

19.01.04

5b (הכי אמרינן משמיה דרבא כוותיק) → 6b (ת"ר כיצד בכסף)

1. **כי יקח איש אשה** ובעלה והיה אם לא תמצא חן בעיניו כי מצא בה ערות דבר וכתב לה ספר כריתת ונתן בגידה ושלחה מביתו: דברים כד, א
 2. ואיש כי ישכב את אשה שכבת זרע והוא שפחה נחרפת לאיש והפדה לא נפדתה או חפשה לא נתן לה בקרת תהיה לא יומתו כי לא חפשה: ויקרא יט, כ

I Nuances of כסף קנין

- a תוספתא קידושין א: requirement that both the declaration and the money come from him
 i רישא: if he gives and makes the declaration - valid
 ii סיפא: if she gives and makes the declaration (הרי אני מקודשת לך) - invalid
 iii challenge: implications of רישא and סיפא contradict – if he give but she declares
 1 answer1: רישא is exact, סיפא is loosely constructed
 (a) Rejection: can't teach something "loosely" which contradicts
 2 answer2: if anything less than he doing both – as if she did both and invalid
 3 answer3: if she declares, it is a ספק דרבנן and we require a גט
 b שמואל's dicta:
 i if: he says את מקודשת etc. – valid
 ii however: if he says: e.g. הרי אני מקודש לך (he "takes himself to her") – invalid formulation
 iii parallel: requirements in re: גט (he must send her, not be sent away himself)
 1 observation: evidently שמואל validates content-poor phrases (omitted – לי – unclear to whom she is מקודשת)
 2 challenge: שמואל doesn't accept them as per ruling in re: הפלאה of א נזיר
 3 answer: in this case, he really had said לי
 4 challenge: what is שמואל teaching?
 5 Answer: formulations must be from male perspective as active actor – based on v. 1 (יקח, שלחה)

II Valid cognomens for קידושין

- a הרי את אשתי, הרי את ארוסתי, הרי את קנויה לי – valid
 b הרי את שלי, הרי את ברשותי, הרי את זקוקה לי – valid
 i Note: even though this is one ברייתא תנא heard them separately and memorized them as such (2 units)
 c Questions: are any of the following valid? (all from Scriptural references to companionship/marriage)
 i מיוחדת לי iv נגדתי vii סגורתי
 ii מיועדת לי v עזורתי viii תחתי
 iii עזרתי vi צלעתי ix תפושתי
 x לקוחתי – this one is answered as valid – from v. 1
 d Question: if חרופתי valid (v. 2)
 i Answer: only in district where they commonly use that word to denote ארוסה
 e Question (about c, d): circumstance:
 i If: they were already talking about קידושין – no need for any words (as per שמואל's ruling per יוסי in ר' יוסי ד: in מע"ש ד:)
 ii If: they weren't talking about it – how does she know what he means (with this odd word)?
 iii Answer: they were discussing marriage
 1 Had: he been silent, it would have been valid
 2 However: since he used this odd word, perhaps he intended something else (e.g. מלאכה) → תיקון
 iv Revisiting יוסי's ruling:
 1 דבי: they had to have been discussing קידושין
 2 דאב"ש: no need for that (אביי: but they were talking in general about their marriage – מענין לענין באותו ענין)
 (a) note: ruling that one who isn't an expert in קידושין גיטין shouldn't involve himself includes this law
 f regarding שמואל's ruling about the phrasing of a גט is "you are independent" valid for a גט?
 i Does it mean: full independence (valid)
 ii Or does it merely mean: financial independence (invalid for גט)
 1 Answer: if it works for עבד, where there is הגוף קנין it should work for אשה
 iii Question: is "I have nothing more to do with you" valid for a גט שחרור?
 1 Answer: it is, from ruling of אונן (in פרק רביעי in case of slave sold to non-Jew)

III Using a loan for קידושין is invalid

- a however: if he used the benefit of a loan – i.e. he extended her due date – valid but אסור (too close to רבית)

IV (תרומה, פדיון הבן, ד' מינים) is considered owned by the (temporary) recipient in all cases

- a Exception: קידושין כסף – since קידושין aren't valid via חליפין (רמב"ן) (תוספות, רמב"ן)