

## 13.7.2

(האי לאו בר קנין הוא) 68a → (משנה ג) 67a

7. וכהן פי יקנה נפש קנין נספו הוא יאכל בו ויליד ביתו הם יאכלו בלחמו:...ובת כהן פי תהיה אלמנה וגרושה וזרע אין לה ושבה אל בית אביה כנעוריה מלחם אביה תאכל וכל זר לא יאכל בו. ויקרא פרק כב פסוקים יא,ג

- I אכילה עובר power of generate: משנה ג
- a w/o children, and he dies, leaving her pregnant: ר' יוסי
- i עובר Her slaves do not eat on account of the
- 1 Rule: עובר פוסל (if בת כהן לישראל) but אינו מאכיל (in case of בת כהן לישראל)
- b בת כהן לכהן: same should apply to חכמים
- II Analysis of ר' יוסי's opinion:
- a Explanation #1: an עובר takes on the identity of the host mother (זר=זר)
- b Explanation #2: עובר can only invalidate, not generate eating (שאינו ילוד אינו מאכיל)
- c Split the difference: עובר in the womb of a בת כהן (expl. #1 – would eat; expl. #2 – wouldn't eat)
- d אמוראים: רבה: expl. #1; רב יוסף: expl. #2
- i Challenge (to יוסף): response of ר' יוסי in ברייתא: I've only heard regarding בת ישראל לכהן
- 1 expansion: if rationale is שאינו ילוד אינו מאכיל, same case (should be confirmed)
- e שמואל's ruling: ר' יוסי opposed חכמים (ר' יוסי sounds as if שמואל rejects ר' יוסי); any heir generates feeding slaves
- i challenge: שמואל publicized ruling that an עובר can be the recipient of a מתנה → he is also an heir
- 1 → his portion interferes with the slaves' right to eat
- ii answer: שמואל accepts ר' יוסי; ר' יוסי taught that רבנן disagree with him (in spite of testimony ובשם שמעיה ואבטליון)
- III Expansion of ר' יוסי's opinion (ברייתא):
- a If he dies, leaving her with children, all slaves eat
- b If he dies, leaving her pregnant (no children) – no slaves eat
- c If he dies, leaving her pregnant and with children:
- i ר' יוסי's version of ת"ק:
- 1 עבדי מלוג – eat, just as does she
- 2 עבדי צ"ב – don't eat, due to portion (potentially) owned by עובר
- ii ר' יוסי's version of ר' שמעאל ב"ר יוסי:
- 1 If there is a girl, the slaves eat
- 2 If there is a boy, the slaves don't eat
- (a) Scenario #1: case: boy and girl and limited estate (תקנת רבנן) that the girls inherit
- (i) Therefore: if there is a daughter and a son, no matter what the fetus is, the girl gets her portion (the female fetus wasn't granted מדרבנן); if a boy, the girl already holds power
- (ii) Rejection: girls don't have "ownership" even in case of limited estate
- (b) Scenario #2: "girl" means "mother" –עבדי מלוג, son doesn't feed עבדי צ"ב due to portion of foetus.
- iii ר' רשב"י's opinion:
- 1 If there are sons, all slaves eat
- (a) Rationale: no concern for statistic improbability (live male birth)
- (i) Possibility: depends on נהמן ר' חזקוני's ordinance for orphans (trustee divides their property)
- (ii) Rejection: all accept his ruling; even ר' יוסי, even though he doesn't allow עבדי צ"ב to eat
- 2 If there are (only) daughters, no slaves eat
- (a) Rationale: if the baby is a boy, girls have no חלק; even if it is a girl, her חלק "counts" among girls
- III משנה ד' the list of those who invalidate but don't feed (פוסלים ואינן מאכילין)
- a עובר: if as בת כהן לישראל – v. 1 stipulates כנעוריה, excluding a pregnant one
- i But: If as בת ישראל לכהן – v. 1 stipulates that must be בית – not before birth
- b שומרת יבם: if as שומרת יבם to a ישראל, returning כנעוריה excludes יבם
- i But: If as שומרת יבם to a כהן, she cannot eat on account of him, as she is קנין כספו of his (deceased) brother
- c קידושין: if as בת כהן לישראל, she is invalidated via the קידושין
- i But: If בת כהן לישראל, we don't allow her to eat until she moves into his house (עולא)
- d חרש: if as בת כהן לישראל, the rabbinic קנין removes her from her father's house
- i But: If בת ישראל לכהן, the קנין דרבנן isn't sufficient to feed