

SOURCE SHEETS

Women Who Dared: How Ancient Jewish Women Took on the Rabbinic Courts And Sometimes Won

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Beth Shalom Congregation

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Three Sessions: November 9, 23, 30 at 7:45 pm.

Note: November 16 is a Federation community speaker all are invited to.

Talmudic sources and translations from Sefaria.org, edited and adapted by Rabbi Grossman

NOTE TO PARTICIPANTS: Read the English. The Aramaic is there only for ease of reference.

Questions to think: 1. What do the details of the facts in these cases tell us about the conditions of these women's lives? 2. What details are lacking and what might that imply? 3. What factor may the gender of the plaintiff play in the case? 4. Who is named in these cases and who is not? Why? 5. To what degree does the woman exhibit agency in each case? 6. How does the Sefaria explanation change how we perceive the woman?

A. Session One: Gender, Babylonian Jewry, and the Rabbinic Courts

a. Babylonian Talmud Baba Batra 169b: A Certain Woman Comes to Court

- i. *The Facts of the Case:* באַחַרְרִיּוֹת שְׁלֹא לָהּ זָבֵן אֶזְלָא אַרְעָא לָהּ לְמִיזְבֵּן גְּבִרָא לְהַוּוּא זִוְיָ לִיהּ דִּיהִבָּה אִיתְתָּא הָהִיא
There was a certain woman who gave money to a certain man to act as her agent and purchase land for her. The agent went and purchased land for her, but he conducted the purchase in such a way that it was without a guarantee.
- ii. *The Woman Comes to Court:* נִחְמַן דָּרַב לְקַמֵּיהּ אֲתִיָּא
The woman came before Rav Nahman to take legal action against the agent (Sefaria: to ask what recourse she had to take action against the agent)
*לְעוּוּתִי וְלֹא שְׂדֵדְרִיתִיךָ לְתַקּוּנִי לִיהּ אָמַר
Option One: He (Rav Nahman) said to the agent: The principle with regard to an agent is that if he acts to the detriment of the one who appointed him, the one who appointed him can say:
* Option Two, Textual Variant: She (the Woman said) I sent you to act for my benefit and not to my detriment. Therefore, the entire agency is null and void, thereby negating the purchase.
- iii. *The Decision (Psak) by the Rabbi:* בְּאַחַרְרִיּוֹת נִיהֵלָה זָבְנָה וְהָדַר בְּאַחַרְרִיּוֹת שְׁלֹא מִיבִינָה זָבְנָה זִיל
Nevertheless, you agreed to purchase the land (from the seller) without a guarantee. Therefore, go yourself and purchase the land from him without a guarantee, and then sell it to her (Sefaria: this woman) with a guarantee that you will reimburse her in the event the land is repossessed.

B. Session Two: Entrepreneurial Women

Questions to think about: 1. Identify the “parts” of each case (see last week’s case). 2 What do the details of the facts in these cases tell us about the conditions of these women’s lives? 3. What details are lacking and what might that imply? 3. What factor may the gender of the plaintiff play in the case? 4. Who is named in these cases and who is not? Why? 5. How does the Rabbi treat the woman who comes before him? 6. To what degree does the woman exhibit agency in each case? 6. How does the Sefaria explanation change how we perceive the woman?

a. Babylonian Talmud Baba Batra 54a: When Justice is Unjust:

- i. פורתא תניתיה רפיקה הווא אמתא שנין תליסר בתפשיהא דיקלא דאכלה איתתא הווא
There was a **certain woman who profited** from an ownerless **palm tree by cutting** its branches for **thirteen years**. A man (**Sepharai: Another**) then **came** and **plowed beneath it a bit**.
- ii. דלוי לקמיה אמתא אוקמיה עוקבא דמר קמיה לה
The case **came before Levi**, and some say that it came **before Mar Ukva**, who **established** the property in the **possession** of the one who plowed.
- iii. צווחא קא אתאי קמיה The woman **came** and **cried** (Sefaria translation: screamed) **before him**, protesting the injustice (Sefaria: perceived injustice) of his ruling.
- iv. אינשי בדמחזקי אחזיקת דלא לך אעביד מאי לה אמר
Mar Ukva **said to her: What can I do for you, as you did not take possession** of the property in the **manner that people legally take possession?**

b. Ketubot 78b-79a: A Woman Utilizes a Legal Loophole

- i. *The Facts of the Case:* איגראשה אינסיה לברתה כתבתיהו מגברה לנכסה דתברחיהו דבעיא איתתא הווא
There was a **certain woman** who was about to remarry after she was divorced or widowed, **who sought to distance** the rights to **her property from her future husband**. She therefore **wrote** a document stipulating that her property be given as a gift **to her daughter** before marriage. Ultimately, the daughter **was married and then divorced**. She wanted her daughter to return the property, and her daughter claimed that it was given to her as a gift.
- ii. *The Woman Comes to Court:* נחמן דרב לקמיה אתאי
The mother **came before Rav Nahman** for judgment.
- iii. *The Judgement is Given in the Woman’s Favor:* אצל לשטרא נחמן רב קרעיה
Rav Nahman tore the document, accepting her claim that she did not intend to transfer ownership of her property....
- iv. *(In a Coda, contemporaries complain about Rav Nahman to the Exilarch Mar Ukba, who agrees he would also tear up a document of evasion, after which the case’s judge, Rav Nahman, explains his decision:* אבל לאחריני מילי הני לאחריני ויהיב נפשיה איניש שביק דלא מאי טעמא נחמן לרב רבא ליה אמר
לה עדיפא נפשה בריתה במקום הכי אפילו יהיבא לברתה
After seeing Rav Nahman tear the document, **Rava said to Rav Nahman: What is the reason** for your actions? Is it that you assume that it was not a wholehearted gift **because a person does not abandon his own interests and give a gift to others? That applies** only when it is given **to others** who are strangers, **but to her daughter** a mother would **give** property wholeheartedly. Rav Nahman replied: **Even so, where** her interests clash with those **of her daughter, her own interests are preferable to her**, and therefore she did not intend to waive her rights.

c. Baba Kamma 48a: Gender as Liability:

- i. *The Case*: ומית חביל ללישא אכלה דביתא דמרי ברחא אתא ביתא בהווא למיפא דעלתה איתתא ההיא
The Gemara relates that there was a certain woman who entered a certain house to bake. Subsequently, a goat belonging to the owner of the house came and ate the woman's dough, and as a result it became overheated and died.
- ii. *The Judge's Ruling*: ברחא דמי לשלומי רבא חייבה
Rava deemed the woman liable to pay compensation for the goat.
- iii. *The Coda: The Stam (the later Talmudic editors) debate why Rava found the woman liable when the owner should have been liable*:
 1. תאכל שלא לה הויא רב דאמר אדרב פליגא לימא
 They suggest: **Shall we say** that Rava **disagrees with** the opinion of Rav, as Rav says that in a case where someone brings in his produce to another's courtyard without permission, and the latter's animal is injured by eating it, the owner of the produce is nevertheless exempt, since the animal **should not have eaten** it.
 2. נטירותא עליה קביל ברשות הכא נטירותא עליה קביל לא ברשות שלא התם השתא הכי אמרי
 The Sages **said** in response: **How can** these cases **be compared?** **There**, in the case where someone brought in his produce **without permission**, he **did not accept** responsibility **upon himself** for **safeguarding** against the produce causing damage, whereas **here**, where the woman brought in the dough **with permission**, the woman did **accept** responsibility **upon herself** for **safeguarding** against the dough causing damage.
 3. פטור הבית בעל של בהמתו ואכלתן ברשות שלא הבית בעל שנתא שנתא ומאי
 פטור ברשות הא ברשות שלא טעמא חייבת הוזקה ואם
 The Gemara asks: **And in what way is it different from** the case of the *baraita* mentioned previously: In the case of **a woman who entered** the house of a homeowner **without permission** in order to **grind wheat**, and the homeowner's animal **ate** the wheat, he is **exempt?** **And** moreover, **if** the homeowner's animal **was injured** by the wheat, the woman is **liable**. The Gemara infers: **The reason** she is liable is specifically that she entered **without permission, but if she entered with permission, she would be exempt.**
 4. נטירותא רמי ידיה ועליה נפשיהו דחצר מרוותא מסלקי בעי לא מידי צניעותא בעיא דלא כיון חטים לטחון אמרי
 נטירותא רמיא דידיה עלה הלכך נפשיהו מסלקי דחצר מרוותא צניעותא היא דבעיא כיון למיפא אבל
 The Sages **said** in response: If she entered the house **to grind wheat**, since she **does not require any privacy**, the owners of the courtyard **do not need to absent themselves** from there, **and** the responsibility for **safeguarding** against damage therefore **rests upon them**. But if she enters to bake, since she requires privacy for this as the process of kneading involves exposing her elbows (the editors assume this exposure would be inappropriate in front of unrelated men, thus), the owners of the courtyard absent themselves from there to allow her to bake. Therefore, the responsibility for safeguarding against damage to anything in the courtyard rests upon her.

d. **Baba Kamma 48a: Gender as Liability:**

- i. *The Case:* ומית חביל ללישא אכלה דביתא דמרי ברחא אתא ביתא בהווא למיפא דעלתה איתתא ההיא
 The Gemara relates that there was **a certain woman who entered a certain house to bake.**
Subsequently, a goat belonging to the owner of the house came and ate the woman's dough,
and as a result it became overheated and died.
- ii. *The Judge's Ruling:* ברחא דמי לשלומי רבא חייבה
Rava deemed the woman liable to pay compensation for the goat.
- iii. *The Coda: The Stam (the later Talmudic editors) debate why Rava found the woman liable when the owner should have been liable according to the precedent of the Baraita:*
 1. תאכל שלא לה הוויא רב דאמר אדרב פליגא לימא
 They suggest: **Shall we say** that Rava **disagrees with** the opinion of Rav, as Rav says that in a case where someone brings in his produce to another's courtyard without permission, and the latter's animal is injured by eating it, the owner of the produce is nevertheless exempt, since the animal **should not have eaten** it.
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 3. פטור הבית בעל של בהמתו ואכלתן ברשות שלא הבית בעל אצל חטין לטחון שנכנסה מהאשה שנא ומאי פטור ברשות הא ברשות שלא טעמא חייבת הוזקה ואם
 The Gemara asks: **And in what way is it different** from the case of the *baraita* mentioned previously: In the case of **a woman who entered** the house of **a homeowner without permission** in order to **grind wheat,** and the homeowner's animal **ate** the wheat, he is **exempt?** **And** moreover, **if** the homeowner's animal **was injured** by the wheat, the woman is **liable.** The Gemara infers: **The reason** she is liable is specifically that she entered **without permission, but if she entered with permission, she would be exempt.**
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 The Sages **said** in response: If she entered the house **to grind wheat,** since she **does not require any privacy,** the owners of the courtyard **do not need to absent themselves** from there, **and** the responsibility for **safeguarding** against damage therefore **rests upon them.** **But** if she enters **to bake,** since she **requires privacy** for this as the process of kneading involves exposing her elbows (the editors assume this exposure would be inappropriate in front of unrelated men, thus), **the owners of the courtyard absent themselves** from there to allow her to bake. **Therefore,** the responsibility for **safeguarding** against damage to anything in the courtyard **rests upon her.**

C. Session Three: Resistance is Not Futile

Questions to think about: 1. Identify the “parts” of each case (see first week’s case). 2 What do the details of the facts in these cases tell us about the conditions of these women’s lives? 3. What details are lacking and what might that imply? 3. What factor may the gender of the plaintiff play in the case? 4. Who is named in these cases and who is not? Why? 5. How does th Rabbi treat the woman who comes before him? 6. To what degree does the woman exhibit agency in each case? 6. How does the Sefaria explanation change how we perceive the woman?

a. Babylonian Talmud Sukkot 31a: “Fighting City Hall”

- i. **יָתְבִי הוּוּ גְזוּלָה בְּסוּכָה גְלוּתָא רִישׁ דְּבֵי רַבְנָן וְבוּלְהוּ גְלוּתָא רִישׁ: לִיָּה אַמְרָה, נַחְמָן דָּרַב לְקַמְיָה דְאַתָּא סְבָתָא הָהִיא** **A certain old woman came before Rav Nahman. (Sefaria: There was a certain old woman who came before Rav Nahman.) She said to him: The Exilarch and all the Sages in his house have been sitting in a stolen *sukkah*.** She claimed that the Exilarch’s servants stole her wood and used it to build the *sukkah*.
- ii. **נַחְמָן רַב בָּה אֲשַׁגַּח וְלֹא צְוֹחָה**
She cried (Sefaria: screamed), and (Sefaria: but) Rav Nahman did not pay attention to her.
- iii. **בָּה אֲשַׁגְחִיתוּ וְלֹא קַמְיִיכוּ צְוֹחָא עַבְדֵי סְרִי וְתַמְנֵי מָאָה תַלְתַּ לְאַבוּהָא לִיָּה דְהוּא אִיתְתָּא: לִיָּה אַמְרָה ? .**
She said to him: A woman whose father, Abraham, our forefather, had three hundred and eighteen slaves cries (Sefaria: screams) before you, and you do not pay attention to her? (As a descendant of Abraham, she is just as deserving of fair treatment as are the Exilarch and Rabbis.)
- iv. **בְּלִבְד עֲצִים דְמִי אֶלְא לָה וְאִין, דָּא הִיא פְּעִיתָא: נַחְמָן רַב לָהוּ אַמְרָ !**
Rav Nahman said to the Sages: This woman is quarrelsome (Sefaria, screamer. Literally, *pa-ita comes from the root for bleat, as with sheep*), and she has rights **only to the monetary value of the wood.** However, the *sukkah* itself was already acquired by the Exilarch (and thereby he fulfills the mitzvah of sitting in a Sukkah.)

b. Babylonian Talmud Yevamot 65b (II): Aphorism as Legal Argument

- i. **נַחְמָן דָּרַב לְקַמְיָה דְאַתָּא הָהִיא**
A certain woman came before Rav Nahman and requested a divorce due to her husband’s inability to father children.
- ii. **מִיפְקִיד לָא לָה אַמְרָ**
He said to her: You are not commanded to be fruitful and multiply.
- iii. **לְקַבְוֶרָה וּמְרָה לִידָה חוּטְרָא אִתְתָּא הָךְ בְּעֵצָא לָא לִיָּה אַמְרָה .**
She said to him: Does this woman not require a staff for her hand and a hoe for her burial? In other words, the woman said that she wanted children so that they could care for her in her old age and bury her when she would die.
- iv. **כְּפִינָן וְדָאִי הָא כִּי אַמְרָ**
Rav Nahman said: In a case such as this, we certainly force the husband to divorce her.

c. Babylonian Talmud Gitin 35a (I): Offering an Alternative Solution

- i. הוּנָא דְרַב לְקַמְיָה דְאַתְאֵי הֵהִיא
 (Sefaria: There was an incident involving) **A certain** woman (Sefaria: widow) **who came before Rav Huna** and attempted to collect payment of her marriage contract from her husband's heirs (Sefaria: orphans). *(These do not necessarily have to be children from another mother, though they are most likely to be so, given the requirement of children to care for and show respect to parents).*
- ii. לְאַרְמְלֵתָא כְּתוּבָה מִגְבִּי לָא דְרַב לִיךְ אֶעְבִּיד מָה לָּהּ אָמַר
He said to her: What can I do for you, as Rav does not (permit) collect(ing) payment of a marriage contract for (i.e., on behalf of) **a widow.**
- iii. כְּלוּם מִכְּתוּבָתִי נִהְיִיתִי אִם צָבָאוֹת ה' חֵי מִכְּתוּבָתִי מִיָּדִי נִקְיִטְנָא דְלִמָּא אֶלָּא טַעֲמָא הוּא מִיָּדִי לִיָּהּ אָמְרָה
 The widow **said to him: Isn't the reason** that I cannot collect payment **only** because of a concern that **perhaps** I already **took some** payment **of my marriage contract?** I swear **as the Lord of Hosts lives that I did not** derive **any benefit from my marriage contract.**
- iv. בְּקוֹפְצַת רַב מוֹדָה הוּנָא רַב אָמַר
Rav Huna says: Even though the court does not administer an oath to a widow, **Rav concedes with regard to one who leaps** and takes an oath of her own initiative that her oath is accepted, and she can collect payment of her marriage contract.

Basic Study Resources to Continue Learning Talmud:

Babylonian Talmud: Translations in order of reliability and understandability*: Koren (now available as a PDF), Steinsaltz, Soncino (full set in Beth Shalom Reference Library; also available on line or CD from Davka), Sefaria (free on line), Schottenstein/Artscroll.

*Rabbi Grossman's rule of thumb: every translation is an interpretation: the more explanation provided, the more interpretation, possibly closing off other alternative interpretations.

Dictionary of the Talmud, Marcus Jastrow. Available from Amazon and free online at Sefaria.org/Jastrow

Aiding Talmud Study, Aryeh Carmell. Available from Amazon. Small, useful beginners guide to basic words and phrases, weights and measures, lists of Rabbis with dates and locations (these are listed in Hebrew).

The Talmud, The Steinsaltz Edition, A Reference Guide, Rabbi Adin Steinsaltz. Much more comprehensive and larger than Carmell with detailed listing of Rabbis in English, explanations of talmudic terminology and rabbinic legal concepts, Aramaic grammar, weights and measures, etc.

Basic Glossary:

1. **Amorah:** A Rabbi of the Amoraic period (see below).
2. **Amoraic:** Of the period of the Talmud, c. 200-500 CE.
3. **Baraita:** Extra Mishnaic (tannaitic) statement, generally in Hebrew, quoted in either Talmud but not included in the Mishnah.
4. **Bavli/Babylonian Talmud:** Loosely organized as a commentary of rabbinic law and lore on the Mishnah and organized along the same 63 tractates divided into six orders (Sedarim). Compiled in 3-6 Century CE Sasanian Babylonia but includes earlier and Palestinian material. Completed in present form by anonymous editors called the Stam in the 6th century under Sasanian rule. Composed in Babylonian Aramaic.
5. **Exilarch:** Religious and political leader of the Babylonian Jewish community, officially recognized by the Sasanian King and government.
6. **Gemorrhah:** The post Mishnaic commentary contained in the Talmud.
7. **Guarantees (Ahrayut):** Insurance in case there is a competing title to purchased land.
8. **Mishnah:** Teachings of the Tannaitic rabbis, from 100 BCE to 200 C CE. Edited by Rabbi Yehudah HaNasi. Its 63 tractates are organized into six "orders" (Sedarim): Zera'im ("Seeds"), Mo'ed ("Festivals"), Nashim ("Women"), Neziqin ("Torts"), Qodashim ("Sacred Things"), Tohorot. Composed in Palestinian Hebrew.
9. **Palestine:** Roman Emperor Hadrian renamed the Jewish province of Judea Palestine after the Bar Kochba Revolt, c. 135 CE. Palestine continued to refer to the Jewish homeland until 1948, when the Jewish State was declared independent and named Israel.
10. **Psak Din:** Rabbinic legal decision.
11. **Rabbi:** Palestinian Rabbi
12. **Rav:** Babylonian Rabbi.
13. **Sasanian Babylonia:** A multicultural, sprawling empire from the 3-6 C CE that ranged from the Near East to India, led by Zoroastrian rulers. Main rival of the Late Roman Empire.
14. **Stam:** Anonymous editorial school that shaped the form and content of the Babylonian Talmud as we have it today.
15. **Sugyah:** A discrete section of Talmudic text organized around a particular issue or question.
16. **Tanna:** A Rabbi of the Mishnaic period. Can also refer to the person who would memorize and repeat rabbinic teachings and decisions.
17. **Tannaitic:** Of the period of the Mishnah, c. 100 CE – 200 CE.
18. **Yerusalmi/Jerusalem or Palestinian Talmud:** Shorter and less highly edited than the Babylonian Talmud but similar in organization as the commentary of rabbinic law and lore on the Mishnah. Includes tractates, particularly in Zerarim, that are no longer (or never were) extant in the Babylonian Talmud. Composed in Roman Palestinian Aramaic and completed around 400 CE.