

19.03.07

65a (משנה ז') → 66b (ו"ו דשולום קטיעה היא)

<p>1. לא יקום עד אחד באיש לכל עון ולכל חטאת בכל חטא אשר יחטא על פי שני עדים או על פי שלשה עדים יקום דבר: דברים יט, טו</p> <p>2. והיתה לו ולזרעו אחריו ברית כהנת עולם תחת אשר קנא לאלהיו ויכפר על בגי ישראל: במדבר כה, יג</p> <p>3. ברה"ה חילו ופעל ידיו תרצה מחץ מתנים קמיו ומשנאיו מן קומון: דברים לג, יא</p> <p>4. ובאת אל הפהו אשר יהיה בימים ההם ואמרת אליו הגדתי היום לה' אלהיך כי באתי אל הארץ אשר נשבע ה' לאבותינו לתת לנו: דברים כו, ג</p> <p>5. לכן אמר הנני נתן לו את ברית שלום: במדבר כה, יב</p>
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- I קידושין competing versions of identity in יי-א
- a if: man (or woman) alone claims קידושין occurred
- i then: the one making the claim is banned from consequential relatives; the other isn't banned
- b if: man claims קידושין with women and her response is that he effected קידושין with her daughter
- i then: he is banned from kin of mother (but not daughter), she (and daughter) are not banned from his kin
- c if: man claims קידושין with daughter and mother claims קידושין were with her
- i then: he may not marry king of daughter (but may marry kin of women); she may not marry his kin (daughter may)
- d justification:
- i woman (1<sup>st</sup> clause): א"ס man doesn't care, but woman will be careful and we should believe her vis-à-vis him – קמ"ל
- ii mother claims about daughter (2<sup>nd</sup> clause): א"ס the credibility given to father by תורה is paralleled מד"ס to mother – and daughter is banned from his kin – קמ"ל
- iii mother claims about herself (3<sup>rd</sup> clause): parallel construction
- e assigning case of dispute between שמואל re: "forcing" (רב) or "requesting" (שמואל) a גט in our case (?)
- i can't be: first case (man alone claims קידושין) – there's no reason for a גט
- ii can't be: second case (where she alone claims קידושין) - there's no reason to force him (→ ban him on her kin)
- iii rather: the statements are sequential – we request a גט (2<sup>nd</sup> case), if he gives it of his own initiative, we force a כתובה
- II קידושין בעד אחד
- a רב יהודה – no concern whatsoever
- i question: what if they both admit to קידושין?
- ii קידושין שמואל: even if they both agree – no קידושין
- 1 challenge: our משנה; if there are עדים, why aren't both מקודשין; if no עדים – why either of them? (perhaps אחד אחד?)
- 2 answer: he (or she) claims that there were עדים בפני קידושין and they are gone
- 3 challenge: dispute ב"ב"ש/ב"ה re: lodging together after גט whether new גט needed (isn't it about ע"א?)
- (a) answer: dispute is whether ביאה עדי ייחוד: עדי ייחוד: עדי ביאה (only applies after קידושין)
- 4 support: רב (perhaps even רבי) agree that מקדש בע"א is nothing, even if they both admit to it
- 5 Challenge: if 2 men and a woman come to town with a package, each with a claim:
- (a) Each man: claims the woman is his wife, the other man is his slave and the package is his property
- (b) The woman: claims that they're both her slaves and the package is hers
- (c) Ruling: she needs 2 גיטין and collects the כתובה from the package (ע"א) Inapplicable
- (i) Rather: if she wants to collect כתובה, she needs 2 גיטין (follows ר"מ – ר"מ משתעבדי לכתובה)
- iii Final ruling: כהנא – ר' – no concern; פפא – ר' – we must be concerned re: קידושין
- 1 Challenge (to כהנא) re: (רב כהנא) if he builds on דבר: דבר to require 2, apply הודאת בע"ד → no need for 2
- (a) Answer: הודאת בע"ד only works where others aren't made liable
- iv Story: 2 חכמים split father's estate without עדים; asked whether v 1 demands עדים to make sure no one will deny – not applicable in their case – or because an agreement isn't binding without the presence of עדים
- 1 answer (רב אשי) – עדים are required to prevent lying
- v brings 3 cases where ע"א accusing someone is believed – if the accused is silent:
- 1 "חלב אתה"
- 2 "טמא תהוורת"
- 3 "you ox was involved in a crime that would get him killed"
- (a) justification:
- (i) (1) → (2): he wouldn't want to bring לעזרה, but might not mind (2): he can eat טומאה
- (ii) (2) → (3): he loses טהרות during טהרה; but might not mind (3): not all oxen end up on מזבח

## III question: what if ע"א testifies that his wife was guilty of infidelity

a אב"י: believed (and she's prohibited) (supporting stories of student of שמואל and ר' ינאי re: his mother)

b רבא: not believed – דבר שבערורה – always requires 2 witnesses (responses)

c arguments:

i אב"י:

1 story: student of שמואל's who was told by one man that his wife זינתה –

(a) שמואל: "if you believe him "like two" – divorce her"

(i) discussion: means ע"א, unless we know him to be פסול and untrustworthy – is believed

1. דבא: if you accept his word as being as true as two witnesses (→ ע"א doesn't prohibit)

2 story: the massacre of חכמים as Alexander Jannaeus' reaction to being told not to wear ציץ

(a) background: "they heard" his mother was taken captive (→ פסולה לכהונה); found it not to be so

(i) discussion: couldn't mean that there were two contradicting sets of witnesses

1. reason: why would we rely on 2<sup>nd</sup> set and rule her to be טהורה?

a. rather: must have been ע"א who was contradicted by two ("found it not to be so")

b. → if not contradicted, we'd believe ע"א

2. רבא: it was 2 v. 2 – but the contradicting 2 were עדי הזמה (totally defeat first two)

a. alternatively: she was captured, but was replaced with a שפחה

ii רבא:

1 תוספתא מקוואות א: יז – pool in יבנה that they used as a מקוה and then found it to be deficient:

(a) ר"ט – ruled טהור everyone who used it until it was found to be deficient

(b) ר"ע – ruled טמא everyone who used it back to date it was found to be proper

(i) arguments:

1. ר"ט: מקוה טהור had חזקת טהרה – don't change his status until known for sure

a. similar to: a כהן doing עבודה who is found to be גרושה – כשר is עבודה (vv. 2-4)

2. ר"ע: person was טמא בחזקת טמא – don't change his status until known for sure

a. similar to: כהן doing עבודה who is found to be בעל מום – פסול is עבודה (v. 5 – read "שלם")

b. argument (for comparing to בעל מום as opposed to ב"ג):

i. מקוה and בעל-מום are both determined by 1 witness, and are both intrinsic

ii. ב"ג requires 2 witnesses and the failure is extrinsic to the person

iii. (ט) praised ר"ע's argument

iv. רבא – we see that ב"ג requires two; case must be where the "accused" isn't challenging, else, in case of בעל מום, why would we believe 1?

v. אב"י: case is where he denies the מום – we believe the one, because he could always show us that he has no מום – which is why the 2<sup>nd</sup> tine of the argument – פסולו בגופו – is really an extension of the 1<sup>st</sup> tine (ע"פ אחד)