

18.07.03

73a (משנה ד') → 74a (בעלה חייב במזונותיה)

Note: in פרק שמיני, there is a dispute between ר' יוסי בר יהודה and ר' יוחנן what are the consequences of a husband and wife lodging together after he wrote her a גט – if we assume ביאה and therefore require a new גט (since the original is now classified as גט ישן). ר' יוחנן observes that the dispute only applies to a circumstance where we didn't witness the ביאה; if we did, all agree that a new גט is needed. This dispute and analysis are the heart of the סוגיה in the first half of today's

- I 'משנה ד': status of woman during period between possibly retroactive גט and its taking effect
- a she may not be alone with him except in the presence of others
- i exception: her own maid, in front of whom she has no shame
- ii ברייתא: (text)
- 1 if she was seen alone with him at night, or slept at his feet, we need not raise a suspicion of ביאה
- (a) dissent: ר' יוסי בר יהודה – we are **also (אף)** concerned that it may have been an act of קידושין
- iii Interpretation #1: רבה בר אבבה
- 1 if we witnessed ביאה, we assume קידושין
- 2 if he gave her money, we assume זנות but not קידושין
- (a) dissent: ר' יוסי בר יהודה – we are concerned that it may have been כסף קידושין
- 3 According to his interpretation: **all agree** (see note) that if there was no ביאה witnessed, no need for a new גט
- (a) Explanation: ת"ק agrees that, absent the transfer of money, there's always the assumption of קידושין
- iv Interpretation #2: אבוי (challenge – no mention of money changing hands in ברייתא)
- 1 If we witnessed ביאה, we assume זנות but not קידושין
- (a) Dissent: ריב"י – we are concerned that it may have been ביאת קידושין
- 2 According to this interpretation: only ריב"י could agree with יוחנן's claim (see note)
- (a) Explanation: according to ת"ק, even if we witnessed ביאה, we assume זנות and obviate the need for new גט
- v Interpretation #3: רבא (challenge – what is the meaning of אף in ריב"י's ruling?)
- 1 ריב"י's position – even if we didn't witness ביאה, we suspect ביאת קידושין and require new גט
- 2 According to this interpretation: no one could agree with יוחנן's claim (see note)
- (a) Explanation: according to ת"ק, even if we witnessed ביאה, we assume זנות; according to ריב"י, even if we didn't witness ביאה, we assume (the possibility of) קידושין
- b her status during this period:
- i ר' יהודה: a wife (limitation of relations due to possibility of ביאת קידושין which renders גט moot)
- 1 therefore: if she has ביאה with another, חייב חטאת
- ii ר' יוסי: quasi-divorced (מגורשת ואינה מגורשת)
- 1 therefore: if she has ביאה with another, חייב אשם תלוי
- iii note: this is only true if he dies (from the current condition/disease); else, it's certainly חייב חטאת
- 1 note: this dispute is only if he made the גט active from before death
- (a) ד' יהודה: considers her fully married until a moment before death
- (b) ד' יוסי: considers her partially divorced from moment גט was given to her
- iv ברייתא: her status during this time
- 1 ד' יהודה: as a complete wife (he has rights to her wages etc.) except that she doesn't need another גט
- 2 ד' מ: any ביאה she has (in the intervening time) is תלוי
- (a) Meaning: we have to see if he dies (exempt) or heals (חייב חטאת)
- 3 ד' יוסי: any ביאה she has is a ספק (violation of אשם איש)
- (a) meaning: there is an immediate liability of אשם תלוי
- 4 חכמים: quasi-divorced (as long as he eventually dies from this condition/disease)
- (a) חכמים: he is still obliged to feed her (ר' יוסי, as represented in ברייתא, disagrees)
- (b) note: חכמים' position here is the same as ר' יוסי as represented in the משנה