20.8.6; 88a (החובל בעבד כנעני של אחרים) → 89a (יאמרו בנכסי צאן ברזל)

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1. כִּי יִנְצוּ אֲנָשִׁים יַחְדָּו אִישׁ וְאָחִיו וְקַרְבָה אֵשֶׁת הָאֶחָד לְהַצִּיל אֶת אִישָׁה מִיָּד מַכֵּהוּ וְשָׁלְחָה יָדָה וְהֶחֶזִיקָה בִּמְבַשְׁיו: דברים פרק כה פסוק יא
2. וַעֲשִׂיתָם לוֹ כַּאֲשֶׁר זָמָם לְצָשׁוֹת לְאָחִיו וּבְעַרְתָּ חָרָע מִקּרְבָּדְ: דברים פרק יט פסוק יט
3. שוֹם תָשִׂים עָלֶידְ מֶלֶדְּ אֲשֶׁר יִבְחַר ה' אֱלֹהֶידְ בּוֹ מְקָרֶב אַחֶידְ תָשִׁים עָלֶיךְ מֶלֶךְ לֹא תוּכַל לְתֵת עָלֶידְ אִישׁ נָכְרִי אֲשֶׁר לֹא אָחִידְ הוּא: דברים פרק יט פסוק יח
4. וְדְרְשׁוֹּ הַשֹּׁבְטִים הַיטֵב וְהָבָּה עָר שָׁקָר תָּצֵד שְׁקָר עָנָה בְּאָחִיו: דברים פרק יט פסוק יח
5. לא יוּמְתוּ אָבוֹת עַל בָּנִים וּבָנִים לֹא יוּמְתוּ עַל אָבוֹת אִישׁ בְּחֶטְאוֹ יוּמְתוּ: דברים פרק כד פסוק טו
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- I משנה ג (2nd part): battery against an עבד כנעני:
 - a ת"ק: all five categories are paid to owner
 - b בושת have no payment for עבדים have no payment for בושת
 - i Reason source for בושת (v. 1) mentions ע"כ excluding ע"כ
 - ii דבנן. he is "your brother" fellowship in מצוות
 - 1 Challenge (to עבד should be no liability for עבד against עבד against עבד (as per v. 2)
 - (a) Answer: end of v. 2 implies a broader net
 - 2 Challenge (to עבד כנעני: אבין should be fit for מלכות (requirement of עבד v. 3)
 - (a) Answer: (same question can be asked of both ד"ו and רבנן vis-à-vis-à-vis אחים v. 2 implies "select" of your אחים
 - 3 Challenge (to עבד כנעני: אחיי should be competent witness as per v. 4 demand of אחיי
 - (a) Answer1 (עולא): ק"ר, ששה אשה who is a legitimate mate, is עולא, ע"כ, פסולה (עולא), who is ק"ר פסול לבוא בקהל
 - (i) Block: עבד (unlike מילה is fit for מילה
 - (ii) Rejection: מילה also fit for מילה, also unfit for testimony
 - 1. Block: קטן isn't obligated to fulfill מצות, unlike עבד
 - 2. Reblock: מצוות is obligated to fulfill מצוות, nonetheless is unfit for testimony
 - a. Common denominator: they aren't obligated in all מצות and are מולי עדות included
 - b. Rejection: neither אשה are classified as an "עבד unlike עבד
 - (iii) Rather: inferred from בסול לעדות who is ראוי לבוא (and is an איש) and is פסול לעדות
 - 1. Rejection: גזלן caused his own invalidity (by stealing)
 - (iv) Finally: inferred from גזלן and one of (קטן) or (אשה)
 - (b) Answer2 (מר בריה דרבינא): v. 5 → אבות who have relationship with בנים are valid
 - (i) Explanation: if only to teach that parents can't incriminate children and vice-versa, could've stated לא יומתו אבות על בניהם
 - 1. Challenge: if so, גר should be invalid, as per ... → only sons who have "fathers"
 - 2. Answer: if so, text would've just excluded גי in that manner, and ע"כ would've been ק"ו
 - a. Explanation: גר has no ancestry, but has posterity; עבד has neither
 - b. Final note: 2nd phrase (ובנים לא יומתו על אבות) is parallel phrasing with 1st phrase
- II משנה ד': torts involving 2 classes of citizenry:
 - a חש"u always bad news; if they hurt someone, they're exempt, but others are liable for hurting them
 - b עבד ואשה if someone hurts them, liable; if they hurt another exempt
 - i *However*: if the woman is divorced or the slave freed they are liable
 - Story: woman wrote her property to her son and then died; ר' ירמיה בר אבא קירומיה granted him the property, but 'ר granted him the property, but 'לקוחות מuoted שמואל if a woman sells נכסי מלוג and predeceases her husband, he may seize them from the לקוחות
 - (a) ב"ר ירמיה בר אבא היר: follows משנה (ב"ב ח:ד) if someone writes his property over to his son posthumously son can't sell, as it belongs to father; father can't sell as he wrote it to son
 - (i) If sold: if father sold, sale valid until his death; if son sold, only valid after father's death
 - (ii) → once father dies, לוקח keeps it even if son predeceased father (and never had possession)
 - (iii) *As per: ר"ל*'s interpretation; ר"י dissents sale only valid if son outlived father and took possession
 - (iv) Follows: dispute as to whether קנין פֿירות is קנין הגוף \rightarrow he sold something not his) or ר"ל) לאו כקה"ג 1. And: both accept ר"ל ירמיה, ר"ל proves it from here else son's sale would never be valid
 - (b) תקנת אושא that the general issue of קנין פירות is excepted in re: תקנת אושא as per תקנת אושא, allowing husband to seize נכסי מלוג sold by wife after she dies
 - (i) Proposed support: ruling that עדים זוממים pay wife (who they claim was divorced) only טובת הנאת כתובה
 - 1. *Argument*: if she could've sold the whole thing, that's what they should pay
 - 2. Rejection: even if we reject אושא חקנת and allow her to sell נכסי מלוג, we wouldn't apply to צאן ברזל
- III 'משנה ה': cases of exemption:
 - a קלב"מ wounding parents (death penalty) or wounding another on חיוב סקילה) שבת for חיוב סקילה שבת (חילול שבת
 - b Wounding his own עבד כנעני