

An unmarried woman

בתולה –

OVERVIEW

discusses the use of the definite article (ה' הידיעה); why sometimes it is used and other times (like in our משנה) it is not used.

anticipates a difficulty:

הא דלא קתני הבתולה כדתני האשה נקנית היבמה ניקנית (קידושין דף ב,א) -

The reason the משנה does not teach הבתולה (with the definite article 'ה'), as the משנה taught elsewhere האשה נקנית and היבמה נקנית – the woman is acquired, the sister-in-law is acquired (both with the definite article 'ה') as opposed to here where it merely states בתולה (without a preceding 'ה') –

responds:

משום דהתם אקרא קאי¹ כי יקח איש אשה (דברים כג) האשה הכתובה וכן היבמה -

Because there regarding אשה (and יבמה) the משנה is basing its ruling on the פסוק of כי יקח איש אשה, therefore it can state 'האשה' – the woman; meaning the woman which is written in the תורה, and similarly the יבמה, which is written³ in the תורה - אבל הכא לא קאי אקרא -

However here (where the משנה teaches a דין דרבנן that a בתולה is to be married ליום הרביעי) it is not based on any verse in the תורה, therefore the משנה does not write הבתולה, for there is no [known] בתולה in the פסוק who is getting married ליום הרביעי.

anticipates another difficulty:

והא דלא תנן בפרק קמא דקידושין (דף יד,ב) העבד עברי⁴ -

And the reason the משנה in the first פרק of מסכת קידושין does not teach העבד (and writes instead עבד עברי without the הידיעה) -

אף על פי דכתיב בקרא (שמות כא) כי תקנה עבד עברי -

Even though the manner in which an ע"ע is acquired is written in the פסוק as it states כי תקנה עבד עברי – if you will acquire a Hebrew slave, so it should be written with a הידיעה –

¹ The תורה teaches us that an אשה and a יבמה are נקנית; therefore when the משנה teaches these laws it refers to them as האשה והיבמה; the known ויבמה אשה (from the תורה) are acquired in this manner. See 'Thinking it over'.

² יג פסוק. Seemingly the reference should be to כד,א (from where we derive the laws of קידושין).

³ The תורה refers to the יבמה with the word 'יבמתו' twice (in ט כה,ז).

⁴ The משנה there is discussing the manner in which an ע"ע is acquired (and acquires his freedom).

⁵ פסוק ב.

replies: תוספות

משום דאם כן הוה ליה למתני העבד העברי שאינו דבוק ואין דרך הש"ס לדבר כן -
העבד Because for then, if we would add the ה', it would be necessary to write **העבד**, to inform us that the word עברי is not attached to the word העבד, and it is not customary for the משנה to use such a syntax.

offers an observation: תוספות⁷

ומיהו גבי איש ואשה רגילים בכל מקום לשנות בה' אף על גב דלא קאי אקרא⁸ -
ה' However regarding איש ואשה it is customary everywhere to write it with a ה' even if it is not based on a פסוק -

כמו האשה שהלכה (ביבמות דף קיד,ב) האשה שנתארמלה (לקמן דף טו,ב) -
האיש מדיר את בנו בנזיר (נזיר ד' כח,ב):
Like the woman who went overseas, or the woman who was widowed, or -

The man avows his son to be a נזיר.⁹

SUMMARY

The ה' is added when the משנה references a פסוק. Once a word is used with a ה' for it is generally used with a ה'. (like איש or אשה) אקרא קאי

THINKING IT OVER

It is the דרך התנא to add a ה' if it is אקרא קאי.¹⁰ It is (also) the דרך התנא not to write two consecutive ה'.¹¹ When it came to עבד עברי why did the תנא choose one דרך (not to write two consecutive ה') over the other דרך (to add a ה' when it is אקרא קאי)?¹²

⁶ If it was written העבד עברי (where the word עברי is attached to העבד) it would mean the עבד of the עברי (but not necessarily that the עבד is an עברי). To avoid this misinterpretation it would need to be written העבד העברי (which would mean the Hebrew עבד [as we find in לט,יז] וישב) [בא אלי העבד העברי where it states]. However the syntax of העבד העברי (with a double ה') is not used in the משניות [see 'Thinking it over']. Therefore the משנה left it as עבד עברי (which [seemingly] means a Hebrew slave. [See מהרש"א ורש"ש]).

⁷ Alternately תוספות may be offering another explanation regarding איש ואשה (however this explanation will not explain, יבמה), that it is written with a ה', because this is the דרך התנא.

⁸ Once the תנא wrote האיש or האשה since אקרא קאי, it continued to use the term האיש and האשה even in משניות which are not אקרא קאי, as תוספות enumerates.

⁹ In all these three aforementioned משניות we are not discussing anything which is mentioned in the תורה and nevertheless the משנה uses the הידיעה ה', because since in other משניות the words איש ואשה are referencing the תורה, therefore the תנא continues to use the definite article in other places as well.

¹⁰ See footnote # 1.

¹¹ See footnote # 6.

¹² See דרור.