

14.1.11

13a (משנה ח') → 14b (אליבא דר"מ)

1. כן דרך אשה מנאפת אכלה ומחתה פיה ואמרה לא פעלתי און: משלי פרק ל פסוק כ
 2. וקיימתה לו ולזרעו אחריו ברית כהנת עולם תחת אשר קנא לאלהיו ויכפר על בני ישראל: במדבר פרק כה פסוק י

- I "כהן" (case 3) If she was seen "talking" with someone and was asked who he was and she answered "כהן"
- a כהן) and may still marry a ר"ג ור"א: we believe her (she isn't assumed to be נבעלה לפסול לה
 - b ר"י: we don't believe her and assume her to be נבעלה לפסול לה until she can prove otherwise
- II "כהן" (case 4) If she was pregnant and asked who the father was and she answered "כהן"
- a כהן) and may still marry a ר"ג ור"א: we believe her (she isn't assumed to be נבעלה לפסול לה
 - b ר"י: we don't believe her and assume her to be נבעלה לפסול לה until she can prove otherwise
- III Definition of מדברת:
- a זעירי (נסתרה) was in seclusion
 - i → need for 2 משניות – one for seclusion, one for case where she had relations
 - b רב אסי (נבעלה) had relations (euphemistically called מדברת, as pe v. 1)
 - i – one (as per ר"ג) to permit her (to כהונה), the second to permit her daughter (now in utero)
 - 1 must support position: if you permit her, her daughter (who has no prior כשרות) is permitted (גי: כשרה) also renders the child ר"ג as to whether ר"א/ר' יוחנן dispute between (a) background:
 - c challenge (to זעירי): how could ר"י prohibit her based on seclusion alone?
 - d Answer: raised bar for יוחסין (though we wouldn't prohibit a woman to her husband based on seclusion alone)
 - e Challenge: (to רב אסי) ruling that if she entered a place of seclusion or a ruined building (same conclusion and dispute as our משנה)
 - i Explanation: fits זעירי; but רב אסי should have no need for both סתר and חורבה
 - f Answer: covers a "rural ruin" and an "urban ruin", both needed:
 - i Rural: would think that ר"י permits in "urban", where most men don't invalidate via ביאה (משיאין לכהונה)
 - ii Urban: would think that ר"ג prohibits in "rural", where most men invalidate via ביאה (אין משיאין לכהונה)
 - g Challenge (to רב אסי): debate between ר"י וחכמים using case of captive woman as proof:
 - i Proof: all agree that if there are witnesses that she was captured, her claims of טהורה אני aren't accepted
 - ii Counter: bad analogy – in that case, there are witnesses against her
 - iii Defense: in our case, as well, she is pregnant (:witnesses to ביאה)
 - 1 Meaning: you have only responded vis-à-vis a pregnant woman (case #4), what about מדברת (case 3)?
 - iv Block: most עכ"ם (i.e. the captors) are licentious (→ assuredly she was raped)
 - v Response: no "guarantor" to עריות (→ if she was secluded, we assume that she had relations)
 - 1 Observation: since מדברת is treated differently than מעוברת, רב אסי is refuted. QED
 - vi Footnote: disagreement only about her status, all agree the child is a "שתוקי"
 - 1 Possible meaning: שתוקי may mean "distanced from כהונה" (as per v. 2) but is otherwise נשר
 - vii Analysis of above discussion: why not distinguish between שבויה and our case:
 - 1 Captive: most of the men are פסולים
 - 2 Our case: most are כשרים
 - viii Answer: follows ריב"ל who maintains that ר"ג is מכשיר even if ר"י is רוב פסולים; ר"י is פוסל even if כשרים
 - h Reassessing ד"ג ור"י:
 - i Story: couple came to ר' יוסף and both admitted that the child was his – ר' יוסף accepted on 2 grounds:
 - 1: they both admitted
 - 2: we rule like ר"ג
 - (a) challenge: if he didn't concede, would we permit it? ר"ג is only accepted "theoretically"
 - (i) observation: if we accept him – it is practically, not just theoretical
 - (ii) rather: we accept ר"ג only בדיעבד (and this case is a בדיעבד – she's already pregnant)

- ii *challenge*: יהושע ר' accepts כשרות and ר"ג rejects it (case of אלמנת עיסה – she is the widow of a כהן who is a ספק of חלל – so she is a ספק ספק of חלל)
- 1 *answer1*: a woman is careful about whom she marries, but not about whom she is מזונה with
(a) (*rejected due to ר"ג's dissent in that case*)
 - 2 *answer2*: ר"ג sees the certainty of her claim as primary; יהושע ר' sees the measure of doubt as primary:
(a) → ר"ג permits (our משנה) when she is ברי, even if there's only one doubt (נבעלה or not)
(b) → יהושע ר' permits (אלמנת עיסה) even if she is שמא, when there is ספק ספק
- IV Definition of אלמנת עיסה:
- a ת"ק – anyone who protests any claim of פסול against them
 - b ר"מ – anyone who protests any claim, besides חלל (he doesn't care enough to respond)
 - c ר"ש"א's version of ר"מ – anyone who is silent when called ממזר, assuming that everyone would know if he was (there's a קול) but if he protests when called a ממזר but is silent when called a חלל, he is פסול (we assume his silence is his relief at not being excluded from קהל as a ממזר)