

18.03.01

24a (משנה א) → 26a (לכיבוע)

7. כי יקח איש אשה ובעלה והיא אם לא תמצא חן בעיניו כי מצא בה ערות דבר וכתב לה ספר כריתת ונתן בגדה ושלחה מביתו: דברים כד, א

- I גט 'משנה א': standard of לשמה required in preparing a גט
- a if the potential מגרש overhead scribe-students preparing a "גט-מודל", using his name and his wife's – פסול
- i *reason*: the writ is called ספר כריתות – i.e. it must have been prepared for purposes of כריתות
- b *furthermore*: if he wrote a גט and changed his mind and found a townsman with same names (his and hers) – פסול
- i *even though*: this (unlike [a]) was written with intent of divorce
- ii *reason*: the text requires וכתב – this man must prepare it
- c *furthermore*: if he has two wives with same name, prepared it for A and decided to divorce B – פסול
- i *even though*: this (unlike [b]) was written with intent of divorce on behalf of this specific man
- ii *reason*: it must not have been written exclusively for the other – לשמה → וכתב לה
- iii *implication* (רנבא): he may yet divorce A
- iv *application*: if 2 men in 1 city share name, they may bring a שטר חוב out on others
- 1 *note*: we're not concerned that he really owes the money to the other fellow with that name
- 2 *connection*: the divorced wife will use גט to collect כתובה, though he could say "I owe it to...(other wife)"
- v *challenge* (אב"י): look at case [b]
- 1 *implication*: he may divorce his own wife, even though there's another fellow in town with his name
- 2 *application*: if 2 men in 1 city share names, others may bring שט"ח against them
- (a) *connection*: he could say to divorced wife "(other guy) owes you the money")
- vi *answer* (to both challenges): can only collect with עדי מסירה (following ר"א)
- d *furthermore*: if he has 2 wives of same name and wasn't sure which he'd divorce had סופר write without specific intent – פסול
- i *even though*: this (unlike [c]) was written with intent of divorce on behalf of this specific man
- ii *reason*: אין ברירה (we do not allow for retroactive designation)
- II Consequences (i.e. how "valid" is each of these to invalidate the recipient from כהונה?)
- a שמואל: all 4 invalidate her; יק taught that whenever חכמים refer to a גט as "פסול" – it is also פסול
- i *tangential ruling*: any חליצה פסולה also bars her from the brothers
- ii *dissent*: in א"י – left-foot and nighttime חליצה do bar her; improper shoes do not
- b רב: final 3 invalidate her – 1st wasn't written for גירושין at all
- c זעירי: none invalidate her except for last one
- d ר' יוחנן: none invalidate her at all (even last one)
- i *consistency*: division of estate is a sale, reverting for יובל (because אין ברירה and division is an accommodation)
- ii *justification*: if we only had גיטין א, סד"א because of לשמה – וכתב לה
- 1 if we only had "division", סד"א we regard that as going back to its first state (undivided) – or apply חומרא
- III Putting a twist on ברירה – when it's dependent on outside factors
- a *Example*: if (in case d) he tells the scribe to write for either, and whichever comes out 1st is the divorcee
- i *Answer*: from our משנה – invalid
- ii *Challenge*: from our משנה in פסחים about post-designation of "earner" of פסה
- 1 *Answer*: that isn't designation, it's a motivational tool
- b *Challenge* (אב"י): question was re: תולה בדעת עצמו, תולה בדעת אחרים, proof was from תבד"א and challenge from תבד"א?
- i *Response*: perhaps the position of ברירה is consistent, whether or not the case is תבד"א or not
- 1 *Challenge*: תבד"ע ר' יהודה: ר' יהודה doesn't accept ברירה when it's תבד"ע:
- (a) *Case*: buying wine from כותים, ר"מ allows "leaving" תר"מ ר' יוסי, ר"ש ור' יוסי, ר"ש ר' יהודה, ר"ש ר' יהודה, ר"ש ר' יהודה, ר"ש ר' יהודה forbid
- 2 *But*: he does accept ברירה when it's תבד"א
- (a) *Case*: if a man gives a גט to take effect before he dies – she is married through that time
- (i) *And*: moment of effect is determined, retroactively, when he dies
- 3 *Challenge*: ר"ש doesn't accept ברירה when it's תבד"ע (case of wine), but does when it's תבד"א:
- (a) *Case*: conditional קידושין (ביאה) קידושין work only if condition is met
- 4 *Answer*: both ר"ש and ר' יהודה allow ברירה, whether תבד"ע or תבד"א –
- (a) *Reason for disallowing wine*: concern that the barrel will break and retroactively the wine'll be טבל
- (i) *Response* (ר"מ): if it breaks...i.e. it's uncommon and we don't need to be concerned