

She teaches herself a leniency

דמוריא היתרא –

OVERVIEW

The גמרא explained the reason why בי"ד would not administer an oath to an אלמנה (as opposed to a גרושה), is because the אלמנה is מורה היתר to take money from the יתומים for her [paid up] כתובה, for she feels she is working so hard for them she deserves something extra. תוספות discusses what בי"ד does to insure that she is truthful.

ולכך¹ נמנעו מלהשביעה שעונש שבועה מרובה אלא בהדרה² דלא חמיר כולי האי –
And therefore בי"ד was unwilling to administer an oath to her, because the punishment for a false oath is severe; rather they imposed that she take a vow, which is not that severe if it is transgressed -

והשתא בזמן הזה תקנו לקבל חרם³ במקום שבועה שלא יהא העונש גדול כל כך:
And nowadays in this time they instituted a חרם ban instead of a שבועה, so the punishment for transgressing the חרם will not be so severe.

SUMMARY

The חכמים did not want to administer an oath to an אלמנה because since she is מורה היתר, she may be severely punished; instead they made her take a vow. Nowadays we proclaim a חרם if she is lying.

THINKING IT OVER

Why cannot we say⁴ that נמנעו מלהשביעה, because since she is מורה היתר, the שבועה is of no avail, for she will swear falsely since she is מורה היתר?! [Alternately; if she is מורה היתר, what purpose is there in her making a נדר?!]⁵

¹ תוספות is responding to an anticipated difficulty; since she is מורה היתר we should be strict with her to verify the truth by making her swear, why were they נמנעו מלהשביעה? See 'Thinking it over'.

² She takes a vow (נדר) that if she (is lying and) already received (part of) her כתובה then she is forbidden to do something which would greatly inconvenience her.

³ She accepts upon herself an excommunication ban (חרם) if she is collecting her כתובה illegally. One who is in a חרם situation is limited in his mingling with and joining the Jewish community.

⁴ See footnote # 1.

⁵ See אמ"ה and נה"מ # 38.