

## 14.4.1

41b (משנה א') → 42b (להורישו לבניו)

7. נפש מי תחטא ומעלה מעל בה' ונחש בעמיתו בפקדון או בתשומת יד או בגזל או עשק את עמיתו: או מצא אבדה ונחש בה ונשבע על שקר על אחת מכל אשר יעשה האדם לחטא בהנה: ויקרא ה, כא-כב

- I ([אונס – if צער+] בושת, פגם, קנס) אנוסה ומפותה: משנה א'
- a default: belongs to father
- i if the case happened before his death or before she became a בוגרת – belongs to him
- 1 if he dies (or she becomes a בוגרת) before collection, belongs to brothers
- ii if the case came to court after his death or after she became a בוגרת, belongs to her
- 1 ר' שמעון: if the moneys weren't collected and father died (even after גמ"ד) – belongs to her
- 2 however: her wages and מציאה belong to brothers even if father died before collection
- 3 note: only real "new" information is the dispute between ר"ש/רבנן about status of uncollected money as part of ירושה to the brothers
- b analysis of שמעון ר' position:
- i משנה (ד: שבועות ה:): משנה (ב: בושט ופגם: רבנן) (מודה בקנס) ר"ש: no pay (ב: בושט ופגם: רבנן) – if A accuses B of אונס/פתוי of his daughter & B denies, A administers an oath to which B assents – and B later recants and admits to it, ר"ש: no pay (מודה בקנס)
- 1 Question: (רבה → אביי) what if A accuses B of having been found liable in court for אונס of his daughter; B denies it then admits it – is it still קנס (according to ר"ש) or is it now כפירת ממון (ר"ש)?
- 2 Answer: (רבה) in that case ר"ש agrees that it is כפירת ממון and fits v. 1 – חייב בקרבן שבועה
- 3 Challenge: ר"ש excludes a case of קנס חיוב קנס (where A accuses B of an act which carries קנס, administers an oath which B confirms – then B admits to it) from קרבן שבועה following v. 1
- (a) Explication: doesn't ר"ש intend to address a case where there was already בדין העמדה?
- (b) Defense: case refers to an accusation which omits בדין העמדה
- (c) Challenge: רישא of that statement extends שבועה to קרבן שבועה וחמשה – implying that there has already been בדין העמדה
- (d) Feigned Answer: (could've answered that the entire statement is ר"ש and the רישא addresses a case where there was already בדין העמדה and the סיפא addresses a case where it hadn't yet happened, but then the statement should've been explicitly attributed to ר"ש)
- (e) Real Answer: entire case is after בדין העמדה; רישא is רבנן, סיפא belongs to ר"ש
- (i) ר"ש (in רבה's estimation) agrees that even in such a case (where the accusation is that there was בדין העמדה) that he is exempt from שבועה;
- (ii) However: vis-à-vis the financial obligation, in such a case it is no longer קנס and B must pay