

15.11.5

85a (משנה ד') → 86b (שמה יגרשנה)

- I משנה ד' a wife banning others from benefiting from her
- a if she bans other relatives (her own father/brother, husband's father/brother) he cannot reject
 - b if she bans husband
 - i ת"ק: no need to reject (her wages belong to him)
 - ii ר"ע: suggested that he reject – perhaps she will earn more than her quota (עי' כתובות ה:ט)
 - iii ר' יוחנן בן נורי: suggested that he reject – in case he divorces her (then he won't be able to remarry her)
 - 1 ריב"נ הלכה: שמואל
 - (a) Challenge: אדם מקדיש דבר שלא בא לעולם doesn't maintain that שמואל
 - (i) Explanation: ריב"נ's ruling seems predicated on the notion that her ban is effective for future circumstances which don't currently hold – e.g. her independent financial status
 - (ii) Support for question: שמואל rules that if a man dedicates as הקדש his wife's future earnings:
 - 1. ל"מ: the surplus is הקדש
 - 2. ר' יוחנן הסנדלר: surplus is also חולין – and שמואל rules in accord with חולין
 - (b) Suggested resolution: perhaps שמואל only meant (in re our משנה) that ריב"נ re: surplus follows הלכה
 - (i) Explanation: ריב"נ, contra ר"ע, holds that the surplus belongs to the husband and is inviolate
 - (ii) Rejection: wording of שמואל's ruling doesn't fit
 - (c) Resolution #1 (ר' יוסף): קונמות (vows) are unique:
 - (i) Explication: since a man may ban another's property on himself, he may also ban pre-existent property
 - 1. challenge (אבי'): A's ability to ban a B's property on A is parallel to A's ability to ban A's property on B; how can he ban pre-existent property on B when he can't ban B's property on B?
 - (d) resolution #2 (ר' הונא בריה דר' יהושע): if she "dedicates her hands to their Maker"
 - (i) challenge: but her "hands" (their product) are משועבד to the husband
 - 1. possible defense: where she says: "as of when I am divorced"
 - 2. block: but she isn't currently divorced → it reverts to לעולם
 - a. challenge: if a man sells a field and states to the buyer: after I buy it back, it is הקדש – that is valid
 - i. block: disanalogous – he currently owns the field, but she is currently married and not financially independent
 - b. rather: if a man is about to buy a field and states that when he buys it the field will become הקדש – it isn't valid (hence her declaration should also be invalid)
 - i. block: disanalogous – the field is currently owned by another; she, however, isn't owned by her husband
 - c. rather: if a man gives his field as a pledge and states that when he redeems it, it is הקדש – that's valid
 - i. block: disanalogous – the field is his to redeem at any point; she doesn't have the power to make herself independent (i.e. divorce)
 - d. rather: if a man gives his field as a pledge for a set period and declares that when he redeems it the field will be הקדש – it's valid
 - i. block: disanalogous – regarding the field, there is a set time after which it will be in his power to redeem, unlike the woman
 - (e) resolution #3 (רב אשי): (similar to ר' יוסף) – קונמות are unique in that they are akin to קדושת הגוף
 - (i) premise: רבא's dictum that הקדש (along with איסור חמץ and liberation of slaves) remove the constraints of שעבוד
 - (ii) challenge: if so, why does ריב"נ need to mention the concern lest he divorce her?
 - (iii) Answer: it is an additional consideration