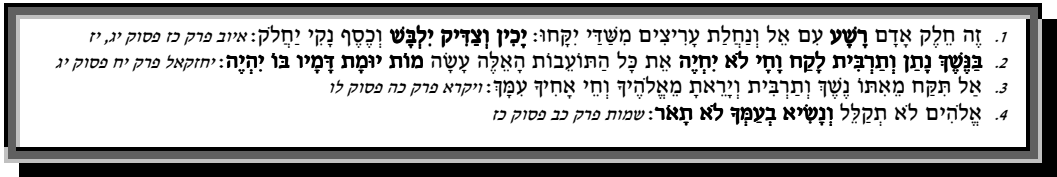


21.5.2

61b (רבית מוקדמת רבית מאוחרת) → 62b (זאיזהו תרבית)



I Analysis of division of משנה – example of רבית given

- a Q: isn't everything until this point also רבית (i.e. why define "what is רבית" exclusively here)?
 - b Answer1 (ר' אבהו) – also רבא: until this point ("נשך") is רבית דאורייתא, from here on (the case with the fruit) רבית דרבנן
 - i And: **even** until this point, v. 1 applies (exempting son from returning his father's רבית)
 - ii Clarification: until this point, we are dealing with רבית קצוצה; from here on – רבית רבית
 - 1 Practical difference (ר'): only in the case of רבית קצוצה does ב"ד force him to return it
 - 2 Dissent (ר' יוחנן): even רבית קצוצה is not forcibly returned by ב"ד
 - (a) Reason for ר' position:
 - (i) ר' ד. v. 2 – ר' יחיה וחי לא יחיה indicates that רבית is only atoned for with death – not payment
 - (ii) ר' ד. v. 3 אדא בר אבהו indicates that it is geared to fear of God, not coerced return
 - (iii) ר' ד. v. 2 itself declares – at the end – that it is comparable to a murderer
 - (b) ר' ד. reason for ר' position – v. 3 – make sure that he can live (by returning usury to him)
 - (i) ר' ד. reads עמך וחי as per ר' response to the dilemma of the single bottle in the desert (בן פטורה)
 - (c) Challenge (to ר'): ruling that if sons inherited רבית, they aren't responsible to return it
 - (i) Implication: father himself is responsible to return it
 - (ii) Block: father also doesn't have to return it – sons mentioned in apposition to ruling if father leaves a distinct גולה – e.g. a cow – they must return to honor their father's name
 - 1. Challenge: v. 4 indicates that honor is only due someone who is ethical –
 - a. Answer: father may have demonstrated contrition before death – but didn't have time to return it before dying
 - (d) Challenge (to ר'): גולנים (=usurers), even though they already collected, must return (the usury)
 - (i) suggestion: it is a dispute among תנאים:
 - 1. ר' נחמיה and ר' אבא: a מלוה and an ערב (who cooperate in a רבית-loan) are exempt (from מלקות)
 - a. Reason: they have a קום עשה (→ it is a לעשה)
 - b. assumption: the עשה is returning the money
 - c. rejection: this is before it's paid – the עשה is destroying the שטר
 - i. reason: the לאו of נשך עליו נשך לא doesn't apply until the שטר is collected, until that point they are bound by the "עשה" to destroy it
 - ii. and: they hold that שטר העומד לגבות לאו כגובי דמי – but it teaches that the assessment made for the loan is itself a meaningful act, generating liability (→ must tear שטר)
 - iii. support: משנה (היא) rules that all of these violate: lender, borrower, ערב and עדים
 - iv. Note: שומא מילתא היא → שומא עדים didn't do anything except to participate in שומא
- II ר' ספרא's rule: commitments that, in "their" court obligate payment from לווה are returned by מלוה by force of ב"ד; commitments that they don't obligate fulfillment we don't coerce be returned
 - a Challenge (ר' יוסף → אבא): סאה בסאה, which they obligate to pay, we don't obligate return
 - i Answer: they consider the סאה of wheat (e.g.) to be a פקדון, not a loan
 - b Challenge (ר' אשי → רבנא): a non-deducted collateral (e.g. if the לווה makes his vineyard collateral for the loan and the פירות eaten won't be deducted from the loan → רבית); they force לווה to pay to מלוה (if לווה ate), but we don't coerce payment back to לווה
 - i Answer: they consider it a (temporary) sale
 - c Question: what is the import of ר' ספרא's statement?
 - i Payment: regular רבית קצוצה (רבית – e.g. "4 for 5")
 - ii Non-payment: pre-רבית and post-רבית (משנה י)
 - 1 Pre: sending a gift to potential lender to appease him
 - 2 Post: sending a "thank-you" to lender