

13.6.4; 56a (אחד המערה ואחד הגומר קנה) → 56b (כדקיימא קיימא)

.1 וְשָׁכַב אִישׁ אִתָּהּ שֹׁכֵב זָרַע וְנִגְלַם מֵעֵינֵי אִישָׁה וְנִסְתָּרָה וְהָיָא נְטֻמָּאָה וְעַד אֵין בָּהּ וְהוּא לֹא נִתְפָּשָׁה: בַּמְדַּבֵּר ה', יי

.2 לֹא יוֹכֵל בְּעֵלָה הָרֵאשׁוֹן אֲשֶׁר שָׁלְחָה לְשׁוֹב לְקַחְתָּהּ לְהִיט לֹא לְאִשָּׁה אַחֲרֵי אֲשֶׁר הִטְמֵאָה כִּי תוֹעֵבָה הוּא לְפָנֵי ה' וְלֹא תִחַטֵּא אֶת הָאָרֶץ אֲשֶׁר ה' אֱלֹהֶיךָ נָתַן לְךָ נַחְלָה: דְּבָרִים כז, ד

- I. Analysis of last line of א – משנה א – whether העראה or ביאה → “קנה” → גמר ביאה or העראה
- a. Question: What is the extent of the קנין after ביאה (alone)?
- i. **ג**: complete
- ii. **שמואל**: only for those things mentioned in פרשה – פרשה of his brother’s property and exemption from יבום
1. Agreement (version1): if she was married, she is fed by יבם, as she was already supported by family
- (a) Dispute: if she had been betrothed
- (i) **ג**: she is supported by יבם, as ביאת שוגג equated תורה
- (ii) **שמואל**: that equation just places יבם on equal footing with his dead brother (ארוס)
- (iii) Note: **שמואל** consistent; rules that any case where the husband fed, the יבם feeds; if not – not
1. Challenge: **שמואל** betrothed to a כהן, who became חרש before נישואין – doesn’t eat תרומה
- a. If he dies: the יבם feeds her תרומה at נפילה
- b. Observation: in this way, the יבם’s “power” is stronger than the husband’s
- c. Defense (for **שמואל**): read ברייתא that if he married her before he became חרש...
- d. **ג**: if husband was חרש from the start, doesn’t eat; unlike if יבם was חרש
2. Agreement (version2): if she was betrothed, she is not fed by יבם, since she wasn’t supported by בעל
- (a) Dispute: if she had been married
- (i) **ג**: she eats, as she was already being supported
- (ii) **שמואל**: doesn’t eat – ביאת שוגג – ביאת מזיד: only for rights listed in פרשה – but not the rest
- (iii) Challenge: **שמואל** had ruled that any case where the husband fed, the יבם feeds; if not – not
1. Read: any ביאה through which husband would feed, יבם would feed; if not, not
- (iv) Challenge: **קשיא**... כהן... betrothed to **שמואל** above, re: **שמואל** betrothed to **שמואל**
- II. Tangential ברייתא: if a בן ישראל is betrothed to כהן and he becomes חרש before נישואין – doesn’t eat
- a. If she has a (כהן) child – she eats
- b. If that child dies – dispute if she eats
- i. **ג**: she does eat (חכמים – she doesn’t eat)
1. Reason (רבה): since she was already eating, when child was alive
- (a) Challenge (אביי): if so, even if he husband died w/o children, she should eat – since she had eaten
- (i) Rather: once he died, the קדושת כהונה is gone
2. Rather (רב יוסף): ר”נ holds that נישואין have the power to feed and we don’t ban אירוסין
- (a) Challenge (אביי): then why do we need her to have had a son
- (b) Answer: to show extent of רבנן’s position
- (c) Question: then why doesn’t ר”נ disagree in the רישא
- (d) Answer: he waited until they presented their full position, then dissented
- (i) If so: presentation should be reversed (ר”נ should be second – “אוכלת” קשיא)
- III. פסולות: same rules apply to all פסולות; עריות/פסולות; once they’ve had any sort of ביאה, they are immediately פסולות
- a. **ג**: **ש** taught a law and used our משנה as support
- i. Law: if an אשת ישראל was raped, even though she may return to her husband, she is לכהונה
- ii. Support: our משנה – noting the analogous וכן
1. Assumption: וכן equates even אונס to רצון – and the final ruling is פסלה
2. Rejection: וכן equates העראה to גמר ביאה for all עריות ופסולות
- (a) Question: are we inferring העראה from עריות of העראה? The main source of העראה was עריות
3. Rather: וכן equates כדרכה to שלא כדרכה וכן
- (a) Rejection: the main source of equating כדרכה: שלא כדרכה is in עריות (“משכבי אשר”)
4. Rather: לאוין equates כדרכה to שלא כדרכה וכן
- b. **ג** (version1): if an אשת כהן is raped, her husband is thereupon liable (at ביאה) for זונה as well as טומאה
- i. Challenge (ר”נ): v1 implies that one who was raped is still אסורה – אשת כהן – making it עשה מכלל עשה
- ii. Defense (רבה): זונה is generic; when text singled out אשת ישראל who was raped → כהן retains זונה-status
- c. **ג** (version2): if an אשת כהן is raped, her husband is thereupon liable (at ביאה) only for טומאה (not זונה)
- i. Challenge (ר”נ): as above – shouldn’t get מכות for טומאה either (עשה מכלל עשה)
- ii. Defense: אשת ישראל שנאנסה; limitation renders אשת כהן to original status