

18.08.03

79b (משנה ד) → 81a (זכות הראייה לשני)

- I ד משנה: dispute about divorcing with a גט ישן (if they had ייחוד after it was written)
- a ז"ש: he may use a גט ישן – we aren't גוזר that people will say that children born in the meantime were post-גט
- b ז"ה: may not use – we are גוזר that people will say לבנה קודם
- i שמואל: if she marries with a גט ישן – we don't force separation
- 1 Alternate version: שמואל ruled that if he divorced with גט ישן, she may remarry (לכתחילה)
- II ה משנה: Improperly written גיטין, specifically as regards the dating formula or location
- a Examples: an "improper" kingdom (Rome), Medea, Greece, from the time of the building of the מ"ה or its destruction
- i שלום מלכות established dating for גיטין per local kingdom
- 1 And: even though it is only due to שלום מלכות, she must leave both husbands and children are ממזרים
- (a) Per: ר"מ who ruled that anyone deviates from the exact wording חכמים formulated for גיטין → ממזר
- (b) Note: חכמים disagree and allow these גיטין, even if written per the local constable
- (i) Exception: ר"מ agrees that if it is reckoned by representative of government, valid, as they "approve"
- ii Justification: אינה הוגנת is more obviously invalid as they currently rule(d) and local kingdom is מקפיד
- 1 But: Greece and Medea were already "history" by then – קמ"ל; but they were kingdoms, unlike הבית בנין
- 2 And: חרבן הבית is more obviously פסול, as they'll think we're raising our own praise, but not חרבן הבית
- b Examples (2): if he was in the west and wrote "east" or vice-versa
- i Must refer to: location of סופר, else it is covered in last clause below
- c Ruling: she remarried based on a גט like one of these, she must leave her new husband and may not return to the first
- i And: she must get a (proper) גט from each; she has no claim of כתובה, פירות, מזונות, בלאות on either one
- 1 And: if she collected any of the above from either husband, she must return them
- 2 Children: born from either are ממזרים
- ii Neither husband: is מטמא for her (if כהן), has rights to her מציאה or מע"י or נדרים
- d She: becomes invalidated; if בת ישראל – from כהונה; if בת-לוי – from מעשר; if בת-כהן – from תרומה
- e Heirs: have no claim on her כתובה; if the husbands die w/o children, brothers of each only חולץ
- f Examples(3): if either of their names or cities were wrong and she remarries; must leave both and the above apply
- i Note (as above): חכמים concur here; per ברייתא and from conclusion that this clause was authored by חכמים
- 1 Argument: else, these examples should have been included with first two sets → חכמים authored this clause
- III ו משנה: list of עריות who render their צרות unbound (יבמות א:) - if צרות married and index ערוה proved to be איילונית
- a Then: same rules apply as above (leave husband and lose rights from both estates etc.)
- i Observation: only if צרות married – but not if they merely had non-marital relations
- 1 Implication: this refutes המנונא ר' who ruled that if a שומרת יבם has זנות, she may not marry יבם
- 2 Rejection: same rule applies if צרות only had relations – "נישאו" is more refined language
- ii Note: some read the inverse – as support for המנונא ר' (and זנו:נישאו); rejected, as only means נישאו
- 1 Reason: too similar to the case of a fully married woman whose husband disappears and she remarries
- (a) And then: he returns, where she is fully banned from both etc. – so they only decreed in case of נישואין
- IV ז משנה: if יבמה marries יבם and the צרה marries "out" and then יבמה turns out to be איילונית – same rules apply
- a Justification: in ו משנה, יבם מצוות was never fulfilled, but here it was, א"ס she isn't penalized as much – קמ"ל
- i And: in our משנה, both wives "fell" to יבם (צרה should have waited); but in ו משנה, she was (apparently) זקוקה אינה
- V חו משנה: further case of invalid גט where if she remarries, same penalties apply
- a If: the סופר wrote both גט and receipt and gave גט to woman and שובר to man and they exchanged שטרות
- i And then: after a time, he is holding the גט and she is holding the שובר (and she had remarried)
- 1 ג' אליעזר: if the mistake was discovered immediately, need new גט; otherwise, it is valid
- (a) Reason: 1<sup>st</sup> husband isn't empowered to harm the interests of the 2<sup>nd</sup> husband
- (b) Definition of לאלתר (immediately): שמואל – as long as they are still involved in the גט
- (i) ג' אדא בר אבהו: as long as she didn't yet remarry (support from משנה)
1. Challenge to שמואל: who is "שני" in ר"א's comment?
2. Defense: potential 2<sup>nd</sup> husband