

14.5.4

58b (משנה ד') → 59b (תיקדש מהשתא)

1. והיה כי יאמר אלקי לא אצא מעמך כי אהבך ואת ביתך כי טוב לו עמך: דברים פרק טו פסוק טו

- I משנה ד' husband's rights over wife's wages
- a if he declares her מע"י to be הקדש – it is null, and she continues to work and eat
  - b regarding the surplus (beyond her מזונות):
    - i הקדש – ר"מ
      - 1 Case: he is giving her מזונות, but not the מעה כסף for her other needs
        - (a) שמואל: after she dies and he inherits her
          - (i) reason: מע"י <-> מזונות; מעה כסף <-> surplus (frequencies are matched)
          - (ii) Therefore: he has not current claim on the surplus
        - (b) דב אדא בר אהבה immediately
          - 1. Reason: מזונות <-> surplus; מעה כסף <-> מע"י (stable amounts matched)
          - 2. therefore: he has current claim on surplus
          - 3. challenges: all texts that seem to appose מע"י to מזונות
          - 4. answers: read all as "מותר מע"י"
    - ii (דבר שלא בא לעולם – חולין – ר' יוחנן הסנדלר)
      - 1 – ריה"ס follows הלכה שמואל
        - (a) Challenge: שמואל rules that if a woman bans her husband from benefiting from her work via נדר, he must repudiate the vow in case he divorces her and she won't be able to return
          - (i) Explication: שמואל maintains that נדרים affect לעולם בא דבר שלא בא לעולם
          - (ii) Suggested answers: similar to case of potential transaction
            - 1. Rejections: none are similar to our case
          - (iii) Answer: קונמות are different, they uproot שעבוד
  - c Wife's rights:
    - i רב: she may opt out of מזונות and keep her מע"י
      - 1 inference: the תקנה (!) of מזונות is the central feature of the quid-pro-quo; מע"י are to maintain harmony
      - 2 possible support: our משנה
      - 3 deflection: our משנה could be a case where he isn't feeding her
        - (a) challenge: isn't it obvious that he has no claim over her מע"י in such a case
          - (i) proof: only עבד you might be able to force work and not feed is ע"כ, not ע"ע (v. 1) – ק"ו the wife
        - (b) answer: משנה needed for the rule of "surplus"
    - ii ר"ל: she may not keep her מע"י
      - 1 the reason ר"מ allows for הקדש of surplus is
        - (a) not: due to his reasoning that you may transact regarding potential items
        - (b) rather: since he has the right to force her to produce
        - (c) and: ר"מ always reads utterances as being interpreted in the most effective way:
          - (i) read: the fellow said "let her hands become sanctified to the One who made them"