

15.11.7

88a (משנה ח') → 89b (ויתומה בחיי האב)

1. וְנָדַר אֶלְמִנָּה וּגְרוּשָׁה כָּל אֲשֶׁר אָסְרָה עַל נַפְשָׁהּ יָקוּם עָלֶיהָ: בַּמְדַּבֵּר ל, י

- I משנה ח': method of father, who has banned his son-in-law from הנאה, giving money to his daughter
- a he may give her money, stipulating:
 - i the husband has no claim
 - ii the money is only used to feed herself (personal use)
 - iii dispute as to the required formula: רב/שמואל
 - 1 שמואל: even if he gives it to her to “use as you wish”, husband doesn’t acquire
 - 2 רב: only “for your personal use”, but “use it as you wish”, husband acquires
 - (a) challenge: רב’s ruling must rely on ר”מ (יד אשה כיד בעלה), however:
 - (i) משנה (עירובין ז:): שיתוף מבואות established by placing food and transferring ownership to another, including his wife
 - (ii) Answer: ר”מ (רבא) agrees in this case that since the entire process is done to benefit others, the עירוב leaves the domain of the husband via the wife
 - (iii) Challenge (ר’ אשי → רבינא): the ברייתא doesn’t allow for a wife to be the “partner” in an עירוב
 - (iv) Answer: if she has her own courtyard in the מבי, she may be a partner (the משנה)
 - (v) (in other words): רב’s position is now consistent with ר”מ, who is consistent with the משנה and ברייתא in re: שיתופי מבואות
- II משנה ט': rejectability of vows made by (future) (former) divorcee or widow (v. 1)
- a if she takes a ban and subsequently marries, the ban is off-limits
 - b if she takes a future ban while married (and it is rejected), even though it only takes effect after she is divorced/widowed, rejection is valid and ban is lifted
 - c if she took a ban and was divorced, even if she remarried that day, the ban is off-limits
 - i general rule: if she was fully independent for even one moment after taking the ban, there is no הפרה
 - d (possibly) related dispute between ר' ישמעאל/ר"ע (mnemonic: יפר, יל"י; יפר, יל"י)
 - i if she was single, took a ban of נזירות to take effect when she marries – and then marries
 - 1 ר' ישמעאל: he may reject – as per v. 1 - since the ban is in effect when married
 - 2 ר"ע: he may not reject – as per v. 1 - since she took the ban when single
 - ii if she was married, took a ban of נזירות to take effect when she is divorced
 - 1 ר' ישמעאל: may not reject – as per v.1: must be married at time that ban is in effect
 - 2 ר"ע: may reject – as per v. 1: must be married at time she took ban
 - iii ר"ע: our משנה must be authored by ר' חסדא
 - 1 explanation: משנה focuses on her status at time she took the ban
 - iv dissent (אב"י): our משנה may even be authored by ר"ע
 - 1 Explanation: in our משנה, she didn’t associate her ban with her status, rather with a length of time, during which she happened to change status
 - (a) Therefore: ר"י may agree that here, his ability to reject may only attach to bans taken while married
 - (b) Reason: in משנה, possible she has same status when ban takes effect; in ברייתא, this is impossible
 - e Editorial note: phrase זה הכלל (that as long as she was independent for one moment, her bans are no longer rejectable) which appears twice
 - i In chapter 10: to include case where she was escorted by father or his agents to husband’s agents – that father and fiancé still co-reject
 - ii In our משנה: to include case where father or his agents handed her over to husband or his agents – that he may no longer reject bans taken earlier since אין הבעל מיפר בקודמין

III נערות 9: משנה י' (i.e. who were נערות at time they accepted קידושין) whose bans are not subject to rejection

- 1 בוגרת who is "living orphan"
- 2 נערה who became a בוגרת
- 3 נערה who is a "living orphan"
- 4 בוגרת whose father died
- 5 נערה became בוגרת, father died
- 6 נערה whose father died
- 7 נערה whose father died and then she became בוגרת
- 8 בוגרת (father alive)
- 9 נערה became בוגרת, father alive

יהודה includes a קטנה who was betrothed and widowed – she becomes a נערה again

רב: our משנה follows יהודה חכמים; ר' יהודה state there are 3 girls whose vows are unrejectible – בוגרת, orphan, "living orphan"