

13.13.5

112b (א:יז) → 113b (תיקו)

Note: as happens in several פרקים of ש"ס בבלי (and far more frequently in תלמוד ירושלמי), the entire chapter of משניות is presented together at the beginning of the chapter. As such, we will present the entire chapter (2 דף all told) in one outline, although it will be taught in 2 שעורים

Note: the rabbis instituted a marital arrangement for חרשים which is, as we've already seen, a diminished form of נישואין.

- I פקח/ת וחרש/ת: marriage and dissolution between
- a if a פקח/ת married a חרש/ת – may remain married and may divorce (strength of divorce=strength of marriage)
 - b If a פקח married a פקחת
 - i If she became a חרשת – he may divorce her
 - ii If she became a שוטה – he may never divorce her
 - iii If he became either a חרש or a שוטה – he may never divorce her
 - iv Distinction (clarified to challenge of נורי בן יוחנן) – his דעת is needed for divorce, not hers
- II ר' יוחנן בן גודגדה: משנה ב'
- a גט divorced with a נט (קידושין דאורייתא) קטנה married off by her father when she was a חרשת
 - i משנה א' – חכמים – similar to
- III חרש ג': משנה ג'
- a if 2 חרש brothers married 2 sisters OR if 2 חרש sisters married 2 brothers – exempt from ייבום וחליצה
 - b if the wives were non-related, the יבם (חרש) may perform ייבום (not חליצה) and may subsequently divorce
- IV משנה ד': the cases involving 2 brothers
- a case 1: 1 פקח, the other חרש married to two פקח sisters
 - i if the חרש dies, the יבמה is exempt as אחות אשתו
 - ii If the פקח dies, the חרש must divorce his wife and the יבמה is forever אסורה
 - b Case 2: 2 פקחים married to 2 sisters, 1 פקחת the other חרשת
 - i If the husband of the חרשת dies, she is exempt as אחות אשתו
 - ii If the husband of the פקחת dies, the husband of the חרשת divorces his wife and the יבמה gets חליצה
 - c Case3: 1 פקח, 1 חרש, each married to the same type
 - i If the חרש dies, the חרשת is exempted as אחות אשתו
 - ii If the פקח dies, the חרש must divorce his wife and the יבמה is forever אסורה
 - d Case4: 1 פקח, 1 חרש married to 2 non-related women, both פקחות
 - i If the חרש dies, the פקח may perform ייבום or חליצה
 - ii If the פקח dies, the חרש must perform ייבום and may never divorce her
 - e Case5: 2 פקחים married to 2 non-related girls, 1 פקחת and 1 חרשת
 - i If the husband of the חרשת dies, the חרשת has ייבום and then may be divorced
 - ii If the husband of the פקחת dies, the פקחת may accept ייבום or חליצה
 - f Case6: 1 פקח, 1 חרש, married to 2 non-related women of the same type
 - i If the חרש dies, the חרשת receives ייבום and may be divorced
 - ii If the פקח dies, the חרש performs ייבום and may never divorce
- V Explanation for distinctions between various women vis-à-vis rabbinic decrees affecting their marriage
- a חרש (for whom rabbis created marriage) vs. שוטה: חרשים treat each other nicely
 - b חרש vs. קטן: קטן will eventually be able to have full marriage
 - i Challenge: קטנה has נישואין
 - ii Answer: in order to keep her from being taken advantage of
 - c חרשת – that can perform מאן – vs. חרשת; if not, noone will marry חרשת
 - d (תרומה דאורייתא) - פקחת כהן חרש feeding כהן חרש: precaution against חרשת (may eat תרומה) vs. חרשת: otherwise, no one will marry the חרשת – even if a חרש marries a פקחת, since a woman is more interested in marriage than a man
 - i support: story about חרש who married a פקחת and ר' מלכיו wrote a large sum for the כתובה
 - f tangent: שמואל's ruling about the consequences of adultery with an חרש
 - i Version1: no אשם תלוי – even though he holds like ר"א regarding a חרש as being דעת בן דעת, he disagrees and only obligates אשם if there were two objects, 1 איסור and 1 היתר and he didn't know which one he ate.
 - ii Version2: אשם תלוי – like ר"א
 - iii Question: what is ר"א's approach to חרש דעת
 - 1 Possibility1: he has consistent weak דעת → can divorce, since same “strength” used as for his marriage
 - 2 Possibility2: he has inconsistent weak דעת → cannot divorce; perhaps דעת was stronger at marriage