

18.03.04

28a (משנה ג) → 29a (עבדי לאחזוקי שקרייהו)

- I 28 משנה ג: applications of חזקת חיים (assumption of an agent that the dispatcher is still alive)
- a if the dispatcher is elderly or ill, the agent still gives the גט under the assumption that he's still alive
- i רבא: only if he was ill or elderly, but if he was a גוסס (on his deathbed) or had reached 80 years – we assume he's died, since most גוססים and people who have reached גבורות die soon.
- 1 Challenge (אבני): משנה ג – "even if he was 100 years old..."
 - (a) Answer1: רבא rejected
 - (b) Answer2: once he's successfully reached that age, he may live longer
 - 2 Challenge (אבני to רבה): our משנה assumes חזקת חיים
 - (a) Contra: a גט which is active 1 hour before death – she may not eat תרומה immediately
 - (i) Answer: don't challenge גט with תרומה – she can eat חולין, but the גט must be valid or not
 - 3 Challenge2 (אבני to רבה): clause [b] (below) vs. the ruling above
 - (a) Answer (אדא): any hour could be the one before he dies; we have to take that into account
 - (i) Rejection: she may predecease him
 - (b) answer (אבני): our משנה follows ר"מ (לא חייש למיתה) (who is יהודה ר' חושש למיתה) other rulings follow ר"מ (לא חייש למיתה)
 - (i) Support: dispute about taking תרומה in advance from נוד ר"מ – no concern it'll break; ר"י – concern
 - (c) Answer (רבא): all agree that we aren't חושש he's already died, just that he may die (in the near future)
 - (i) Challenge (רבא): the dispute about the נוד is akin to שמא ימות
 1. attempted deflection: a wine-flask is different; it can be given to a שומר to ensure its status
 - a. rejection: your guard needs his own guard (ערבך ערבה צריך)
 - (d) Answer (modified): all agree that there is no concern about שמא ימות; שמא מת is a dispute (ר"י v. ר"מ)
- b if a כהן goes to מדה"י, his wife continues eating תרומה under the assumption that he's still alive
- c if someone sends a קרבן חטאת from מדה"י, we offer it up under the assumption that he's still alive
- i note: must be either a קרבן sent by a woman or a bird – else, he needs to perform סמיכה on location
- d justification: if we only had the ruling in case of גט, סד"א since there's no alternative,
- i but re: תרומה we won't apply חזקת חיים, since she can eat חולין
 - ii If: we only had תרומה, סד"א we allow חזקת חיים because there may be no alternative
 - iii Therefore: we also need העוף חטאת, סד"א we won't bring potential לעזרה חולין when in doubt – קמ"ל
- II 29 משנה ד: 3 things reported by פרטא בן פרטא ר' אלעזר בן פרטא (and were confirmed)
- a situations where we assume חזקת חיים
- i examples:
- 1 someone living in a city surrounded by a siege
 - 2 someone on a boat that is stormed-tossed
 - 3 someone who is being taken to a capital judgment
 - (a) ר' יוסף: only true about ב"ד of ישראל; otherwise, once convicted, he dies
 - (i) challenge1 (אבני): they can also be bribed
 - (ii) answer: they don't accept bribes after the court has signed the order
 - (iii) challenge2: if someone runs away and עדים report that he was sentenced to die – we execute him
 1. defense2: perhaps if he ran away, clear that there was no argument to save him
 - (iv) challenge3: if a ב"ד reports that X died/was killed – wife may marry (not from a non-Jewish executioner)
 1. perhaps: "died" means "sentenced to die" – (else why not believe non-J court – תומו)
 2. defense3: means "died" – we don't believe them לפי תומו if they have an interest in it (cover-up)
 - (b) ר' יוסף: only true about בי"ד של עכו"ם, but בי"ד של ישראל, once he's sentenced, there's no hope for appeal
 - (i) challenge: בי"ד של ישראל could still find a זכות
 - (ii) answer: after גמר דין, they no longer raise the issue
 - (iii) continuation: (challenges 2&3 are brought as support, rejected as per defenses 2 & 3)
- b situations where we no longer assume חזקת חיים where we impute חומרי מתים and חומרי חיים
- i meaning: a כהן בת ישראל לכהן & תרומה בת ישראל לכהן & תרומה בת ישראל לכהן
- ii examples:
- 1 someone living in a city where the besiegers have already broken through the walls
 - 2 someone on a boat that has sunk
 - 3 someone who has already been condemned to die