

21.7.9; 91b (משנה ד') → 93a (משל שמים הוא אוכל)

7. כי תבא בקרם ורעך ואכלת ענבים כנפשוך שבעך ואל קלנד לא תתן: דברים פרק כג פסוק כה

- I 'משנה ד': more on eating rights of worker
- a If: he is working in a fig-orchard, he may not eat grapes (and vice-versa)
- b However: he may starve himself until he gets to the better quality fruit
- c The letter of the law: provides that they only eat while working
- i However: they may eat when going from row to row, and when returning from גת, and when unloading a donkey
- 1 Explanation of last line: while load is still on donkey, he may eat from it (as is the case with a camel)
- 2 Reason: to save time that would otherwise be wasted – a form of אבדה
- d Related question: while working on grapes, may he eat from other grapes?
- i Lemma1: it must be from same species as the harvest – may eat OR
- ii Lemma2: it must be from same stuff as that being harvested – may not eat
- 1 Suggestion: must be allowed, else how could ox eat from מחובר (as above)
- (a) Block: could eat from long vine on which he is also working
- 2 Suggestion: must be allowed to eat, as משנה only blocked figs/grapes → figs/grapes are ok
- (a) Block: figs/grapes may even be case where figs are draped over vines
- 3 Suggestion: from משנה, which rules that he may starve himself → may not eat from other grapes
- (a) Block: that is due to wasting time from work; our question is if a family member is along to feed him
- 4 Suggestion: from end of משנה; assume that walking is considered part of the work, but may only eat due to אמרו
- (a) Block: perhaps walking isn't considered part of the work, but while working, may eat from other vine
- (b) Alternate version: invert suggestion and block
- II 'משנה ה': maximum allowed to be eaten
- a ת"ק: may eat as much as he can
- b ר"א בן חסמא: may not eat more than his salary's worth
- c חכמים: permissible, but we coach him not to overeat, so as not to lose future opportunities to work
- i Difference between ת"ק/חכמים – whether we apply the limit of מלמדין
- ii Or: difference is whether to accept ר"א's ruling that even if he hired him to harvest one cluster, may eat
- 1 Addition: if he only harvested one cluster, he may eat it (צריכותא) –
- iii Or: difference is whether to accept ר"ב's rejection of ר"א's ruling, allowing anyone to eat as per v. 1
- 1 Variation: ר"א's proposal to אשי, that it refers to workers who work for their food
- III Discussion: does the food belong to worker (allowing him to allot it to others) or is it a gift משמים?
- a Suggested proof: from משנה that allows him to eat much more than his hire – rejected
- b Suggestion: this is the dispute between ר"א בן חסמא
- i rejection: dispute is how to interpret כנפשוך – does it refer to that which a worker risks himself for, or the מחסימה?
- c 3 Suggested proof(s): ruling that a נזיר (and פועל, meaning נזיר) may not allot (grapes) to family members
- i Rejection: reason is to dissuade him from working in vineyard to keep his distance from עבירה (use of v. 1 incidental)
- d Suggested proof: worker eats and is פטור מתרומה, his family members are liable → משמים
- i Rejection (רבינא): looks like purchase (which is קובע למעשרות)
- e Suggested proof they may not eat in his נטע רבעי, but if he didn't tell them it was נ"ר, he must redeem it for them to eat
- i Must be: משלו, else, the תורה doesn't give them איסורא rejection: looks like מקח טעות
- 1 Note: this even applies to cases in סיפא, where they were hired to press his figs and open his barrels
- f Suggested proof: a man may arrange with his adult children and slaves to work for money and no food
- i But: not for his minor slaves, family members or animals → משמים; else, why can't he forgo for children?
- ii Answer: case is where owner/father is not providing food, adults may be מוחל, children may not
- 1 note: ר"א's version – he may make such an arrangement with his slaves, whether minor or adult
- 2 Suggestion: both ברייתות are cases where he is providing food and dispute is משלו/משמים
- (a) Rejection: both agree that משלו הוא אוכל and in one case, owner is providing food (may קוצץ), other – not
- (b) Challenge: in 2<sup>nd</sup> ברייתא (where he is feeding them), why can't he קוצץ with his minor children?
- (i) Answer: the תורה doesn't grant him the right to harass/pain his children
- (ii) Rejection: this only works according to authority that a master may not force ע"כ to work and not be fed (משנה...against יכול)
- 3 rather: dispute whether master forces ע"כ to work and not be fed (rejection: ר"י takes position of יכול)
- 4 rather: all agree that he eats משמים, and קוצץ here means "food"; rejection: then he could be קוצץ לבהמה
- 5 rather: the dispute (between ברייתא and ר"א הושעיא) whether he eats משמים or משלו