

13.10.3

90b (הואיל וגופין מוחלקין) → 92a (ולא זה וזה מטמאין לה)

Note1: in כתובות פ"ד, we learn that a woman may stipulate that her כתובה be inherited by her sons only – to the exclusion of other sons of the husband – this is called בנין דכרין

1. כי אם לְשָׂאוֹ הִקְרַב אֵלָיו לְאִמּוֹ וּלְאָבִיו וּלְבָנוּ וּלְבֵתוֹ וּלְאָחָיו: ...לֹא יִטְמָא בְּעַל בְּעַמְּיוֹ לְהַחֲלוֹ: וְיִקְרָא פֶּרֶק כֹּא פְסוּק ב,ד

I Continued analysis of משנה א'-ב'

- a Neither husband (if כהן) is מטמא for her – based on v. 1 – only is מטמא
- b Neither husband acquires her כתובה – since מצוה אשה לבעלה חכמים ordained to avoid enmity; here we are comfortable encouraging enmity
- c Neither husband acquires her earnings – since מע"ל are in place of מזונות (she isn't receiving מזונות from either)
- d Neither husband has rights or revoking vows – since the תורה gave that right to the husband so that she won't become disgusting to him – a concern we don't have here
- e Invalidity of woman from (כהן) ותרומה (בת לוי) מעשר (בת לוי) is needed for לוי; her invalidity is a קנס
- f Invalidity of מתרומה – even תרומה מד"ס
- g Neither sets of heirs inherit her כתובה – meaning בנין דכרין (see note1; her children aren't fined – קמ"ל)
- h Brothers of both husbands perform חליצה and not ייבום
- i Brothers of 1st husband: מה"ת – חליצה No ייבום
- ii Brothers of 2nd husband: מה"ת – חליצה No ייבום
- i Analyzing the 3 dissenting opinions at the end of משנה א' (כתובה): ר' יוסי: מציאה, ר' א"א: מציאה, ר' יוסי: כתובה
- i ר"א – the opinions become increasingly inclusive (e.g. ר' יוסי is augmented by ר"א)
- ii ר"א – the opinions became increasingly exclusive (e.g. ר' יוסי is defined by ר"א)
- j last clause in משנה א' – (ר' שמעון); if she married based on testimony of 2 witnesses – לא תצא
- i רב: הלכה
- 1 challenge: why didn't he state כר"ש (or, at least – באחרונה)?
- ii challenge: הלכה (ר' ששת) – all should agree (no need to state הלכה, implying dissent); she's אנוסה ברשות ב"ד
- 1 support: בריתא which states that relations w/any עריות don't necessitate גט except א"א who married ב"ד
- (a) Assumption: must be רבנן, since ר"ש wouldn't obligate a גט even in that case:
- (i) Support: ר"ש equated marrying ב"ד ברשות to intentional adultery; marrying ע"פ עדים to inadvertent
- (ii) Rejection: ר"ש's statement means:
- possibility1: marrying ב"ד ברשות is like ביאת קידושין (need גט)
 - possibility2: marrying ב"ד ברשות is like מוותרת לבעלה → אונס:: ע"פ עדים) אסורה על בעלה → מזיד
 - possibility3: marrying ב"ד ברשות is like מוותרת לבעלה → אונס:: ע"פ עדים) קרבן → שוגג:: ע"פ עדים) קרבן → מזיד
 - possibility4: בריתא authored by רבנן; 2 separate cases, both of which necessitate גט
 - אשת איש: 1
 - ניסת ע"פ ב"ד: 2
- iii Challenges (עולא) ששת's assumption that the argument of "what could she have done" exempts her):
- 1 Group1: a technically invalid גט forbids her to both old and new husband
- (a) Answer: she should have read the גט more carefully
- 2 Group2: on 1 wife and other marries out, then 1st is invalid (איילונית), other is אסורה to both
- (a) Answer: she should have waited to see how ייבום would play out
- 3 Case: ר' פפא was going to excuse a woman in a case of למיעבד, but stopped when it was pointed out that all of the challenges were merely deflected, not very persuasively
- iv ר' אשי: we don't worry about a rumor (after the fact) that the husband is alive
- 1 needed even though ר' אשי already stated that any rumor after marriage is ignored, since if he were to show up we would act on it, the rumor may be considered as "before marriage" – קמ"ל
- II Analysis of משנה ב'; distinction between acting on ב"ד הוראת or עדים ב' עדים
- a Dispute among אמוראים if we accept the משנה; if we regard their ruling as טעות, she brings a קרבן; if הוראת, not
- i ר"א seems to support notion that it is a טעות (יקוב הדין את ההר) טעות
- b final clause of משנה – if she was permitted by ב"ד and קלקלה – culpable. Meaning of קלקלה:
- i אלמנה לכ"ג – ר"א – זינתה (ק"ו) if she married illicitly, e.g. אלמנה לכ"ג
- ii פנויה – ר"א – זינתה (her claim is that ב"ד defined her as פנויה)
- 1 dispute between ר"א and חכמים if she marries illicitly if there is a קרבן for each
- (a) חכמים agree that if she marries several men, קרבן for each...separate bodies