

17.04.02; 25a (קמ"ל) → 26b (א-איביעא להו עוברת על דת)

1. ואם לא נטמאה האשה וטהרה הוא ונקתה ונזרעה זרע: במדבר ה, כח  
 2. דבר אל בני ישראל ואמרת אליהם איש איש כי תשטה אשתו ומעלה בו מעל: במדבר ה, יב  
 3. ושכב איש אתה שכבת זרע ונעלם מעיני אישה ונסתרה והיא נטמאה ועד אין בה והוא לא נתפשה: במדבר ה, יג  
 4. זאת תורת הקנאת אשר תשטה אשה תחת אישה ונטמאה: במדבר ה, כט

- I Question raised about the need to prewarn an עוברת על דת in order to deprive her of her כתובה
- a Lemma1: perhaps since she's already acting inappropriately, that is sufficient
  - b Lemma2: perhaps if she hears what she has to lose, she'll rectify her behavior
  - c Attempted proof #1: קינוי משנה א' rules that יבם and ארוסה ושומרת יבם don't drink → but they may receive קינוי
    - i Observation: not for drinking, must be for loss of כתובה → we require warning
    - ii Rejection #1: could be to prohibit her to him
    - iii Rejection #2: may be in order to give her to drink after she is a נשואה/כנוסה
  - d Attempted proof #2: קינוי משנה א' rules that אלמנה לכ"ג etc. don't drink → but they may receive קינוי
    - i Observation: not for drinking, cannot be to prohibit them (they're already prohibited), must be for loss of כתובה
    - ii Rejection: may be to prohibit her to the alleged paramour (לבעל כן אסורה לבעל)
  - e Successful proof: קינוי משנה ה' rules that ב"ד steps in and declares קינוי on behalf of man in prison etc. expressly for purpose of depriving her of her כתובה
    - i Success: proving that להפסידה כתובתה requires warning
- II Tangential questions:
- a if she violates norms of modesty (עוברת על דת) may he keep her nonetheless
    - i Lemma 1: perhaps since it depends on his sensitivity, his tolerance carries the day
    - ii Lemma 2: perhaps there is an automatic "zero-tolerance" here
    - iii Attempted proof: קינוי משנה ה' rules that ב"ד can issue a קינוי on his behalf → cannot "forgive"
      - 1 Rejection: perhaps ב"ד acts based on usual reaction of husband (not to be forgiving)
  - b if the husband wants to forgive (and forget) his קינוי, may he?
    - i Lemma 1: perhaps since it depends on his suspicion and issuance of a קינוי, he may forgive it
    - ii Lemma 2: perhaps once he's issued it there is no going back
    - iii Attempted proof #1: קינוי משנה ה' rules that ב"ד acts on behalf of the man in prison etc. –
      - 1 Explanation: ב"ד isn't likely to issue a קינוי that he can later forgive
      - 2 Rejection: ב"ד acts on the assumption that he won't change his mind
    - iv Attempted proof #2: קינוי משנה (א:ג) rules that the local ב"ד assigns 2 scholars as escorts, lest he have relations with her
      - 1 Explanation: no need for this if he can forgive his קינוי
      - 2 Answer: that's why they're there – to inform him that if he chooses to have ביאה, he should forgive the קינוי
    - v Successful proof: 3 rulings of "forgiveness" in name of אנשי ירושלים
      - 1 A husband may forgive קינוי
      - 2 A ב"ד may forgive a זקן ממרא (rejected – lest divisions and disputes multiply)
      - 3 Parents may forgive their wayward son (בן סורר ומורה)
    - vi Tangential question: may he forgive even after סתירה or only before (מחלוקת אמוראי בבל)
      - 1 Reasonable – only until סתירה, otherwise יוסי ק"ו ר' יוסי favoring trusting the husband to be alone with his wife, would stand, as סוטה would also have the possibility of היתר (if he forgives the קינוי)
- III Analysis of dispute between ב"ש/ב"ה about collection of כתובה if husband died before drinking (משנה ב')
- a Note: dispute revolves around status of כתובה – is it already "collected" (→she's מוחזקת and heirs must prove infidelity)
- IV Analysis of case of pregnant/nursing woman who married (ר"מ/חכמים) and infertile woman (ר"א/חכמים) משנה ג' - (ר"א/חכמים)
- a Dissent: רשב"א interprets v.1 (זרע ונזרעה זרע) as excluding an איילונית from the process
  - b Response: רבנן interpret v.1 as blessing her with children if she was barren (ר"ע) or "better" children (ר' ישמעאל)
  - c Tangential ברייתא brought:
    - i Includes: ממוזר married to a ממוזר drinks – even though we enable adding קהל פסולי
    - ii Includes: wife of גר and עבד משוחרר – even though v. 2 targets בני ישראל, בני ואמרת expands to include גרים
- V Explanation of ד משנה ב' – אשת בתן – משנה ד' → only one who, if raped, would be לבעלה
- a Additionally: she is לבעלה, meaning if she get sickly (מתנוונה) in her limbs, קמ"ל due to rape – א"א
  - b Additional ruling: אשת סריס drinks – even though מבלעדי אישך implies that her husband has to be sexually competent
  - c Additional ruling: any עריה may be object of קינוי, even though she is already forbidden to him and won't become "more forbidden" as a result of the process (or an affair)