

17.04.01

(לאו אשתו היא כלל) 25a → (משנה א'-ה') 23b

1. זאת תורת הקנאות אשר תשטה אשה תחת אישה ונטמאה: במדבר ה, כט
 2. דבר אל בני ישראל ואמרת אליהם איש איש כי תשטה אשתו ומעלה בו מעל: במדבר ה, יב
 3. ואת כי שטית תחת אישה וכי נטמאת ויתן איש בך את שכבתו מבלעדי אישה: במדבר ה, כ

- I קיניי: those women who do not drink and/or are not subject to משנה א'-ה'
- a כתובה: class of women who don't drink and do not collect their כתובה
- i failure of criteria: - v. 1
- 1 ארוסה ושומרת יבם
 - 2 *implication*: they may have administered קיניי (regarding later סתירה) as per ריבוי in v. 2
- (a) *authorship*: ר' יונתן who applies v. 3 to יבם and v. 1 to ארוסה
- (b) *dissent*: ר' יאשיהו understands איש איש (v. 2) to include ארוסה for full process
- (i) ר' יונתן uses איש איש to include incapacitated men in process
 - (c) *implication*: without these verses, we would include an ארוסה
 - (d) *challenge*: end of v. 3 teaches that בעל שכבתו has to have come first
- (i) *answer*: with ארוסה, they may have had relations במי בית חמי (in her father's house =before marriage)
 - (ii) *however*: vis-à-vis שומרת יבם, if they had relations, she is his wife and no longer שומרת יבם
 - (iii) *answer*: may follow שמואל's opinion – that after ביאה, a שומרת יבם is only his wife vis-à-vis those matters mentioned in the פרשה of ייבום
 - (iv) *suggestion*: perhaps ר' יאשיהו=רב and ר' יונתן=שמואל
 - (v) *rejection*: ר' יונתן's opinion works within רב – the fact that she is a full wife necessitates the exclusion
 - (vi) *rejection*: ר' יאשיהו's opinion works within שמואל – the fact that she is not a full wife necessitates the exclusion
- ii improper marriage
- 1 בת ישראל למזמר ונתין, ממזרת ונתינה לישראל, גרושה וחלוצה לכהן, אלמנה לכ"ג
- b 'משנה ב': circumstances of women who don't drink:
- i she is the obstacle – in these cases, she does not collect כתובה
- 1 if she admits her guilt
 - 2 if witnesses come to testify to her adultery
 - 3 if she refuses to drink
- ii he is the obstacle – in these cases, she *does* collect the כתובה
- 1 if he refuses to participate in the ceremony
 - 2 if he had relations with her on the way to ירושלים
- iii if he dies before she drinks
- 1 כתובה – she doesn't drink but she collects כתובה ב"ש
 - 2 כתובה – since she may not drink, she does *not* collect כתובה ב"ה
- c 'משנה ג': class of circumstantially improper marriages – she doesn't drink and doesn't collect כתובה
- i ר"מ: if she's pregnant - or nursing a child – from a previous marriage (אסור to marry until period is complete)
- 1 *dissent*: חכמים – he may separate from her and reunite after period is over (i.e. not fully prohibited)
- ii חכמים: if she is an איילונית, post-menopausal or otherwise unable to give birth
- 1 *dissent*: ר"א – he may have children with another (i.e. this marriage may be permitted)
- iii All other women – either drink or lose their כתובה
- d 'משנה ד': special classes
- i אשת כהן – may drink and return to her husband
 - ii אשת סריס – may also drink
 - iii one may accuse anyone of being the alleged בועל – even עריות (e.g. her father)
- 1 *exceptions*: קטן or someone who is “not a man”
- e 'משנה ה': court-ordered קיניי
- i if the husband has become disabled (e.g. deaf, imbecile)
 - ii if the husband is imprisoned
 - iii *purpose*: not for her to drink (cannot happen unless husband issues קיניי) – but to deprive her of כתובה
- 1 *dissent*: ר' יוסי – husband may give her to drink after he gets out of prison