

13.13.1

107a (משנה א') → 107b (קשיא)

- I מאון regarding ב"ה/ב"ש משנה א'
- a who may perform מאון – only (ב"ש) or even נשואות (ב"ה)
- i אין תנאי בנישואין and will err regarding שמואל: people will think marriage was conditional and will err regarding מאון
- 1 דרבנן: everyone knows that this marriage is ב"ה
- ii בעילת זנות a person doesn't want his רבה ור' יוסף: חופה וקידושין, it doesn't appear as בעילת זנות
- 1 בעילת זנות: since there was חופה וקידושין, it doesn't appear as בעילת זנות
- iii פירות (פירות ארוס) מאון: he may eat up the פירות if he knows that she can do מאון
- 1 פירות: for that reason he'll be careful to appreciate property, so that she won't leave him
- iv רבא: a person doesn't want to make a (wedding) feast for nothing
- 1 קול אישות: he's happy even if it just allows him to have אישות
- b who may be the object of מאון – husband only (ב"ש) or even יבם (ב"ה)
- i עולא & ר' אושעיא: tangent:
- 1 מאמר (so she doesn't need a גט) but not to the מאמר (she still needs זיקה)
- (a) Reason (ר' חסדא): since זיקה happens without her consent, she can't be ממאן, unlike מאמר
- (i) Challenge: she can be ממאן to his ביאה (according to ב"ה) – which is בעל כרחה
- (ii) Answer: מאמר וביאה are done by him – she may ממאן; זיקה is made by "heaven", she may not
- 2 עולא: she may perform מאון to מאמר and to זיקה
- (a) reason: she is uprooting the original husband's marriage
- (b) challenge: ruling – if an ערוה who could do מאון falls, the צרה is חולצת; why not allow her to do מאון and uproot the original נישואין
- (c) answer: just like a שומרת יבם who perform מאון may not marry the father, since from the moment of נפילה she appears to be כלתו; similarly, she seems to be בתו
- ii tangent: consequences of being ממאן to one of the במין
- 1 דב: if she is ממאן to one, she is אסורה to all, similar to receiving a גט from one
- 2 שמואל: if she is ממאן to one, she is still מותרת to the others; unlike בעלת הגט, which he gave
- 3 ד' אסי: if she is ממאן to one, she is still מותרת even to him (as long as there are other brothers) since she can't be ממאן to 1/2 זיקה
- c requirement of the husband's presence for מאון - required (ב"ש) or even in his absence (ב"ה)
- i פישון הגמל – ב"ה
- ii ב"ש – because he was abusing her property, the ב"ד "conspired" against him twice (to allow מאון without his presence and מאון after marriage)
- d where מאון may be performed – in a ב"ד (ב"ש) or even away from ב"ד (ב"ה)
- i מומחים: 3 are needed – but no need for them to be מומחים
- ii דינים: ruled like 2 תנאים who permitted even 2 דינים
- e How many times may מאון be performed – only once (ב"ש) or multiple times (ב"ה)
- i ב"ש – Jewish women are not הפקר; rather, she remains there until the proper age and is ממאן
- 1 שמואל: when she reaches the age, she must confirm her earlier מאון
- 2 עולא: 2 choices – either she is ממאן and waits to become betrothed when she is of age, or she is ממאן and gets married immediately (after which, according to ב"ש, there is no more מאון)