

13.1.2

2b (מכדי) → 3b (מכל התועבות וגו')

note #1: among the four methods of execution, there is a dispute as to which is most stringent or harshest: **רבנן** maintain that the most severe is **סקילה** and next is **שריפה**; **ר"ש** reverses the order. Harshness of punishment may be an indicator of gravity of the crime  
 note #2: the **גמרא** has a general assumption about the rhetoric of the **משנה** that when an enumerated list appears, the enumeration is superfluous and is there to limit the list to the items mentioned; hence, each occurrence of the number excludes a potential member.

1. כי יִשְׁבוּ אַחִים יַחְדוֹ וּמֵת אֶחָד מֵהֶם וּבֵן אֵין לוֹ לֹא תִהְיֶה אֲשֶׁת הַמֵּת הַחוּצָה לְאִישׁ זָר יִבְמָה יִבְאָ עֲלֶיהָ וְלִקְחָהּ לוֹ לְאִשָּׁה וְיִבְמָה דְּבָרִים כֵּה, ה  
 2. עָרוֹת אִשָּׁה וּבִתָּה לֹא תִגַּלֶּה אֶת בֵּת בְּנָה וְאֶת בֵּת בָּתָּה לֹא תִקַּח לְגִלּוֹת עָרוֹתָהּ שְׂאֵרָה הִנֵּה זָמָה הוּא: וְיִקְרָא יח, יז  
 3. וְאִשָּׁה אֶל אַחֲתָהּ לֹא תִקַּח לְצָרָר לְגִלּוֹת עָרוֹתָהּ עֲלֶיהָ בְּחַיֶּיהָ: וְיִקְרָא יח, יח  
 4. וְאִישׁ אֲשֶׁר יִקַּח אֶת אִשָּׁה וְאֶת אִמָּהּ זָמָה הוּא בְּאֵשׁ יִשְׂרְפוּ אֹתוֹ וְאֶתְהוֹן וְלֹא תִהְיֶה זָמָה בְּתוֹכָם: וְיִקְרָא כ, יד  
 5. כִּי כָל אֲשֶׁר יַעֲשֶׂה מִכָּל הַתּוֹעֵבוֹת הָאֵלֶּה וְנִכְרְתוּ הַגּוֹפְשׁוֹת הַעֲשֵׂת מִקְרָב עִמָּם: וְיִקְרָא יח, כט

I. Structural and linguistic considerations regarding the **משנה**

a. Question: why not begin with **אחות אשה**, which is the source of the **מזיקה** ערוה?

i. Suggestion #1: begins with severest ערוה, following **ר"ש** (see note #1)

1. rejection: begin with **חמותו**, the source for **שריפה** (בתו) inferred from there)
2. rejection #2: **כלתו** should follow, as **סקילה** is next severe

ii. suggestion #2: begins w/**בתו**, the essential איסור of which is inferred from a **דרשה** (vv. 2, 4)

1. rejection: → explicit **פטור אשה** along with the **אחווה** segment) should be last

iii. suggestion #3: sequence follows relational proximity

1. first: daughter/granddaughters (#1-3) – his own bloodline
2. then: wife's daughter/granddaughters (#4-6) – his wife's bloodline "down"
3. then: wife's mother/grandmothers (#7-9) – his wife's bloodline "up"
4. then: sisters (#10-12)
  - a. first: maternal sister, mother's sister (#10-11) – his own bloodline
  - b. then: wife's sister (#12) – within context of "sisters"
5. concluding with: misc (#13-15)
  - a. first: maternal brother's wife (#13) – within context of "siblings"
  - b. then: wife of brother who died before he was born (#14) ("sibling")
  - c. finally: daughter-in-law (#15) – not bloodline

b. language: Use of "פוטרות" (instead of **אוסרות**)

i. anticipates: **יבום** → **סד"א** prohibited, but **חליצה** is done

1. challenge: use **לחלוץ**
2. rejection: there is no איסור associated with **חליצה**
3. defense: there is an איסור – because it will lead to illicit **יבום** (חליצה::יבום)
4. resolution: the ערוה צרת isn't always אסורה – only מצווה במקום

c. full phrase: **מן החליצה ומן הייבום**

i. should say: **מן הייבום** (→ **סד"א**) מן הייבום (חליצה still need)

ii. should say: **מן החליצה** (no need for "מן הייבום") or **מן החליצה ומן הייבום**

1. answer: follows **אבא שאל** – **חליצה** is the preferred resolution (→ taught first)

d. implied exclusion: of 2 enumerations (**מנינא דסיפא** and **מנינא דרישא**)

i. excludes: **איילונית** + **סוטה** (these women do not exempt the צרות)

1. **דב**: includes **סוטה** צרת
2. **דב אסי**: includes **איילונית** צרת
  - a. Explanation: these 2 omitted from **משנה** since there's no possibility of **צרה**
  - b. If: **אסי** accept both inclusions, **משנה** is excluding **גרושתו** וצרת מחזיר גרושתו
  - c. If: each only accepts 1 inclusion, the **משנה** is excluding the other and 1 of (i)

II. Fundamental source for **ערוה**, **פטור צרת ערוה** ו**פטור צרת צרת ערוה**

a. v1/3: **עליה::עליה** of **גז"ש** → **אשה** is forbidden, even **יבום** במקום מצוות

- i. **בנין אב**: anyone who is an ערוה with the consequence of **כרת** shares this exemption
- ii. **צרה וצרת צרה**: from **לצרו** (could have written **לצרו**, **לצרו** → even **צרה**)
- iii. **ערויות** via **בנין אב** (above)

1. therefore: only applies to an ערוה who could marry one of the other brothers
2. therefore: ערוה who's אסור to all the brothers (e.g. **אמו**) is more severe – doesn't exempt צרות

b. all of this: is **אזהרה** – **עונש** appears in v. 5