

18.09.02

83a (לא תיכול ולא תיגרש) → 84b (אמר מר נענה ר"ט ואמר)

- I Analysis of תוספתא recording responses of 4 students to ר"א's position
- a ר"ט's challenge: if she marries the brother of the excluded man and he dies without children,
- i Then: it turns out that this (ex-)husband uprooted a law in the תורה
- ii Block: he didn't uproot, nor did he even make a condition to uproot!
- 1 Explanation: he didn't make her divorce conditional upon her marrying the excluded man's brother
 - 2 Rather: he caused a law in the תורה to be uprooted
 - 3 Challenge (reductio): if so, no one may ever marry his niece (cf. יבמות א:א)
 - 4 Response: indeed, that is the "block-buster" to which רבא referred
 - (a) Note: if the divorce was given with a stipulation of "חוק", ר"א permits יבום in that case
 - (i) Per: ברייתא ר"א agrees that if the divorce is stipulated with "חוק" and she marries another and the marriage terminates, she may then marry the excluded man
 - (ii) Rather: it must have been "על מנת"
- b ר"ד's challenge: there is no precedent for her being permitted to some while forbidden to others
- i Block: תרומה וקדשים are permitted to כהנים, not to other
- 1 Response: intent is within אישות
 - 2 Challenge: even within אישות, the whole system of עריות is premised on לזה ומוותרת לזה
 - (a) Answer: reference is within laws of marriage
 - (b) Challenge: a married woman is permitted to her husband only!
 - (c) Response: indeed, that is the "block-buster" referred to by רבא
 - (i) Note: this one must have been "חוק"; if "על מנת" then the divorce isn't affected by זנות (only קידושין)
- c ר"ע's challenge: if she marries another, has children with him and that marriage terminates and she marries the excluded man, the גט is בטל and her children (from the second husband) are now ממזרים!
- i Block: in the case of any תנאי, she shouldn't be allowed to marry
- ii Response: that is רבא's "block-buster"
- 1 Note: this must be "על מנת" as above (in response to ר"ט)
- d ר"ז's 2nd challenge: if the excluded man is a כהן, and her subsequent marriage ends with death, she is a גרושה vis-à-vis all others and אלמנה, yet she is still banned; via ק"ו, any excluded גט should ban her on all, as she is 1 part א"א
- i Note: this must be "חוק" – because if it were "על מנת", she would be considered a גרושה vis-à-vis זנות
- 1 Challenge: which version did ר"ע hear from ר"א? He responds to both על מנת and חוק!
 - 2 Answer: he heard both versions and challenged each one (that's why he has 2 responses to ר"א)
 - (a) Question: what is the "block-buster" to the 2nd block of ר"ע?
 - (i) Can't be: איסור כהונה is unique, because that (might be) ר"א's source
 - (ii) Answer: he holds like ר' ינאי who infers it from איש אחר (not from כהונה)
- e ר"ז's "censure": but יהושע ר' also disagreed with ר"א and had a challenge!
- i Answer: indeed, but he felt that it is inappropriate to challenge the scholar after his death (& he cannot respond)
- 1 יהושע ר' challenge: כד-א-ג compares her first marriage with her second
 - (a) Just as: her first marriage began with no "strings attached" to another man, so too must her 2nd begin
- f Tangential discussion: analysis of ר"א's ruling that in case of "חוק" and she marries another, the excluded man is מותר
- i Challenge (רשב"א): where do we find one person forbidding and another permitting?
- 1 Block: יבמה – the husband forbids her (from others) and the יבם permits her (via חליצה)
 - (a) Defense: in that case, the יבם also forbade her (by his existence)
 - 2 Block: נדרים – the נודר forbids and the חכם permits (via התרת נדרים)
 - (a) Defense: the נודר also permits, since the חכם cannot permit without regret (חרטה) of the נודר (per יוחנן ר')
 - 3 Block: הפרת נדרים – she bans the item and her husband permits it
 - (a) Defense: that is all the husband, per רבא – a woman takes a נדר on the assumption of her husband's דעת
- g ר"א's challenge: the word כריתות implies full excision
- i דבנן interpret כריתות to exclude permanent conditions on the גט
- ii ר"א infers that rule from כרת/כריתות (רבנן don't consider כרת/כריתות to be significant)

- iii *Related מימרא* of **רבא**: if he stipulates a גט on her not drinking wine (e.g.) all of *his* life – not כריתות
- 1 *But*: if he stipulates a גט on her not drinking wine all of *someone else's* life – כריתות
 - 2 *Challenge*: how are they different?
 - (a) *In the case of the outsider*: it's valid, since he *may* die and the condition can be fulfilled
 - (b) *Similarly*: the husband may die and the condition can be completely fulfilled
 - 3 *Rather*: the one case where it isn't valid is if he stipulates "all of *your* life" it isn't כריתות
- II Assorted rulings related to שיור בגט
- a **רבא's question** (posed to ר"נ): what if he states "today you are not my wife, but tomorrow you are my wife"?
- i *Observation* (**רבא**): this could be asked according to each of ר"א and רבנן (i.e. they may or may not be consistent)
 - ii **ר"א**: perhaps he only permits a שיור בגט since the permitted one is *always* permitted, unlike here
 - 1 *Or*: perhaps he would allow any שיור בגט
 - iii **רבנן**: they invalidate in our משנה since at no point is she ever fully disconnected from him, unlike here
 - iv *Conclusion* (**רבא**): both ר"א ורבנן would hold that once they're disconnected (even for 1 day) – the גט is valid
- b **תוספתא גיטין ז:ז**: if he stipulates that the גט is conditioned on her marrying פ', she may not marry, but if she does לא תצא
- i **ר' נחמן** (*version 1*): she may not marry, as it looks like men are giving their wives to each other
 - 1 *Challenge*: why would we let her stay with husband #2 if the גט is not good, just to prevent impressions?
 - ii **ר' נחמן** (*version 2*): she shouldn't marry *him*, as it looks like men are giving wives as gifts
 - 1 *However*: if she does marry *him*, we don't make her leave – since she really is divorced and we won't make her leave him due to a גזירה
 - 2 *Challenge* (**רבא**): may she marry another? She didn't fulfill her condition!
 - (a) *Preempt*: perhaps she could marry another and then ultimately marry פ' and fulfill the תנאי
 - (i) *And*: this would involve an analogy with רב יהודה's ruling re: נדר not to sleep
 - (ii) **מימרא**: if he takes a נדר against sleeping today *if* he sleeps tomorrow
 1. **דב יהודה**: he may not sleep today, lest he sleep tomorrow
 - (iii) *Block*: the sleeping condition is in his control, unlike her getting divorced again and marrying פ'
 - iii **רבא**: she may not marry anyone (פ' – to prevent the impression etc.; anyone else – condition not fulfilled)
 - 1 *But if*: she marries him, no need to leave (just גזירה); if she marries another – must leave (אשת איש)
 - 2 *Support*: from ברייתא
- c **תוספתא גיטין ז:ח**: if he stipulates a גט on an impossible condition, גט is invalid
- i *Dissent*: ר' יהודה בן תימא validates such a גט
 - ii *General rule* (**ריב"ת**): any condition which cannot be fulfilled is just hyperbole and the גט is valid
 - iii **רב**: we rule in accord with **ריב"ת**
 - 1 *Support* (**רנב"י**): from זיא:ז – ב"מ – any condition which *can* be fulfilled is valid → if impossible, it is null
 - 2 *Question*: what if he makes a condition that involves a violation (e.g. eating חזיר)?
 - (a) **אבבי**: same ruling (condition is null, גט is valid)
 - (b) **רבא**: she may eat and take the punishment – and fulfill the condition (→ תנאי קיים)
 - (c) *Challenge to רבא* (**תוס' גיטין ז:ז**): if he stipulates a גט on her having relations with פ' – valid תנאי
 - (i) *Implication*: a תנאי that she *forbidden* relations is null
 - (ii) *Defense* (**רבא**): eating חזיר is up to her; not having relations with an ערוה (she could pay פ')
 - (d) *Summary*: the general rule of **ריב"ת** includes עריות – "כזה" excludes חזיר (e.g.)
 - (i) **אבבי**: "כלל" includes חזיר (etc.) and "כזה" excludes relations with פ'
 - (e) *Challenge to אבבי* (**תוס' גיטין ז:ז**): any condition involving a prohibition (of eating) is קיים
 - (i) **אבבי**: that isn't a consensus – it is per רבנן (*contra* **ריב"ת** – even an impossible תנאי is valid)
 - (f) *General challenge (to question)*: why doesn't it fail as שכתוב בתורה?
 - (i) *Answer1* (**ר' אדא**): only if the one making the condition uproots it (e.g. שאר כסות ועוונה), unlike here
 1. *Challenge* (**רבנא**): she is acting on *his* condition
 2. *Rather* (**רבנא**): only when the תורה obligation is *certainly* uprooted (e.g. שאר וכו').
 - a. *But here*: she doesn't *have* to eat חזיר – she may remain married