

14.7.4

72b (משנה ז') → 74a (דאיתקוש הוויית להדדי)

Note: in (גד:) קידושין, we learn that all conditions must fit the model of משה's arrangement with (במדבר לב) בני גד ובני ראובן (במדבר לב) including a "double-wording", the confirmation before the negation, the condition stated before the objective – and that it be a condition that can be fulfilled by a שליח (יהושע)

I Fraudulent (→ Reversible) and Forfeited קידושין

a Note: identical משנה taught in (ה:) קידושין – each in its own context

b If he stipulates that she have no נדרים or מומים and it turns out to be untrue – קידושין are null

c If he doesn't stipulate (default) – he divorces her and she forfeits her כתובה

i All מומין which invalidate כהנים (see ויקרא כב) are considered מומים in a woman

d Caveat re: נדרים: (ר' יוחנן) – only those נדרים that affect their relationship, e.g. not eating meat

i Analysis:

1 פמא ד' only refers to 2<sup>nd</sup> clause; in 1<sup>st</sup> clause, he expressed disapproval of all נדרים, any נדר violates תנאי

2 ד' אשי even 1<sup>st</sup> clause – only נדרים that pertain to him allow his objection to be reckoned

II Dispute between רב/שמואל: If he stipulates in the קידושין but marries her without condition (and she indeed has נדרים)

a גט רב: needs a גט

1 not because his marriage constitutes a מחילה of the תנאי; rather because בעילתו בעילת זנות

b שמואל: no need for a גט

i difficulty: רב ושמואל already had this dispute in re: קטנה that didn't perform מאון and, after reaching age and having ביאה with husband, accepted קידושין from another:

1 דב' doesn't need a גט from the 2<sup>nd</sup> (since the post-ביאה גדלות with husband reinforces קידושין)

2 שמואל: needs a גט from the 2<sup>nd</sup> (since his ביאה may have been premised on the original, weak, קיד')

3 justification: if we only had 2<sup>nd</sup> case, סד"א that רב would only rule that way because there is no תנאי and everyone knows that the original קידושין were not complete; (inverted justification for our case)

ii argument from our משנה: if he married her w/o condition (and she had נדרים) – כתובה no

1 implication: but she needs a גט (supporting רב)

2 defense: case in משנה where there was never a תנאי; but if the קידושין were תנאי, no גט

3 challenge: if so, משנה should include this case (כנסה סתם) and ק"ו for תנאי על תנאי

4 response: this is how it reads – and only if both קידושין and נישואין were unconditional, needs גט

5 question: why loss of כתובה if גט needed? (i.e. if she failed "understood standards")

6 answer1 (רבה): מד"ס is גט (רבה)

7 Answer2 (רבה): we are in doubt here; so ממון is לקולא (no כתובה); איסור is stringent (גט)

c רבה: רב/שמואל dispute only in case of 2 women (where he made a תנאי with one):

i רב: the תנאי on one says nothing about his intent about the other

1 However – with the same woman, he maintains his condition through נישואין → no גט

ii שמואל: his תנאי on one carries over to the other

iii challenge: our משנה is a case of 1 woman and we used it to challenge שמואל

iv correction: dispute only in case of 1 woman "like 2" – i.e. if he divorced her after conditional אירוסין and then married her w/o תנאי – in that case, רב maintains that the original תנאי is gone

v challenge: evidently we have a מחלוקת תנאים about errant קידושין followed by ביאה

1 answer: dispute is whether people understand that ש"פ is invalid and intend the later ביאה for קידושין

vi challenge: evidently we have a dispute about קידושין on condition that father approves followed by ביאה

1 answer: dispute as to what was meant by condition (does silence satisfy the condition?)

vii challenge: dispute between ר"א/חכמים about קטנה that he divorced then remarried vis-à-vis חליצה

1 חכמים: if she was remarried as a גדולה or grew of age with him – יבום is possible

2 ד' א: even in that case, no יבום

3 implication: dispute about power of later ביאה to generate new קידושין

4 rejection: reason for dispute – as to whether people know that קטנה קטנה are deficient

viii challenge: ruling of חליצה מוטעית (where he is told to give her חליצה on condition that she pays him – the חליצה is valid even if she doesn't pay → his confirming action erases the תנאי)

1 answer: any תנאי must fit the rubric of ב"ג וב"ר (see note) – including the possibility of fulfilling it via a שליח; since חליצה can't be done by a שליח, the entire תנאי is meaningless

2 challenge: in our case, the ביאה cannot be done by a שליח

3 answer: all forms of קידושין are grouped together and the viability of כסף/שטר works for ביאה