

## 13.9.1

84a (משנה א) → 85b (איכא בנייהו)

Note1: as we've seen previously, ר' דימי יוחנן in יוחנן ר' דימי reported in יוחנן ר' דימי that if a מצרי שני marries a מצרית ראשונה, the child has a status of a מצרי שני

1. אשה זנה וחללה לא יקחו ואשה גרושה מאישה לא יקחו כי קדש הוא לאלהיו: ויקרא פרק כא פסוק ז  
 2. דבר אל בני ישראל איש או אשה כי יעשו מכל חטאת האדם למעל מעל בה' ואשמה הנפש ההוא: במדבר פרק ה פסוק ו  
 3. ויאמר ה' אל משה אמר אל הפהנים בני אהרן ואמרת אליהם לנפש לא יטמא בעמיו: ויקרא פרק כא פסוק א

- I ב-א: lists: permitted marriage and prohibited יבום, the inverse, both permitted, both banned
- a משה א' permitted marriages and prohibited יבום
- i married (or even betrothed; since [a ii] uses נשא, parallel construction here) & brother is כהן הדיוט
- 1 question: why not בתולה (she becomes אלמנה upon death of כהן הדיוט)
  - 2 suggestion: נישואין ראשונים מפילים (her status at time of original marriage determines status)
  - 3 rejection: case [a ii] should be valid, since she was כשרה before חלל
  - 4 solution: נשא taught due to [c i] which **must** be אלמנה (to be prohibited to both)
- ii married (became חללה) and his brother is כשר חלל
- iii married and his brother is ממזר ישראל
- iv married and his brother is a ישראל ממזר
- b משה ב' prohibited marriages and permitted יבום
- i married and his brother is כהן הדיוט gave קידושין כה"ג
- ii married a חללה and his brother is a חלל כשר
- iii married ממזרת and his brother is a ממזר ישראל
- iv married a בת ישראל and his brother is a ישראל כשר
- c משה ב' prohibited to both
- i married an אלמנה (ביאה חללה after) and his brother is כהן הדיוט כה"ג (or כה"ג כהן)
- ii married a חללה and his brother is כהן כשר as well
- iii married ממזרת and his brother is כהן כשר as well
- iv married a בת ישראל and his brother is כהן כשר as well
- d משה ב' permitted to both – all other relationships
- e challenge: (ר' פפא) why not teach מצרי שני that married a שניה and a ראשונה (if we accept ר' דימי – see note1)
- i implication: rejection of ר' דימי
  - ii answer: the תנא gave an incomplete list (תנא ושייר) –
  - iii proof: he omitted כשא
  - iv challenge: included in general rubric of לאוין חייבי
  - v block: specific לאוין חייבי are taught (e.g. כשרה לחלל)
  - vi answer: brought to teach that כשרות aren't banned from marrying פסולים (see below [f])
  - vii challenge: why mention ממזר and חלל
  - viii answer: teaches "לאו (ממזר) לאו" as well as "tribal לאו" (חלל)
  - ix block: that is already taught [b ii, iii]
  - x conclusion: תנא ושייר – no proof against ר' דימי
- f observation: (support of רב's ruling: לכהונה) כשרות are not banned from marrying פסולים
- i challenge: לא יקחו...לא יקחו (v. 1) → she is equally forbidden
  - ii defense: only where he is forbidden is she also (חלל is not banned from marrying a כשרה)
  - iii question: isn't that inferred from v. 2 (רב); equates men and women for all עונשין
  - iv block: v. 2 would only imply לאוין universal
  - v challenge: if it weren't for v. 3 (בני אהרן) בני אהרן to the exclusion of אהרן we would have banned כהנות from מת even though it is a non-universal לאו
  - vi answer: we would have derived the proscription from לא יקחו...לא יקחו
    - 1 alternative: inverse: we might have derived from איסור טומאה (2) יקחו → לא יקחו limits to men
  - vii tangential discussion: attempt to derive law of כשרות לפסולים from א:א: קידושין – no mention of permission → אסור
    - 1 rejection: משנה only lists permitted relations which are mutual (men ← → women)

## II כתובה and שניות: משנה ג'

- a Any relationship which is a שניה – only אסור to him, no to the other (יבם or בעל)  
 i כתובה must be divorced, have no financial claims (כתובה etc)  
 ii (!) כתובה (ממזר ונתין לישראלית, ישראל לממזר ולנתין, גרושה וחלוצה לכהן הדייט, אלמנה לכה"ג) איסורי קדושה
- b Question: if she is a שניה לבעל but not יבם, does she have a כתובה?  
 i Answer: since she has no כתובה from the בעל, no כתובה from יבם (כתובת יבם) was only ordained in case there isn't enough in the estate of the בעל)
- c Question: if an אלמנה לכה"ג (etc.) borrow against their כתובה for food while husband is abroad, can they claim it back as כתובה or, since they don't rightly get מזונות, there is no claim?  
 i Answer: she doesn't get it, except in case of food spent after death of husband
- d Question: why doesn't שניה get כתובה, whereas איסורי קדושה do get כתובה?  
 i Answer1: רשב"א – wherever they are both פסול, they fined him; if not, they fined her (to lose כתובה)  
 ii Answer2: רבי – איסורי תורה – רבי don't need support (w/loss of כתובה); איסורים דרבנן need support  
 iii Answer3: in case of שניות, she instigated the marriage (she loses nothing, status-wise) → she is fined; in case of איסורי קדושה, he instigated the marriage → he is fined  
 iv Answer4a (hybrid): רשב"א is the author – reason for answer #1 is answer #3  
 v Answer4b (hybrid): רבי is the author – reason for איסורי תורה's inclusion among חלוצה is that she is שניות נפסלת מדרבנן  
 vi Split the difference (between רשב"א and רבי):
- 1 Attempt #1: ממזרת ונתיה לישראל:
    - (a) רשב"א: she will instigate it (should lose כתובה)
    - (b) רבי: it is מה"ת, he should pay כתובה
    - (c) challenge: if we accept ר"א (contra ר"ט) that there is no way to "cleanse" ממזר-progeny, she won't instigate the marriage
  - 2 attempt #2: מחזיר גרושתו משניסת:
    - (a) רשב"א: she will instigate it (loses nothing – the offspring are כשר) – she should lose כתובה
    - (b) רבי: it is מה"ת → should pay כתובה
    - (c) challenge: according to ר"ע, she won't instigate, since the children will be ממזרים
  - 3 attempt #3: בעולה לכה"ג:
    - (a) רשב"א: she will instigate it (should lose כתובה)
    - (b) רבי: it is מה"ת – should pay כתובה
    - (c) challenge: ר"א holds עשה מחייבי עשה (i.e. she won't instigate the marriage since the offspring will be חללים)
  - 4 attempt #4: returning his סוטה:
    - (a) רשב"א: she will instigate it (nothing to lose) → should lose כתובה
    - (b) רבי: it is מה"ת → should pay
    - (c) challenge: ר' מתיא בן חרש – even this violation makes her a זונה
  - 5 attempt #5: סוטה ודאי:
    - (a) רשב"א: she will instigate it and no authority maintains that the offspring is stigmatized → should lose כתובה
    - (b) רבי: מה"ת → should pay כתובה