

14.4.7

47b (על הציבור) → 48a (חייב במזונותיה)

<p>1. אם אחרת יקח לו שארה כסותה וענתה לא יגרע: שמות כא, י 2. ואשר אכלו שאר עמי ועורם מעליהם הפשיטו ואת עצמותיהם פצחו ופרשו כאשר בסיר וכבשר בתוך קלחת: מיכה ג, ג 3. אם תענה את בנתי ואם תקח נשים על בנתי אין איש עמנו ראה אלהים עד ביני וביני: בראשית לא, ג 4. איש איש אל כל שאר בשרו לא תקרבו לגלות ערוה אני יקנוק: ויקרא יח, ג 5. ועניו וירעבו ואכלו את הפן אשר לא ידעת ולא ידעו אבתיך למען הודעך כי לא על הלחם לבדו יחיה האדם כי על כל מוצא פי ה' יחיה האדם: דברים ח, ג</p>	<p>וענין הכתוב, שאם יקח אחרת, קרוב בשרה של זו וכסות מטתה ועת דודיה לא יגרע ממנה, כי כן משפט הבנות. דמבין שמות כא, ט</p>
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I Continued analysis of husband's rights as per ד' משנה

a Quid pro quo:

husband's rights		husband's responsibilities
Her wages	for	Feeding her
נכסי מלוג of פירות	for	Ransom her if captured
כתובה (he inherits it)	for	Burial (if she predeceases him)

- i Comment on פירות: even though it may have been easier to leave them in her trust as a guarantee against ransom; it might be not enough so he is given פירות against the (unlikely) need for ransom
- ii 2nd comment on the list: frequent rights were set up for frequent responsibilities (wages/food)
- b 3 approaches to explaining the דאורייתא obligations found in v. 1:
 - i food, clothing and conjugal relations are מה"ת
 - 1 possibility #1: שאר (ת"ק) is food as per v. 2; כסות means clothing and עונה is relations as per v. 3
 - 2 possibility #2: שאר (ר"א) is relations as per v. 4; כסות means clothing and עונה is food as per v. 5
 - ii (ראב"י) only clothing is מה"ת - שאר means it has to fit the body, עונה means it must be seasonally appropriate
 - iii (ר' יוסף) only relations is מה"ת - שאר refers to קירוב בשר (if he refuses to undress for relations, she may demand a divorce w/כתובה) (כתובה may refer to bedclothes/sheets – see רמב"ן (above))
- II Discussion about יהודה's dissent in the משנה regarding minimal burial (2 חלילין and a "dirge-singer" [מקוננת])
 - a Question: if this is the regular custom, why would ת"ק not require it; if not, why would ר' יהודה require it?
 - i Answer: it is his family's custom, not hers
 - 1 ת"ק, she only "goes up" with him and not down – only applies while she's alive
 - 2 ד' יהודה rule applies even after death
 - 3 ruling: יהודה הלכה - (מר עוקבא ר' חסדא) (in the name of מר עוקבא)
 - 4 Additional ruling (from מר עוקבא בשם מר עוקבא ר' חסדא בשם מר עוקבא ב"ד): if someone loses his mind, ב"ד seizes his property in order to feed his wife, sons, daughters and "דבר אחר" (?)
 - (a) Challenge (רבינא): why distinguish from case of man who left the country; ב"ד seizes his property to feed his wife, but not his children nor "דבר אחר"
 - (b) Answer: distinguish between someone who left voluntarily and not (lost his mind)
 - (i) Definition of דבר אחר.
 - 1. ד' חסדא jewelry (certainly would not allow them to pay out charity)
 - 2. ד' יוסף charity (but may still allow them to pay out for jewelry)
 - 5 additional ruling (רב הונא): if someone left the country and his wife died, they seize his property to arrange a burial as befitting the higher standard of either of them
 - (a) implication: she "moves up" and not "down" with him – even after death
 - 6 associated ruling: (רב מתנה) if a man states that if he predeceases his wife he doesn't want her to have his estate cover her funeral
 - (a) challenge: this is obvious, since the money goes to his heirs who are not obligated to bury her
 - 7 rather: if he states that when he dies he doesn't want the estate to cover the funeral – we don't obey his wishes
 - (a) reason: he has no right to enrich his estate and have his burial made the responsibility of the community