

33.6.2

29a (משנה ב) → 30a (דבר מוסר לו שפחה כנענית)

1. ואיש כי יקדש את ביתו קדש לה' והעריכו תהיה בין טוב ובין רע כאשר יעריך אתו תהיה בן יקום: ויקרא כו, יד
 2. לא תביא אתנן זונה ומחיר כלב בית ה' אלהיך לכל גדר כי תועבת ה' אלהיך גם שגיהם: דברים כג, יט
 3. ויהי בך הפך מן הנשים בתזונתיך ואחריו לא זונה ובתמך אתנן לא נתן לך ותהי להפך: יחזקאל טז, לד
 4. כי כל אשר יעשה מפל התועבות האלה ונכרתו הנפשות העשת מקרב עמם: ויקרא יח, כט
 5. אלמנה וגרושה וחללה זנה את אלה לא יקח... ולא יחלל זרעו בעמיו כי אני ה' מקדשו: ויקרא כא, יד-ט

I Definition of אתנן זונה:

- a If: identifies a particular animal – even many – as her payment – the all are prohibited
 i Many: clearly if that is her fee – all are אסורים; rather, her fee was (e.g.) 1 and he added more – all are מנח אתנן → אסורים
 b If: he identifies an animal as payment for the other's שפחה to have relations with his slave
 i דבי: that is not an אתנן and it is (or all of them are) permitted
 ii חכמים: this is also a forbidden אתנן

II ברייתא: if he gave her the אתנן but didn't have relations with her, or had relations but didn't give her the אתנן, it is מותר

- a Questions: in clause #1 – why is it called "אתנן"? and in clause #2 – what are we declaring מותר? He gave her nothing
 b Rather: read the ברייתא as excluding a case where he gave her and had relations afterwards or vice-versa
 i Question: if he gave her animal first, why doesn't the אתנן become prohibited retroactively at point of ביאה?
 ii Answer (ר' אלעזר): case where she offered it up before ביאה
 1 Challenge: if he already gave it to her – it is obviously מותר (didn't have ביאה with her at that point)
 2 And if: he gave it to her with delayed קנין ('til ביאה), she can't be מקדיש it, per v. 1 (הקדש must be property of מקדיש)
 3 Answer: works if he gives it to her w/delayed קנין & proviso that if she needs it beforehand, it is קנוי immediately
 c Question (ר' אושעיא): if she went ahead and was מקדיש the animal (before ביאה) – would it be מותר?
 i Challenge: infer from ר"א's ruling above → only if she offered it would it be מותר, but only הקדש wouldn't be
 ii Answer: that is exactly what ר' אושעיא is asking –
 1 Lemma1: since it was still extant (and, as yet, not yet offered) at time of ביאה – prohibited OR
 2 Lemma2: based on rule that commitment to הדיוט: handing over to הדיוט, considered already offered → מותר – תיקו –
 d Reexamining 2nd clause of ברייתא: if he had ביאה with her and gave her the אתנן afterwards – מותר
 i Challenge: ברייתא – even if he gave it to her a year later, אסור
 ii Answer (ר' חנן בר ר"ח): only אסור if he identified a specific lamb at time of ביאה; if he just said טלה, then it is מותר
 1 Challenge: when identifying specific lamb – it requires משיכה (and, per our explanation, it wasn't there then)
 2 Answer1: if the זונה is non-Jewish; for whom משיכה isn't a valid קנין
 3 Answer2: could even be זונה ישראלית (but see below) – if it was in her חצר (acquired חצר)
 (a) Challenge: if so, it is already hers
 (b) Answer: if he designated it as אפויטיקי; he commits to pay her but, if he fails to do so, this is her payment

III Discussion re: range of relationships that "validate" אתנן

- a דב: even homosexuality or any of the עריות – only exclusion is marital relations with נדה
 i Reason: she is not called זונה in text and the אסור is defined by "זונה" (v. 2)
 b אשתו נדה אתנן אסור including לוי
 i Reason: אתנן is defined by "תועבה" (v. 2) – and נדה is also a תועבה (v. 4)
 ii Challenge: how does לוי explain the use of "זונה" in v. 2?
 1 Answer: that is needed to teach זונה and not זונה (male prostitute)
 2 דב: infers זונה and not זונה from ברייתא רבי, where he excludes אשתו נדה, payment for "lost time" and זונה
 (a) Source: allusion (not full proof) from v. 3 (inversion is not called אתנן)
 3 דב: interprets תועבה (עריות) – only זונה גויה (אביי:) – with whom תופסין, as is the case with תועבות (עריות)

- c קידושין תופסין בה is only לוקה for ביאה with זונה ישראלית (v. 5 – must be זרעו); but her אתנן is permitted, as זונה::זונה (vv. 2, 5)
- d לוקה for either; אתנן of either one is אסור – as he infers זונה::זונה (vv. 2, 5)
- i Challenge (to אבוי): ruling that אתנן of either is prohibited, using אלמנה לכה"ג as example
- ii Answer: that follows ר"ע – that קידושין בחייבי לאוין → even אלמנה לכה"ג is a זונה → אסור
- 1 זונה reason אלמנה was used as example - as model
- (a) Just as: אלמנה isn't liable until there is התראה
- (b) So too: אתנן is only אסור if the man declares that he is giving it to her for her "services"
- (i) Contra: ר"א's opinion that פנוי הבא על הפנויה → זונה,
- (ii) But: where she was already a זונה (i.e. "available to all") – the אתנן is אסור
- iii Alternate version: that ברייתא is referring to a case of אין קידושין תופסין בה
- 1 Challenge: ברייתא includes (as examples) אלמנה לכה"ג, גרושה לכהן הדיוט – where קידושין תופסין
- (a) Answer: that follows ר"א (but see ר"ה ובנין אב where he offers alternate read) – זונה → פנוי הבא על הפנויה –
- (b) Question: if it is ר"א, why not use פנויה as example?
- (i) Answer: ר"א סד"א that only where there is no other אסור, it is an אתנן → teaches that חייבי לאוין also make אתנן
- IV Analysis of 2nd case in משנה – where one slave-owner pays another to have his עבד have relations with the other's שפחה
- a Challenge: an עבד is permitted to have relations with a שפחה (→ should not be אתנן)
- b Answer1: the real intent was for him to have ביאה with שפחה (spoke euphemistically)
- i Challenge: if so, why does רבי permit?
- c Rather: it really means "his slave" – but he is an עבד עברי
- i Challenge: then why do רבנן forbid – that relationship is permitted
- ii Answer: case where the עבד is otherwise single, in which case he is not allowed to have a שפחה כנענית-wife