
save on taking an oath. 2. But they refrained from imposing an oath on her [thereby preventing any chance of recovering her money]. 3. Rabban Shimon ben Gamliel made a regulation that she should take any vow which the orphans chose to impose on her and so recover her *ketubah*. [Witnesses sign the bill of divorce "for the sake of the general good" (*mipne tikkun olam*). Hillel ordained the *prozbul* "for the sake of the general good."]

Gemara... 9. "They refrained from imposing an oath on her." 10. What was the reason [for this refusal]?...12. R. Kahana said, and others say that R. Yehuda said in the name of Rab: 13. A *ma'aseh* (an incident) concerning a certain man in a year of drought, who deposited a *dinar* of gold with a widow. 14. She put it in a jar of flour, and she baked it in a loaf, and gave it to a poor person. 15. In the course of time, the owner of the *dinar* returned and said to her, "Give me my *dinar*." 16. She said to him: "May the poison of death have benefit from one of the sons of this woman if I have derived any benefit for myself from your *dinar*." 17. They said: Not many days passed before one of her sons died. 18. When the Sages heard of the incident they remarked: 19. If such is the fate of one who swears truly, so much the more so for one who swears falsely. 20. What was the reason [that she was punished]? Because she had derived advantage from the place of the *dinar*. 25. ...Rab and Samuel both stated: 26. This rule applied (*lo shanu*) only [to an oath imposed] in the *Beth Din*, but outside the *Beth Din* an oath may be imposed on a widow. 28. [another version]... 30. Rab said: Even outside the *Beth Din* an oath may not be imposed on her. 31. ...for Rab would not enforce payment of a *ketubah* to a widow. 47. ...Yehuda said...: 48. Impose a vow on her in the *Beth Din*, and administer an oath to her outside the *Beth Din*, and see that the report reaches my ears, since I desire to make this a precedent...(A. Cohen, trans.) □

Framing women/constructing exile

Aryeh Cohen

Here is an exercise in analyzing a *sugya* within a number of different critical frameworks... This *sugya* in particular, and *sugyot* in general, appear to have a different agenda than the mishnah that they are purporting to explain... I will [also] question the idea that one can determine the layering and therefore the historical construction of a *sugya*. The relationship between the parts of a *sugya* are

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not of interest to me historically...; I see all these characteristics as essentially literary.

The anonymous layer of the *sugya*... is the site of the tensions between conflicting interpretations of the mishnah. One narrative strand of the *sugya* consists of *lo shanu* statements ([the rule] applies only...)--in our *sugya*, the apodictic statements of Rav and Shmuel. The other strand consists of *ma'asim* (incidents). The two strands exhibit conflicting ideas about the fragility of authority. According to the *ma'asim*, the Rabbis are reticent to move outside the limitations of an authoritative tradition; women endanger the institutions of law, and men are the law's conservative guardians. According to the *lo shanu* statements, the Rabbis were freer to interpret the law innovatively. This whole discussion is embedded in the cultural narrative of exile.

The Danger of Women Swearing

[Our *sugya* brings] the *ma'asim* as an answer to a question [about the mishnah]. The question is: what was it that brought the Rabbis to stop administering the oath to widows? The answer is that women's swearing is dangerous.

...Let us take a moment to analyze the literary power of the first *ma'aseh*. In setting up the narrative, the reader is introduced to three sympathetic characters, in trying times. First, there is a man who deposits a *dinar* with a widow in/because of the years of drought. The widow herself is caring in both accepting the *dinar* and giving the bread she baked to a poor person. The poor person then leaves the scene. The fact that the *dinar* is now with the poor person foretells a tragic ending. The *ma'aseh* itself "claims" to be about the depositor. The significant action however, is performed by the widow, while the tragedy strikes her son... The confrontation is doubly poignant since it not only involves a lack of communication, but also confounds our expectations of what should happen to a person who feeds the hungry in years of drought. Rather than being rewarded, the widow is tragically punished, and it is the very act of nurturing-feeding-that brings about the tragic death. At this point of tragedy, the narration switches from an omniscient narrator to the fallible, anonymous, "they". The Sages interpret this change as a result of the widow's oath... The context for the failed expectations and the interpretive function of the fallible narrator (i.e., "they"), might be the narrative's struggle with the fact that proper action does not cause proper reward. The phrase: *shanat b'tseret* (year of drought) (line 13) appears only once in the Hebrew Bible, Jeremiah 17:8: He shall be like a tree planted by waters, sending forth its roots by a stream: It does not sense the coming of heat, its leaves are ever fresh. It has no care in a year

of drought, it does not cease to yield fruit. (NJPS)...This is part of a promise of divine salvation in times of trouble. The contrast with the *ma'aseh* is obvious. Not only does the woman have faith in God, but she also does good in the year of drought by giving bread to the poor. She does not, however, receive divine protection for her goodness; instead, her nurturing brings death.

There is intertextual evidence that the context of the *ma'aseh* is exile. The year of drought in Jeremiah is a metaphor for times of trouble, and exile is *the* trouble for the Rabbis. The seemingly desperate attempts to interpret this anomalous series of actions (lines 19-23) may all belong to an attempt to retell the community's narrative of origins, within which there is a coherent line of authority and of causality in the world. From this vantage point, the oppositional nature of the *ma'asim* and the overtones of danger take on new significance. If the authority of law is to be upheld, whatever opposes or undermines faith in its stability and its basis in tradition is dangerous. [Here...], men are cast in the role of the conservative guardians of tradition, while women are the opposition. Both are locked into their roles (cf. line 39-40). There is a palpable danger that the system will be overthrown. "The system" is the last vestige of the pre-exilic covenantal relationship.

...From this perspective, it is not surprising that the legal discussions that parallel...the "theological" discussions are so fraught with danger and violent emotion. This construction of rabbinic society (the *ma'asim*) meets the other narrative strand (the *lo shanu* statements) in the statement attributed to R. Yehuda. His ruling seems to subvert the need for a static legal structure to insure the line of authority. To the contrary, he wants to assert authority by legislating. He declares that the students of Rav are wrong: that one must do whatever is required in order to assure that the woman gets her *ketubah*. □

An introduction to the *sugya*

Edward Feld

This *sugya* (Gittin 34b-35b) is imbedded in a series of *mishnayot* dealing with *tikkun olam* (repair of the world or social order). *Tikkun olam*...allows us to respond to issues of justice when straight-line legal reasoning would yield conclusions that are difficult to live with. Because of *tikkun olam*, we recognize the humanity of the non-Jew even though the

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inherited law is more provincial. Similarly, Hillel could overturn even biblical precedent when an increasingly capitalistic society could no longer function with the biblical imperative canceling loans in the sabbatical year.

The situation in our *sugya* presents a peculiar conflict regarding *tikkun olam*. Biblically, justice is always portrayed quintessentially as doing right by the widow and orphan. Here, the rights of the widow and orphan conflict with each other: you can support the widow only by taking money from the orphan. To whom does the court owe its greatest loyalty? The *sugya* seeks to move our sympathy from the mishnaic ruling, and thus from the side of the defenseless orphan, to that of the poor widow, and it is in fact successful in raising the voice of the woman: no one can leave this *sugya* without hearing the pain of the widow, something seemingly absent from the purview of the mishnah where the only means of her securing her property--taking an oath--is precluded.

In this situation there are no good outcomes; justice cannot properly be served. The stories illustrate the fact that even when people act justly they nevertheless can be guilty. Thus, the rabbi who follows precedent and sees himself as having no choice but to carry out the strictures of the law is felled by disease. Even if he acted correctly, he is wrong. The same goes for the pious who saved a minuscule amount of flour. In such a world, it is impossible to act without sinning. The Rabbis are conscious that even when they act righteously they cause grief. Such is the terrible consequence of power. The tragedy of living in this world is that *tikkun olam* may not be achievable. □

On the danger of swearing

David Weiss Halivni

Aryeh offered his reading of the *sugya* as an alternative to the reading of David Weiss Halivni. The editor interviewed Prof. Halivni about his assessment of Aryeh's alternative:

Ed: Aryeh has framed the *maaseyot* [of *Gittin*] with regard to the issue of the danger of women swearing. Are you [in your major work *Mekorot u'Mesorot*] framing it with regard to the Yerushalmi's idea that swearing is unnecessary?

Halivni: Or at least insignificant. I still believe that the major motivation that energized this particular *sugya* is its assumption that the person should not be punished if she

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