

Tosfos in English

On

מסכת כתובות

פרק ראשון – בתולה נשאת

Second – expanded - Edition

Translated, Elucidated

And Annotated

By

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לזכות

**אמי מורתי מרת רישא שתליט"א בת הרב אברהם אבא ושיינא רחל ע"ה
למשפחת פיקרסקי
יה"ר מהשי"ת שיאריכו ימיה ושנותיה בנעימים
ותרווה רוב נחת מכל יוצאי חלציה שיחיו**

**ולע"נ אבא מארי הרב יחיאל מיכל שו"ב בן הרב אפרים ורחל ע"ה
למשפחת פיקרסקי
נלב"ע שושן פורים קטן ה' תשנ"ה**

ולזכות

**חמותי מרת מרים שתליט"א בת הרב צבי הירש וחנה צביה ע"ה
יה"ר מהשי"ת שיאריכו ימיה ושנותיה בנעימים
ותרווה רוב נחת מכל יוצאי חלציה שיחיו**

**ולע"נ חמי הרב שמואל אייזיק הלוי בן הרב אברהם ורחל לאה ע"ה
למשפחת פאפאק
נלב"ע ליל ש"ק ערב חג השבועות תשע"ב**

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Tosfos in English was printed on the following מסכתות: כתובות, פסחים, כתובות, גיטין, קידושין, ב"ק, ב"מ, ב"ב. They are available in print and can be purchased for a nominal fee in many Jewish bookstores.

Preface

It is with deep felt gratitude to השי"ת that Tosfos in English presents this current volume. A special שבח והודאה is due to הקב"ה for this is the first time TIE has published a volume which includes all the תוספות of פרק ראשון in מסכת כתובות. Tosfos in English on מסכת כתובות follows the previous publications of Tosfos in English on בבא קמא, בבא בתרא, גיטין, קידושין, פסחים, כתובות, בבא מציעא, and the online version of 'TosfosInEnglish.com'.

The goal of TIE is to make the learning and understanding of תוספות available to those of the English speaking community who may have various difficulties accessing the תוספות in the original. Judging from the multitude of encouraging and appreciative responses received during these few short years, the effort seems to have been well worth it.

TIE on מסכת כתובות follows the same tried and proven pattern as the previous TIE on the other מסכתות. Each תוספות is introduced with an 'Overview', which offers the background information of the גמרא which this particular תוספות discusses. Oftentimes the 'Overview' will introduce new concepts which will be necessary and useful for a better understanding of the issues addressed in this תוספות.

The translation and explanation of the entire text of the תוספות follows the 'Overview'. Every effort is made that the original Hebrew (Aramaic) phrases to be translated, are kept as short as possible, so that the student will learn the actual translation of תוספות words. The translation of תוספות words (as well as the original Hebrew), appear in large **bold** type to distinguish it from the ancillary supporting terms. An attempt has been made that this translation be as literal as possible without becoming awkward and cumbersome. This again is to enable the student to learn the meaning of the words, which will aid him in his future studying of תוספות (hopefully) on his own. An explanatory sentence or two will often follow to better explain the thought being presented in a more familiar language. Occasionally a more lengthy explanation may be required. The explanations are printed in a smaller sized font to distinguish it from the actual translation.

Copious footnotes are present throughout the entire תוספות. Some merely cite sources or offer various amendments to the text, while others deal with more subtle and intricate issues that evolve from the discussion in the תוספות. A

beginning student may find some of these notes a bit too complicated to be grasped with a cursory reading. It may be advisable to leave them for later, after mastering the entire main text of the תוספות. The footnotes should be (eventually) studied diligently for they enhance the understanding of the תוספות.

A 'Summary' follows the conclusion of the תוספות. It is an attempt to encapsulate the essence of what תוספות is teaching us in a short and concise manner. This should serve as a mnemonic to assist the student retain the basic ideas of the תוספות.

Each תוספות concludes with the 'Thinking it over' questions. (Many [advanced students] have indicated that this is the part they liked the most.) These questions are designed to challenge the reader and make certain that the concepts of תוספות were grasped correctly. A more careful rereading of תוספות may occasionally be necessary to answer these questions correctly.

The aim of TIE is to allow the average student to understand clearly what תוספות is teaching us, in the simplest manner possible. There is certainly no claim being made that TIE is an authoritative explanation of תוספות (and it is definitely not comprehensive and all encompassing). Rather TIE strives to offer the least complicated (but understandable) version of that which תוספות is conveying.

Many who study TIE are learning with the חברותא method – with a study partner. Allow us to suggest that only one חברותא should be using the TIE, while the other – the one who is actually reading the text – should read the תוספות from the original in the גמרא. TIE should be referred to, only as needed, giving the reader the opportunity to learn how to master תוספות independently. The two חברותות can rotate periodically to afford each one the opportunity of reading from the original תוספות.

Once a תוספות is completed and wholly understood, with TIE as an aid, it is imperative that the תוספות be reviewed in the original without using TIE. One should not continue studying the following תוספות with TIE, unless one has mastered reviewing the previous תוספות in the original. It may seem tedious; however, in this manner one may be assured that he is in the way to mastering תוספות on his own.

In this publication, the תוספות of the entire first פרק were translated from דף ב,א until טו,ב. This is beside the TIE already published on the second פרק as well.

Your comments and constructive criticisms are most welcome, and indeed are crucial to the success of the undertaking. All remarks should be sent via email to info@tosfosinenglish.com. Every effort is made to read all comments and offer a timely response.

Please visit our website; www.tosfosinenglish.com and avail yourselves of translations of תוספות on many more מסכתות. Encourage your friends and acquaintances, who may benefit from this website, to join in as well. We hope to keep on adding to this site more and more תוספות בע"ה.

I would like to offer a ברכת תודה להשי"ת כצאתי את השער for allowing me to dwell especially in מצות תלמוד תורה and be from the מזכי הרבים which is באהלה של תורה כנגד כולם.

A special mention is reserved for my father in-law הרב שמואל אייזיק הלוי פופק ע"ה and my mother-in-law מרים פופק שי' תבדל לחט"א for their invaluable assistance for many years.

Much credit for this publication is due to my father הרב יחיאל מיכל ב"ר אפרים ע"ה for instilling in me a reverence and love for לימוד התורה. I hope he is looking down and 'shepping' נחת from his exalted place in גן עדן.

I pray to השי"ת that he should give my mother מרת ריישא בת ר' long healthy years that she should continue to inspire her children, grandchildren, and great grandchildren with the true Jewish spirit.

my dear wife חנה צביה בת ר' שתחילי עקרת ביתי to אחרון אחרון חביב שלי ושלכם שלה הוא. May השי"ת grant her משאלות לבה לטובה in all that she desires, including continued נחת from our children and grandchildren שיחיו מתוך בריאות הנכונה.

May we all be to the משיח צדקנו כלל ישראל לא ילמדו איש את רעהו כי כולם ידעו אותי למקטנם ועד גדולם כי מלאה ארץ דעה את הוי כמים לים מכסים. אכ"ר.

חודש סיון - ירחא תליתאי שבו ניתנה אוריין תליתאי לעמא תליתאי - תשע"ו
Rabbi Ephraim Piekarski

**This publication is made possible by the generous assistance of
my esteemed brother-in-law**

The well know philanthropist and benefactor

**יוסף יצחק שי' הלוי פאפאק
בן הרב שמואל אייזיק ב"ר אברהם הלוי ז"ל**

May השי"ת grant him and his wife

פנינה בת שבע שתחי'

**Many happy years of health and happiness
Together they should have much נחת from their children
and
grandchildren
And continue their wonderful works for the benefit of the
Jewish community**

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Introduction to פרק בתולה נשאת

A Jewish marriage has two phases; **אירוסין** (or **קידושין**) and **נישואין**. In the **אירוסין** (or betrothal) phase, the man (usually) gives the woman an item of worth (a **פרוטה** or more) and she becomes **מקודשת** (or **מאורסת**) to him. She is considered married to him in the sense that no one else can marry her now (if someone would be **מקדש** her now, that **קידושין** would be meaningless). Additionally if anyone would cohabit with her, they are both liable for the capital punishment of **סקילה**, since she is a married woman. At this point, however, the woman remains in her father's home and prepares for the wedding; usually for a period of twelve months. In the **נישואין** phase, the husband brings his wife into his home and they live together as husband and wife. At this point she is considered a **נשואה**, a fully married woman.

Our **מסכת** (which is called **כתובות**) as well as our **פרק**, discuss the laws of **כתובה**; the marriage contract which spells out the obligations of the husband to the wife. In our **פרק** we specifically discuss the obligation of the husband to pay his wife (from his estate), in case of a divorce or if she becomes widowed, the sum of fifty **שקלים** or two hundred **דינרים** or **זוזים** (there are four **דינרים** or **זוזים** in a **שקל**). If the woman was previously married (a **נשואה**) or she already had relations with a man (a **בעולה**) she receives a **כתובה** of one hundred **זוז**.¹

There is another category called a **מוכת עץ** (literally struck by wood), which refers to a woman who is not a **בתולה**, due to a physical injury (and not on account of intimate relations with a man). According to **מאיר** her **כתובה** is **מאתיים** (like a **בעולה**) and according to the **רבנן** her **כתובה** is a **מנה** (a hundred **זוז**) like a **בעולה**.²

There is a dispute in the **גמרא** whether this **כתובה** obligation is **מדאורייתא** (the view of **רשב"ג**) or only **מדרבנן** (the view of the **חכמים**).³ All agree that the **כתובה** of a previously married woman (or a **בעולה**) is only **מדרבנן**.

There are two ways to verify whether a woman is a **בתולה** (a virgin who never had relations prior to the marriage) or a **בעולה**. A **בתולה** has a membrane (hymen) which requires that it be pierced in order to achieve penetration, while

¹ See the **משנה** on **יב**.

² See the **משנה** on (the bottom of) **יא**.

³ See (the **גמרא** and) **תוספות** on **ד"ה** **אמר** where **תוספות** rules that **כתובה** is **מדאורייתא**. In our **כתובות** we write **דחזי** 'ליכי מדאורייתא'.

with a בעולה there is no barrier. In the language of the גמרא; by a בתולה her פתח is סתום, and by a בעולה her פתח is פתוח.

The other difference (which is dependent on the first difference) is that by the ביאה of a בתולה there is bleeding – דם בתולים – due to the breaking of the membrane; however there is no bleeding by the ביאה of a בעולה.

This טהורה is not like דם נדה and it is not [מעיקר הדין] מטמא, and she is טהורה. On the first ביאה, if there is דם בתולים (and/or סתום (פתחה סתום) the husband is assured that she is a בתולה, and she deserves the כתובה of מאתיים זוז. If however there is no דם בתולים (and/or פתוח פתוח), we assume that she is not a בתולה, but rather a בעולה and she is not entitled to a כתובה of מאתיים זוז.

There is a dispute in the גמרא concerning a case where the husband married a woman with the assumption that she was a בתולה and it turned out that she is a בעולה (the גמרא refers to this as נמצאת בעולה and נמצאת בעולה).⁴ One opinion (רב and others) is that she receives a מנה (as she would have received if it was initially known that she is a בעולה) and the other opinion (רבא and others) is that it is a מקה טעות (a mistaken transaction), for he wanted to marry a בתולה and not a בעולה. There is therefore no obligation of a כתובה payment at all.

If we ascertain that she turned out to be a בעולה (through the testimony of עדים or corroborative evidence) the previous rule of נמצאת בעולה and נמצאת בעולה applies. The issue discussed in our פרק is if the claim is made by the husband (without corroborating evidence) that she is a בעולה and not a בתולה (and therefore is not entitled to מאתיים). The גמרא rules that he is believed that she was a בעולה before the נישואין, since אין אדם טורח בסעודה ומפסידה.⁵

Nonetheless (regarding his financial responsibilities of paying the כתובה), it depends on what the woman claims. If she claims that she was a בתולה by the נישואין (or that the husband had relationships with her during the אירוסין), she is not believed (for the husband is categorically denying her claim) and she either loses the entire כתובה or receives only a מנה (one hundred זוז), depending how we rule in a case where נמצאת בעולה and נמצאת בעולה.

However, if she claims that someone forced her (to have ביאה) after the אירוסין (or she claims that she is a מוכת עץ and that is why there is no דם בתולים) there is

⁴ See יא,ב.

⁵ See יא,י. Why would he lie after he spent money for the wedding? If he did not like her he could have divorced her prior to the נישואין and avoided the expense of the wedding.

a dispute between ר"ג ור' אליעזר who maintain that she is believed ([partially] because the husband cannot categorically deny her claim) and receives מאתיים for her כתובה, and ר' יהושע who maintains that she is not believed (and she is in the category of בעולה ונמצאת בעולה).⁶

In addition to the monetary issue in a case of בעולה ונמצאת בעולה, there is also the question whether they are permitted to remain married. The rule is if a woman committed adultery willingly (whether she was an ארוסה or a נשואה), she is prohibited to her husband [and to the adulterer (even if her husband dies or divorces her)]. However if she was forced to commit adultery, she is permitted to her husband provided he is not a כהן. In the case of a כהן she is always prohibited to remain with him whether the adultery took place willingly or whether she was coerced.

Therefore, in the case of בעולה ונמצאת בעולה it is possible that she became a בעולה while she was an ארוסה, which would make her אסורה to him provided she was מזנה ברצון (or even if it was באונס if the husband is a כהן). However, it is possible that she was מזנה before the אירוסין (while she was a פנויה) and therefore, she is permitted to her husband even if he is a כהן. This issue is discussed at length throughout this פרק.

The משניות continue to discuss the credibility of a woman, who is in a compromised situation, as to the status of her consort.

In summation:

The מאתיים of a כתובה is זוז.

The כתובה of a נשואה or a בעולה is a מנה.

The כתובה of a עץ is either מאתיים (according to ר"מ), or מנה (the רבנן).

Regarding a case of בעולה ונמצאת בעולה there is a dispute whether she receives a מנה or nothing.

Other topics discussed in this פרק are: the laws and customs regarding אבלות (mourning) and ברכת אבלים; laws regarding the ונשואין אירוסין; whether it is permissible to be בועל a בת on שבת (this may entail transgressing the מלאכות of שוחט and/or בונה, depending on the status of the בתולים and how we rule regarding a צריכה לגופה שאינה צריכה לגופה [even by a פסיק דבר שאין מתכוין] and a מלאכה שאינה צריכה לגופה); whether we say יש אונס בגיטין or not (regarding the fulfillment of a תנאי); and many other issues.

⁶ See the משניות on יב,ב and יג,א.