



בס"ד Intro

Today we will בע"ה learn דף ע"ה of מסכת כתובות מסכת בע"ה Some of the topics we will learn about include.

רבא's explanation for the contradiction of הלכה אצל חכם והתירה

When a מדכ subsequently nullifies the זל, does the Kiddushin become effective?

The case of היו בה מומין ועודה בבית אביה

He gave Kiddushin and subsequently discovered that she has מוכין while she was still in her father's home prior to נשואין

The case of נכנסה לרשות הבעל

The מומין were discovered when she entered her husband's domain after נשואין

The explanations for these cases regarding our initial assumption for the ימומין; appearance

Some of the terms and concepts we will learn about include

מי ששנה זו לא שנה זו

The סיפא and סיפא are two different opinions

כאן נמצאו

כאן היו

When an occurrence is discovered in a specific location, we assume that it always existed in this location

רבא s explanation for the contradiction of הלכה אצל חכם והתירה



The case of...
נכנסה לרשות הבעל

Explanations for these cases regarding our initial assumption for the ימומין's appearance

מי ששנה זו לא שנה זו









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מחלוקת רבי גמליאל ורבי יהושע

The Mishnah (Daf 12B) mentions a case of one who married a בתולה and did NOT find דב בתולה:

SHE claims

משארסתני נאנסתי

That she was a בתולה at the time of Kiddushin, but was coerced after Kiddushin, in which

כתובתה מאתים

She's entitled to a full Kesubah of two-hundred Zuz.

## While HE claims

לא כי אלא עד שלא ארסתיך

That perhaps she was NOT a בתולה at the time of Kiddushin, because she cohabited before Kiddushin, in which אין לה כתובה מאתים

HER claim has an advantage of חזקת הגוף

Being that she initially had בתולים from birth, there is a קת הגוף that the בתולים were continuously with her until a known change.

Since she claims משארסתני, the בתולים were removed later, after אירוסין, while he claims בתולים, the בתולים were removed earlier, after אירוסין supports that the בתולים were only removed at the later time.

This applies to the case of מומין as well, being that she initially did NOT have חזקת הגוף from birth; there is a חזקת הגוף that she continuously did NOT have מומין until a known change.

HIS claim has an advantage of חזקת ממון He is מוחזק - he possesses the Kesubah money, while she has a disadvantage of being the מוציא - she wants to extract money - and

המוציא מחבירו עליו הראיה

D רבי גמליאל says that SHE is entitled to a full Kesubah Because HER advantage of חזקת הגוף overrides HIS advantage of מוחזק

רבי יהושע disagrees and says that she is NOT entitled to a full Kesubah

Because HIS advantage of מוחזק overrides HER advantage of חזקת הגוף







Dedicated By: \_





So let's review ...

The Gemara in the previous Daf discussed a contradiction between two Braisos:

One Braisa states

הלכה אצל חכם והתירה

מקודשת

If a חכח subsequently nullified the גדר, the Kiddushin IS effective.

However the other Braisa states

אצל חכם והתירה

אינה מקודשת

If a  $\Box \neg \Box$  subsequently nullified the  $\neg \neg \Box$  , the Kiddushin is NOT effective.

The Gemara explained that the Braisos disagree whether אדם רוצה שתתבזה אשתו בבית דין

If a person consents to his wife's humiliation when appearing in Bais Din for התרת נדרים

In the previous Daf...

אצל חכם והתירה
מקורשת
אדם רוצה
שתתבזה אשתו
שתתבזה אשתו
בבית דין
בכית דין

2 רבא gives another explanation They both agree to

אדם רוצה שתתבזה אשתו בבית דין

However, he is NOT willing to keep her even with התרת, because

אי אפשי באשה נדרנית

She will continue to make נדרים.

Therefore, in the first Braisa

אצל חכם והתירה

מקודשת

Because

אדם רוצה שתתבזה אשתו בבית דין

And then

מוציאה בגט

He divorces her with a Get, because

אי אפשי באשה נדרנית

However,

הכא באשה חשובה עסקינן

דאמר לא ניחא לי דאיתסר בקרובותיה

The second Braisa refers to a woman from a noble family, in which he does NOT want a Get, because this will prohibit him from marrying her family members. Therefore

אינה מקודשת

Because

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אי אפשי באשה נדרנית

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היו בה מומין ועודה בבית אביה האב צריך להביא ראיה שמשנתארסה היו בה מומין הללו ונסתחפה שדהו

In a case in which he gave Kiddushin; and her מומין were then discovered while she was still in her father's home, prior to נשואין;

Tsays that she is NOT entitled to a Kesubah, unless her father proves that the מומין did NOT exist until after the Kiddushin, in which it is the husband's loss.

## However,

נכנסה לרשות הבעל הבעל צריך להביא ראיה שעד שלא נתארסה היו בה מומין אלו והיה מקחו מקח טעות דברי רבי מאיר

If her מומין were only discovered after she entered her husband's domain, after ;נשואין;

She IS entitled to a Kesubah, unless her husband proves that the מומין DID exist before the Kiddushin, in which it is her loss, because it was a מקח טעות, an erroneous Kiddushin

וחכמים אומרים במה דברים אמורים במומין שבסתר אבל במומין שבגלוי אינו יכול לטעון

The Chachamim make the following distinction:
Only a concealed מום is considered a מקח טעות, because he could not have known about it. However, an obvious is NOT considered a מקח טעות, and she IS entitled to a Kesubah. As Rashi explains, because ידע ונתפייס

He certainly noticed the מומין and accepted it.

## However,

ואם יש מרחץ באותה העיר אף מומין שבסתר אינו יכול לטעון מפני שהוא בודקה בקרובותיו

If there is a public bathhouse in this city, even a concealed מום is NOT considered a מקח טעות, because he instructs his relatives to examine her, and ידע ונתפייס.





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The Gemara asks according to Rebbe Meir, that the סיפא of the Mishnah contradicts the רישא?

In the עודה בבית אביה, she only gets her Kesubah with proof - which indicates however, that סתם

הבעל מהימן

Without proof, she is NOT entitled to her Kesubah, because perhaps the מומין existed BEFORE the Kiddushin, in which case it was a מקח טעות.

However in the סיפא סלרשות הבעל , the husband can only exempt himself from the Kesubah with proof - which indicates however, that

סתם

האב מהימן

Without proof, she IS entitled to her Kesubah, because we assume that the מכניין occurred AFTER the Kiddushin, in which case it is NOT a מקח טעות?



5 The Gemara discusses several explanations:

On the one hand, we have

Being that she did NOT have מומין from birth, there is a חזקת הגוף that she continuously did NOT have מומין until a known change.

On the other hand, we have

חזקת ממון

He is מוחזק - he possesses the Kesubah money - while she has a disadvantage of being the מוציא - she wants to extract his money - and

המוציא מחבירו עליו הראיה









ה Therefore, ר' אלעזר says;

מי ששנה זו לא שנה זו

The סיפא and סיפא, in the case of no proof, are two different opinions:

The ירבי יהושע is ירבי יהושע opinion in which she is NOT entitled to a Kesubah, because HIS advantage of חזקת ממון overrides HER advantage of

The סיפא סיבא גמליאל opinion in which she IS entitled to a Kesubah, because HER advantage of חזקת הגוף overrides HIS advantage of חזקת ממון.

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7 רבא says that both the טיפא and ייפא are רבי גמליאל's opinion that HER advantage of חזקת הגוף overrides HIS advantage of חזקת ממון;

However the חזקת is weakened by a ריעותא, a contradiction of

כאן נמצאו

כאן היו

When an occurrence is discovered in a specific location, we assume that it was always in this location.

Therefore,

רישא

כאן נמצאו וכאן היו

In the רישא where the מומין were discovered, אבית אביה, we say that the כומין were always בבית אביה, even before Kiddushin – therefore, she does NOT get her Kesubah.

סיפא נמי

כאן נמצאו וכאן היו

In the סיפא where the מומין were discovered בבית הבעל, we say that the מומין were only בבית הבעל, but NOT before Kiddushin – therefore, she gets her Kesubah.

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The Gemara explains further that where the מוכזין were discovered בבית אביה, SHE has another advantage in HER favor:

חזקה

אין אדם שותה בכוס אא"כ בודקו

והאי ראה וניפייס הוא

A man does NOT marry a woman without examining her beforehand. Therefore, we assume that he must have noticed the מומין and accepted them.

This negates her disadvantage of כאן נמצאו וכאן היו

However, HE also has another advantage in HIS favor חזקה

אין אדם מיפייס במומין

A person does NOT usually accept מומין.

8 Where the מומין were discovered בבית אביה However, SHE has another HE also has another advantage: advantage; חזקה חזקה אין אדם שותה בכום אין אדם מיפיים אא"כ בודקו במומין והאי ראה וניפיים הוא A person does NOT This NEGATES כאן נמצאו כאן היו usually accept מומין

9 Therefore, in the סיפא, הבעל צריך להביא ראיה שעד שלא נתארסה היו בה מומין אלו

If the husband brings proof that the מומין were existent בבית אביה BEFORE the Kiddushin, he is פטור from paying the Kesubah, because

HE has 2 advantages of מוחזק And חזקה אין אדם מיפייס במומין

While SHE only has 1 advantage of חזקה דאין אדם שותה בכוס אלא אם כן בודקו

But HER other advantage of חזקת הגוף was removed entirely through his proof that the מומין existed before Kiddushin:

Therefore הבעל צריך להביא ראיה שער שלא נתארסה היו בה מומין אלו If the husband brings PROOF, the מומין were existent בבית אביה BEFORE the קידושין he is פטור from paying the Kesubah SHE only has HE has TWO advantages ONE advantage מוחזק חזקה And דאין אדם שותה בכום חזקה אלא אם כן בודקו אין אדם מיפיים was removed th the ININ existed BEFORE Illap,







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However, if he merely brings proof of משנתארסה

That the מומין were existent while she was בבית אביה, but AFTER the Kiddushin, he is חייב to pay her Kesubah, because SHE has 2 advantages of חזקת הגוף

And

חזקה אין אדם שותה בכוס אא"כ בודקו והאי ראה וניפייס הוא

While HE has only 1 advantage of חזקה אין אדם מיפיים במומין And his חזקת ממון doesn't help him, because, according to גרבן גמליאל, as Rashi explains; דבמקום חזקה דגופא חזקה דממונא לאו כלום היא 10 However, If he merely brings proof of משנתארסה That the מומין were existent while she was בבית אביה, but AFTER קידושין, he is חייב to pay her Kesubah, HE only has SHE has ONE advantage TWO advantages חזקת הגוף חזקה אין אדם מיפיים And חזקה במומין דאין אדם שותה בכום His חזפת אנקון doesn אלא אם כן בודקו והאי ראה וניפיים הוא לבמקום חזקה לגופא חזקה דממונא לאו כלום היא



