

19.03.06

64a (משנה ח) → 65a (ומר סבר: עד דמיפני פיסחא)

1. אלקמנה וגרושה וחללה זנה את אלה לא יקח כי אם בתולה מעמיו יקח אשה: ולא יחלל זרעו בעמיו כי אגני ה' מקדשו: ויקרא כא יד-טו
 2. ואמר אבי הנער אל הזקנים את בתי נתתי לאיש הזה לאשה וישנאנה: דברים פ"ק כב פסוק טז

- I 10 משנה ח: more on father's credibility vis-à-vis his daughter's status
- if: father states that he accepted קידושין and גט for her and she is still a קטנה – believed (*status*: לכהונה (פסולה לכהונה))
 - however: same claim (that he accepted both while she was a קטנה) but she's now mature – not believed (*status*: כשרה לכהונה (כשרה לכהונה))
 - in either case: if he claims that she was taken captive and he redeemed her not believed (*status*: כשרה לכהונה (כשרה לכהונה))
- II Analysis: reason for distinction between עודה קטנה (believed) and if she's currently older (not believed)
- Answer1: when she's a קטנה, he still has the ability to marry her off
 - Challenge: he could have married her to a חלל, invalidating her from כהונה
 - Response: follows ר' דוסתאי – women "purify" חללים (→they don't become חללות as a result)
 - Challenge: he could have married her to a ממזר (קידושין תופסין בחייבי לאוין) ממזר
 - Response: follows ר"ע – אין קידושין תופסין בחייבי לאוין - ר"ע
 - Challenge: could have married her as כה"ג to a אלמנה (מן האירוסין) סימאי ר' as per ר"ע (v. 1)
 - Response: follows ר' ישבב – even אלמנה לכה"ג generates ממזר (→no קידושין)
 - Challenge: could have married her to חייבי עשה (e.g. 1st generation מצרי/אדומי convert)
 - Rejection of answer1 (רב אשי): isn't in his control to be מקדש her
 - Rather: תורה gave him credibility when she's a קטנה as per v. 2; no credibility vis-à-vis שבויה (or גדולה)
- III 20 משנה ח: credibility of father on his deathbed vis-à-vis his wife and זיקה לייבום
- if: he says that he has sons (→פטורה מן הייבום) – believed
 - but if: he says that he has brothers (→generates זיקה) - not believed
 - observation: משנה evidently doesn't jibe with ר' נתן – who states that he is believed לאסור as well as להתיר
 - case: if he made 1 declaration at time of קידושין (vis-à-vis sons/brothers) and the opposite at time of death
 - דבי: we only believe his "new position" to permit her (i.e. that he has no brothers or he has children)
 - ד' נתן: we believe his new declaration for איסור as well as היתר
 - answer1 (רבא): since he changed his mind on his deathbed, we believe him
 - Challenge (אביי): should be ק"ו to believe him in our משנה, where he didn't change his story
 - Answer2 (אביי) משנה is case where we know nothing about him - he doesn't have power to ban her;
 - But: ברייתא is case where we know him to have brothers but not sons. His statement which permits her is believed on grounds of מה לי לשקר – he could've exempted her via גט
 - דבי: מה לי לשקר (at time of קידושין) is as strong as עדים and can uproot the חזקה (of לייבום)
 - ד' נתן: מה לי לשקר (at time of קידושין) is as strong as a חזקה – cannot overturn חזקה (of original status)
- IV 30 משנה ח: קידושין with an unknown party
- if someone accepts קידושין for his daughter – without specifying which בוגרות – aren't included
 - implication: all קטנות are considered – although this is לביאה מסורין שאין מסורין לביאה
 - answer1: case where he only has 1 קטנה (but the phrase בוגרות militates against that – defense: דעלמא (בוגרות דעלמא))
 - block: if so, it's obvious that only the קטנה is a possible מתקדשת
 - defense: סד"א he wouldn't ignore his older daughter in favor of his younger
 - Answer: he'll always go for the source of revenue/הנאה (קטנה קידושי קטנה) go to the father
 - and even: if בוגרת told him that the קידושין are his; he won't forestall his מצוה (of marrying off קטנה)
 - משנה ט: someone had two sets of daughters with 2 wives and he accepted קידושין for his "גדולה" daughter
 - all – ר"מ – all are אסור except for youngest (people use phrases which are ambiguous – we account for all meanings)
 - only eldest is מותר (people will not use ambiguous language – he only meant absolute, unqualified eldest)
 - parallel case: inverted (using קטנה) - same rulings
 - justification: perhaps, even though גדולה may refer to several, there is only one קטנה (and ר"מ agrees with ר' יוסי – ר' יוסי)
 - challenge: their positions are reversed in חב: נדרים regarding interpretation of הפסח
 - answer1: (רב) – switch positions in נדרים (supporting ברייתא)
 - observation (אביי): only disagree if there are 2 sets of girls; in אבני family, only eldest (or youngest) is candidate
 - challenge: פסח is like one group – and they disagree
 - answer2 (רבא): dispute in נדרים is in re: meaning people impute to פני נדרים – follow lingua franca