

Mishnah: The Ketuvah shouldn't be about yichus – and yet that has happened

- A widow receives 100, regardless of lineage
- But a beit din of kohanim¹ would claim 400 for a betulah of a kohen family²
 - And the chachamim did not protest.

Gemara: The manipulated ketuvah meets free market economics

- Braita: A bat kohen widow has a ketubah of 200.
 - Q: But our mishnah said 100!
 - A: Rav Ashi: This was a historical phenomenon, before they arrived at our mishnah's practice:
 - (12b) At first they said 400 for a kohenet betulah and 100 for a kohenet widow, but this led to disgrace of the widow³
 - They changed the widow to 200, like the braita, but then men didn't marry them; they could marry a betulah Yisraelit instead
 - So they switched it back to 100, as per our mishnah.
- Shemuel: The beit din of kohanim practice of 400 was also used by yisrael families of fine lineage, too
 - Q: A braita says it was done for kohen-yisraelit and kohenet-yisrael, but that's because they have an aspect of kehunah! And it doesn't mention yisrael-yisraelit at all!
 - A: The yisrael-yisraelit case is obvious; we needed to teach the kohen-yisraelit case, lest he say he is elevating her already and so the ketubah should not be higher.

Mishnah: He said, She said

- Introduction: We have many factors to consider, in deciding whom we believe:
 - Bari v'shema, bari adif Definite knowledge
 - Chazakah Presumed status
 - Migo They could have made a stronger claim
 - Oki mammona b'chezkat mareih Foregone gain is better than loss
- She says it was rape after kiddushin; he says it was before kiddushin. Whom do we believe?
 - Rabban Gamlel/Rabbi Eliezer – Her claim is believed⁴
 - Rabbi Yehoshua – She has a chazakah of non-betulah projected backward to before the marriage

שיטה מקובצת כתובות יב ע"א

ב"ד של כהנים. פי' בתי דינין העומדין בעיר הכהנים והם כ"ג כדרך שהיו קובעין ב"ד של ישראל כ"ג בכל עיר ועיר. מליקוטי הגאונים ז"ל:

Guthrie, Rachlinski & Wistrich, *Inside the Judicial Mind*, 86 Cornell L. Rev. 778 (2000-2001)

Framing also has influenced the development of legal doctrine. When ownership of a commodity is in doubt, the courts traditionally favor those who hold possession of the good—even when possession is arbitrary. For example, if a seller contracts to sell a car to two different buyers, courts will often award permanent ownership to the party holding possession at the time the suit is brought.

¹ Meaning, batei din in cities of kohanim (Shitah Mekubetzet from Gaonim)

² Even without anything written into the ketuvah document (Tosafot, Rashba)

³ Easy divorce (Rashi); Less interest in marrying them (Tosafot)

⁴ We assume at the outset that this is because of bari v'shema, but the gemara will expand on this (Rashi)