13.6.1

53b (משנה א) → 54a (לשם ביאה בעולם)

Note: משנה א are presented together; we will only present משנה ש when it is analyzed in the גמרא Note: the משנה presents two "attitude-modes", מזיד there is third (ideal) mode assumed למצוה

ז. כִּי גַשְׁבוּ אַחִים זַחָדָוּ וּמֵת אַחַד מֵהָם וּבֵן אֵין לו לא תָהְיֶה אֵשֶׁת הַמֵּת הַחוּצָה לְאִישׁ זְ**יִבְמָה יָבֹא עֶלֶיה וּלְקְחָה** לו לְאִשְׁה וְיִבְּמָה בּהים בּה. 2. **וִאִם לֹא יַחִפֹּץ הָאִישׁ** לְקַחַת אֵת יִבִמְתוֹ וְעֻלְתָה יִבְמְתוֹ הַשְּׁעָרָה אֶל הַזְּקְנִים וְאָמְרָה מֵאֵן יְבָמִי **לְּאָחִיו שֵׁם** בְּיִשְׁרָאֵל לֹא אָבָה יַבְמִי: שֹׁם ז

- I. משנה א ביאה: Extent of valid ביאה for קנין יבמה
  - a. Whether: אונס/רצון, שוגג/מזיד, even if one is שוגג/אנוס or only one is אנוס;
    - i. Explanation of wording "משנה is presenting the more obvious first
      - 1. More obvious: if he is שוגג (or even מזיד) and she intends the מצוה
      - 2. But even: if neither intends the מצוה and one is שוגג and the other still valid
    - ii. Clarification: what is the circumstance of משנה in our משנה
      - 1. Cannot be: that others forced him on her
        - (a) Per: אונס dictum there is no claim of אונס (for a man), since קשוי is perforce intentional
      - 2. Proposal: must be a case where he was asleep
        - (a) Block: רב יהודה ruled that a sleeping man's ביבמה is not קונה ביבמה
      - 3. Proposal: it may be the case of נתקע
        - (a) Block: רבה ruled that in such a case, in spite of full liability for damages, no קנין ביבמה
      - 4. Rather: he intended to have ביאה with his wife and the יבמה grabbed him...
    - iii. שוגגים or both שוגגים, both מזידים or both אנוסים 's version: includes "both שוגגים
      - 1. What is the conceivab le circumstance: of שניהם אנוסים 's addendum'?
        - (a) Must be (based on earlier analysis): where he intended to have ביאה with his wife
          - (i) And: others forced her on him
  - b. Whether: merely העראה (defined in next שיעור) or גומר all are valid
  - c. And: there is no distinction between ביאות
- II. Source for this broad range of valid ביאות
  - a. v1: יבמה יבא עליה understood to be a מצוה
    - i. Additionally: יבא implies whether שוגג, מזיד, אונס, רצון
      - 1. Challenge: the word was already "used" to teach that it is a מצוה
      - 2. Answer: that is inferred from v. 2; implying that if he wants to marry, the ייבום is מצוה
  - b. Alternate ברייתא (interpreting v1): בריכה ליבא (completes the ייבם ; שלא כדרכה הייבם  $\rightarrow$  only ביאה
    - i. בעל כרחה (the extra ה"ה): even בעל
    - ii. Additionally: יבא implies whether שוגג, מזיד, אונס, רצון
      - 1. Challenge: the word was already "used" to teach ביאה כדרכה
      - 2. Answer: that is inferred from v. 2 שם לאחיו שם a ביאה that could "revive the name" (כדרכה)
- III. Reassessing two prior statements
  - a. די if he is asleep while having קונה ביבמה, that is not קונה ביבמה, per יבמה יבא עליה must have intent for ביאה must have intent for
    - i. Challenge: whether asleep or awake, it is valid
    - ii. Answer: that refers to the יבם, not the יבם
      - 1. Challenge: ברייתא explicates whether he OR she is awake or asleep it is valid
      - 2. Answer: that is if he or she is dozing מתנמנם; not fully asleep
  - b. דבה if he fell off the roof and was יבמה into his יבמה, he has the usual liability for battery, but not יבמה
    - i. Note: he does not owe בושת (alone among the 5 payments), as that requires intent to damage/embarrass
    - ii. דבא if he intended to "push himself" into a wall and "missed" into the יבמה ח ח יבמה ח ח יבמה
      - 1. However: if he intended to "push himself" into an animal and "missed' into the יבמה valid קנין
      - 2. Reason: his intent (in the 2<sup>nd</sup> case) was for an act of ביאה whatsoever