעאל's parentage, on account of v. 3
  - b note: in spite of Esau's parentage – ביצחק, and not all of יצחק, are considered the "seed of אברהם"
- VIII משנה יג' solutions to one who bans commerce with other Jews in one form or another
  - a form1: if he bans himself from benefiting from all Jews → solution: he buys high and sells low
  - b form2: if he bans other Jews from benefiting from him → solution: he buys low and sells high
    - i caveat: if they agree, but they have no responsibility to enable this
  - c form3: if he bans both → solution: he can engage in commerce with non-Jews
  - d שמואל: if A borrows a vessel from an artisan (to see if he likes it), he is a שואל and responsible for אונסין
    - i implication: benefit of sale goes to buyer (borrower benefits here)
    - ii challenge: 1<sup>st</sup> clause of our משנה, why must he sell low –selling at market price is still benefit to the buyer
      - 1 answer: our משנה is referring to a case where the merchandise isn't moving – any sale is benefit to seller
      - 2 challenge: why must he buy high – even buying at market price is still benefit to seller
      - 3 additional challenge: in 2<sup>nd</sup> clause, why must he buy high – even buying even is his benefit
      - 4 rather: our משנה is "normal" sale, where each side benefits (at market price); שמואל's case is a "hot market" where the buyer gains
        - (a) support: if he borrows vessels to see if they'll be accepted as a gift, agreeing to buy them if they are desired and, if not, to pay טובת הנאה –
        - (i) ruling: if they break on the way to the potential recipient, "buyer" pays; if not, exempt
          - 1. possible challenge: story about middleman buying donkey –liable all the way back to seller's door
          - 2. answer: even at that point, it could have been sold (was similar to "on its way" in earlier case)

<sup>1</sup> The כותים mentioned here are the transplants from כותא mentioned in ב"י מלכים who were brought to Samaria by Sennacherib in c. 722 BCE; through the Tannaitic period, they maintained the Law, with significant deviances, and were considered Jewish (with caveats) until the Amoraic period – see מה"מ ברכות ח:ח

<sup>2</sup> The Samaritans, until this day, maintain that the "holy place" is גריזים