

14.2.7

(ודמגרשי בצנעא) → 23a (משנה ה')

1. ואמר אבי הנער אל הזקנים את בתי נתתי לאיש הזה לאשה וישנאה: דברים פרק כב פסוק טז
 2. הסר ממך עקשות פה גלוזת שפתים הרחק ממך: משלי פרק ד פסוק כז

- I. פה שאסר 2 more examples of משנה ה'
- if a woman admits to having been married but adds that she has subsequently been divorced – believed
 - if there are witnesses that she was married – not believed
 - if a woman admits to having been in captivity but adds that she was not raped – believed
 - if there are witnesses that she was captured – not believed
 - in any case, if she was already married and then the witnesses came forth – לא תצא
- II. הפה שאסר הוא הפה שהתיר
- V. 1 – לאיש: forbids her (i.e. father is believed that she is betrothed) – הזה – permits her (to him)
 - Challenge: no need – it is a reasonable formula (סברא)
 - Rather: verse needed for ruling of רב that a father is believed מה"ת to prohibit his daughter
 - addendum: הזה needed to exclude יבם from rubric of רע מוציא שם רע
 - tangent on credibility: if a woman avers that she is married, then says she is not – believed
 - challenge: she already made herself into a דאיסורא
 - defense: if she gave a reasonable explanation (אמתלא) for her first claim (e.g. if she wanted to dissuade unfit suitors)
 - applied question: רב → שמואל: טמאה then says she is טהורה
 - answer: also believed here (with אמתלא) – but שמואל wouldn't rule that way in practice
 - tangent on credibility: 2 (עדים) v. 2 (death or divorce) – she may not marry; if she did marry
 - דבנן: no need to separate
 - ד' מנחם בר יוסי: must separate (only if she married after the witnesses came)
 - Challenge: 2 v. 2 should = 0 (=ספק) and her new husband (& her) should be חייב באשם תלוי
 - Defense: if she married one of the witnesses (who claims: ברי)
 - Challenge: but she still has חייב באשם תלוי
 - Defense: she also claims ברי לי that he is dead/he divorced me
 - Variant ruling (ר' יוחנן): 2 v. 2 re: death – לא תצא; 2 v. 2 re: divorce – תצא
 - challenge: justify the difference
 - answer1 (to רישא): not 2 v. 2; rather 1 v. 1 (1 is believed for מיתה; anti-1 isn't believed)
 - challenge: why not marry לכתחילה
 - answer: due to v. 2 – (avoid being the object of bad rumors)
 - answer2 (סיפא): ר' יוחנן ר' מנחם בר יוסי accepted ר' יוחנן only in re divorce
 - Reason1: re divorce: if he counter-claims, she can hold her position
 - Challenge: חזקה that a woman doesn't claim גרשתני to her husband
 - Answer: that חזקה only applies if she has no supportive witnesses
 - Reason2: case where עדים said divorce/death happened today
 - Difference: have her show גט (death can't necessarily be substantiated)
 - Variant ruling (ברייתא): 2v2 re נתקדשה – may not marry, but לא תצא; 2v2 re נתגרשה – לא תצא
 - justification for difference
 - אשת איש: 1v1; in רישא, 2 testify she was פנויה; in סיפא, 2 testify that she was איש
 - switch rulings: 2 say "קידושין" and 2 say "we didn't see her" – תצא
 - challenge: obviously – testimony of absence is meaningless
 - defense: case where they live in one courtyard – they would've known
 - סיפא: 2 say "we saw her divorced", 2 say "we didn't" – לא תצא
 - חידוש: people perform קידושין privately, but גיטין are always public – קמ"ל that even גירושין might be done privately