

19.02.10

50a (משנה ו') → 50b (קמ"ל)

- I ר' משנה ו': status of insufficient קידושין if סבלונות (gifts – worth more than ש"פ) are also sent
- a if
- i a man gives 1 פרוטה to 2 women for קידושין OR
 - ii gives <ש"פ to one woman OR
 - iii A קטן who gave a woman קידושין (worth more)
- b Even if: he sends gifts afterwards
- i Note: in case of קטן, gifts were sent after he reached majority
- c Ruling: קידושין are invalid
- II Justification:
- a If: we only knew that סבלונות sent after קידושין to 2 women with ש"פ don't help
- i Then: we would have reasoned because he gave ש"פ, he didn't send the סבלונות as קידושין
 - ii But: we would've assumed that when he gave <ש"פ, knowing it to be insufficient, he would have relied on סבלונות to act as קידושין כסך
- b And if: we knew both of those cases
- i Then: we would have reasoned that people can't distinguish between ש"פ and <ש"פ
 - ii But: all know that a קטן's קידושין are invalid and he intended the סבלונות as קידושין → קמ"ל-
- III Status of סבלונות as כסך קידושין
- a רבה and רב הונא: we are concerned that סבלונות may operate as קידושין
- i comment from our משנה (רבה):
 - 1 version #1: we are challenged from our משנה which disregards סבלונות
 - (a) defense (אביי): משנה gave reason – he was relying on original קידושין
 - 2 Version #2: משנה provides support; only due to consideration of ראשונים קידושין are סבלונות disregarded
 - (a) Retort (אביי): משנה is teaching less obvious case:
 - (i) Not only: when there were never קידושין sent are סבלונות disregarded
 - (ii) But even: when קידושין was "in play" (but deficient), סבלונות are disregarded
 - ii Final ruling (רב פפא): in a place where the custom is to give קידושין before סבלונות, we are concerned
 - 1 But: in a place where they give סבלונות first – no reason to be concerned
 - (a) Note: it's obvious that if they give קידושין first, there's room to be concerned
 - (b) Answer: in a place where most practice קידושין first, perhaps we should be concerned about the minority practice – קמ"ל
 - iii Related question asked of רבא:
 - 1 If a woman held a כתובה, שטר כתובה, do we regard her as betrothed (such that קידושין to another are null)?
 - (a) Answer (רבי אשי): in a place where the custom is to give כתובה only after קידושין, we regard her as betrothed
 - (i) Even if: a minority give כתובה first, we aren't concerned about minority practice
 - (ii) Note: it is obvious if the custom is to give קידושין first, that her כתובה is proof of אירוסין
 - (iii) Answer: perhaps he was afraid that he wouldn't find a סופר in time and hired one in advance – קמ"ל