

14.4.8

48a (משנה ה') → 49a (שמע מינה)

1. והוציאו את הנער אל פתח בית אביה וסקלוה אנשי עירה באבנים ומתה כי עשתה נבלה בישראל לקנות בית אביה ובערתה הרע מקרבך: דברים פרק כב מסוק טא
 2. כי יהיה נער בתולה מארשה לאיש ומצאה איש בעיר ושכב עמה: דברים פרק כב מסוק כז
 3. ויגד אלמנה וגרושה כל אשר אסרה על נפשה יקום עליה: במדבר פרק ל מסוק י

- I נשואה point at which a betrothed girl becomes a משנה ה'
- a she remains in father's domain until she enters husband's
 - i if husband's agents receive her – in husband's domain
 - ii if father (or his agents) went with husband's agents – she is still in father's domain
 - iii if father's agents hand her over to husband's agents – in husband's domain
 - b explanation of stressed word לעולם:
 - i in apposition to early ruling (ה:ב) that if the time for נישואין has come and he hasn't married her, she automatically enters husband's domain vis-à-vis food (and תרומה)
 - c impact of handing her over to the husband's agents
 - i רב: considered married for everything except אכילת תרומה
 - ii ר' יוחנן ור' חנינא: considered married even for אכילת תרומה (also רב אסי)
 - 1 רב defends ר' אסי against challenge from רב-לעולם-phrase in our משנה, which is equivocal
 - iii שמואל: valid only for ירושה (if she dies on the way, the husband inherits her property)
 - iv ר"ל: valid only for כתובה (if she dies on the way, the husband inherits her כתובה)
 - 1 challenge: שמואל = ר"ל
 - 2 answer: ר"ל means that her next כתובה (if marriage terminated before חופה) is 100
 - v Support for שמואל from ברייתא:
 - 1 If her father (or his agents) accompanied her or she went to a courtyard she owns (on the way) with the husband (presumably just to lodge) – even if the כתובה is already in the husband's house – if she dies, her father inherits; but...
 - 2 If her father (or his agents) hands her off to the agents of the husband or he owns a courtyard on the way and she enters there (presumably for purposes of נישואין), and she dies on the way – even if the כתובה is still in her father's house – the husband inherits her. This only applies to inheritance, but she doesn't eat תרומה until she fully enters the husband's house
 - d Additional ruling – if father's agents hand her off to the husband's agents and then she commits adultery – חנק (i.e. treated as a married woman, not betrothed [סקילה])
 - i Source: v. 1 – סקילה only while in the domain of her father, not if he already handed her off
 - 1 Challenge: perhaps it only excludes a case where she already had חופה
 - 2 Defense: post-חופה is covered in v. 2 (index verse of סקילה for מאורסה)
 - (a) נערה – excludes בוגרת
 - (b) בתולה – excludes בעולה
 - (c) מאורסה – excludes someone who already had חופה
 - 3 suggestion: perhaps if she returns to her father's house, she goes back to status of סקילה
 - 4 rejection: שמואל inferred from v. 3 that once she leaves father's domain, he never regains control
 - 5 support: ברייתא which stipulates that סקילה only applies to a נערה, who is a בתולה and is still בבית אביה
 - 6 Support: once she enters the husband's domain (not necessarily חופה), she becomes a חנק