

16.2.3

11a (משנה ד') → 12b (מיטרידנא)

Note: there are several instances where a person is obligated to offer a "nest" – i.e. 2 birds – as a קרבן – e.g. a נזיר whose נזירות became defiled by טומאת מת. In such a case, if the "nest" (i.e. pair of birds) is bought for th at purpose and one of the birds "flies the coop" (or dies) before designating which is עולה and which is חטאת, a replacement may be bought. If, on the other hand, it becomes inaccessible or unusable after designation, the "nest" is tainted and a new pair must be bought. The brief but challenging מסכת קנים is devoted to this topic.

ז. כל גדר וכל שבעת אסר לענת נפש אישה וקיימו ואישה ופרנו: במדבר ל, יד

- I 'משנה ד': acceptance of נזירות under mistaken pretense
- a if he says "I am a נזיר on condition that I may drink wine etc." –
 - i ruling: he is a נזיר and all restrictions apply
 - ii reason: he is considered בתורה שכתוב בתורה – and his condition is null
 - 1 dissent: ר"ש felt that ר"ש would not recognize this as a valid נזירות (as he does in the next clause)
 - b if he knew that he accepted נזירות but didn't know that נזירות includes a ban on wine
 - i ruling: he is a נזיר and banned from wine
 - ii dissent: ר"ש doesn't recognize this as a valid נזירות
 - c If he knew that a נזיר is banned from wine and from contact with the dead but was under the impression that חכמים would permit him (because he requires wine or is an undertaker etc.)
 - i Ruling: he is permitted (not a נזיר)
 - ii Dissent: ר"ש recognizes this as a valid נזירות
 - d Question: why are ר"ש and חכמים' positions inverted between clause [b] and clause [c]?
 - i Answer1: flip clause [c]
 - ii Answer2: ר"ש maintains that a full acceptance is needed for נזירות; נזירות allow even a partial acceptance (e.g. peel)
 - 1 Therefore: in clause [b], חכמים recognize this as sufficient for נזירות; ר"ש requires more
 - 2 And: in clause [c], his retraction from wine (e.g.) is sufficient for חכמים to be a complete retraction, not for ר"ש
 - iii Answer3: their disagreement parallels רב אסי contra שמואל regarding נדרי אונסין
 - 1 שאלת חכם (נדרים ג:א): the four "permitted" vows (= ר"ש) רב אסי
 - 2 (רבנן) שמואל: no שאלה is required
- II 'משנה ה': accepting נזירות and a responsibility for another's
- a if one says: "I'm a נזיר and responsible for another נזיר's קרבן" and his fellow responds: "me too & I'm responsible..."
 - i ruling: if they're smart, they'll cover each other's obligation; if not, they have to cover others' obligations
 - ii observation: ואני seems to attach to the 1st clause, else there'd be no need to add ועלי לגלה...
 - 1 dissent: יהושע – ר' הונא בריה דר' יהושע – perhaps "ועלי" is just further confirmation of what he is accepting
 - 2 Rejection: if so, both this משנה and the next utilize ועלי unnecessarily
 - (a) → ועלי here is needed → ואני only attaches to 1st clause
 - b (backdoor discussion): attaching to a preexistent object
 - i יוחנן ר': if someone sends out a שליח to betroth a(ny) woman and he receives no further knowledge
 - 1 ruling: he may not marry anyone, lest she be kin to his betrothed
 - 2 assumption: שליח fulfilled his agency
 - 3 challenge (ר"ל): an undesignated "nest" (see note) of which 1 bird was "out", he buys a mate for the remaining 1

- (a) *Implication*: if it was a designated "nest" (see note), the remaining one is unusable –
- (i) *Implication*: but other nests in the world are not "tainted" as a result and may still be used (i.e. no concern that the problematic bird flew there)
- (b) *Response*: can't compare a woman, who is stationary, with a bird, which always moves
- (i) *Note*: even if the woman received קידושין in the שוק, she eventually returns home, unlike the bird
- (ii) *Note*: ר' יוחנן agrees in a case of a woman who has no close kin, or kin who was married at the time
1. *reason*: the שליח will not be sent to marry someone who, at the time of שליחות, is unavailable
 2. *challenge*: our משנה (!) – the 1st man, if wise, can bring the 2nd's קרבנות
 - a. *explanation*: although the 2nd wasn't a נזיר when the 1st made his commitment
 - b. *defense*: he meant "if I find a נזיר, I'll cover his קרבנות"
 - c. *challenge*: perhaps identical notion with שליח לקידושין (→ currently divorced is "in")
 - d. *answer*: a person doesn't assume (for שליחות) something out of his control
 - e. *challenge*: according to ר' יונתן, a man may appoint אפוטרופוס to repudiate wife's נדרים in advance, even though he cannot do so himself (even ר' יאשיה would agree, if not for v.1)
 - f. *answer*: follows ר'א, who allows him to do so himself
 - i. *note*: he appointed an אפוטרופוס out of concern that he'd be too angry to remember הפרה