

13.12.5

105a (חרש שנחלץ) → 106a (לבית דין טועין)

1.	...הקדשתי את הבית הזה אשר בנתה לשוים שמי שם עד עולם והיו עיני ולבי שם כל הימים: מלכים א פרק ט פסוק ג
2.	נשא לבבנו אל כפים אל אל בשמים: איכה פרק ג פסוק מא
3.	אם עלה קרבנו מן הבקר זכר תמים יקרבונו אל פתח אהל מועד יקריב אתו לרצונו לפני ה': ויקרא פרק א פסוק ג

- I Analysis of 'משנה ד' – problematic actors
- a The חליצה performed on a קטן is partially meaningful
 - i this follows ר"מ; but חכמים rule that it is meaningless
 - b The חליצה performed by a קטנה is invalid
 - i This follows ר"מ; who compares איש (implying adult) to אשה
 - ii חליצת קטנה כשרה and חכמים disagree and maintain that
 - 1 identity of חכמים – ר' יוסי – ר' יוסי, as per story involving ר"ש ברבי and ר' חייא:
 - (a) they were debating proper approach to תפילה – looking down (as per v. 1) or up (v. 2)
 - (b) ר' יוסי approached (to study with רבי) and resolved them (look down, focus “up”)
 - (c) He then wanted to enter to study and defended his presence, in the meantime יבמה קטנה came to רבי and, while רבי sent someone to check her age, he quoted his father (ר' יוסי) as validating חליצת קטנה – חליצת קטנה approved
 - (d) Nonetheless, the גמרא rules that she must have brought סימני נערות to have her חליצה be valid
- II Analysis of 'משנה ה' – size of ב"ד
- a Report in משנה of ר"ש ור"י הסנדלר who validate “private” חליצה
 - b ר' נחמן – their opinion is rejected (→require 3)
 - c challenge: ר' נחמן already stated that 3 are required
 - d answer:
 - i earlier statement alone: we would have thought to be a desideratum, but “private” חליצה would be valid
 - ii latter statement: we would have thought that 3 is valid post facto; ab initio we require 5
- III Analysis of 'משנה ה' dissent
- a Question: Story of case brought to ר"ע – who saw them?
 - b Answer: witnesses saw the חליצה through a window
 - c Clarification: was the חליצה in prison or was ר"ע asked while in prison?
 - d Answer: both the חליצה took place and the question was posed in prison
- IV Discussion of חליצה מוטעית (deceptive חליצה)
- a ברייתא: deceptive חליצה is valid
 - i ר"ל: means – if the נחלץ is promised that via חליצה he can marry her (a marriage we want to avoid)
 - ii ר' יוחנן rejects: חליצה requires intent on both parts
 - iii rather: חליצה given with promise of financial gift to the נחלץ – which is then never given
 - 1 Stories:
 - (a) ד' חייא (in ברייתא) allowed such a girl to marry “out”
 - (b) ד' חייא בר אבא first used ר"ל’s “deception” to get him to perform חליצה which invalidated him, then convinced him to give proper חליצה
 - (c) אב"י sister-in-law of ר' פפא came to him for חליצה from an inappropriate mate, אב"י thought to use ר"ל’s approach, ר' פפא “offered” 200 זוז, which he then retracted (משטה אני בך) which ired אב"י
 - b חליצה מוטעית – always valid;
 - c גט מוטעית – always invalid
 - d forced חליצה – may be valid, if he eventually says “רוצה אני” (as per v. 3)
- V Writing חליצה based on witnessing the event
- a רבא (quoting ר' הונא): we may perform חליצה ומאון without knowing the participants →we don't write בית דין טועין without checking into their identity; concern for רבא
 - b רבא (his own opinion): we may not perform חליצה ומאון without knowing the participants →we may write טועין after witnessing it – no concern for רבא