19.02.11

50b (משנה ז')   ←   *52a (והלכתא כוותיה דאביי ביע"ל קג"ם)*

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1. **וְאִשָּׁה אֶל אֲחֹתָהּ לֹא תִקָּח** לִצְרֹר לְגַלּוֹת עֶרְוָתָהּ עָלֶיהָ בְּחַיֶּיהָ: *ויקרא פרק יח פסוק יח*
2. **כִּי כָּל אֲשֶׁר יַעֲשֶׂה מִכֹּל הַתּוֹעֵבוֹת הָאֵלֶּה וְנִכְרְתוּ** הַנְּפָשׁוֹת הָעֹשֹׂת מִקֶּרֶב עַמָּם: *ויקרא פרק יח פסוק כט*
3. **כִּי יִקַּח אִישׁ אִשָּׁה וּבְעָלָהּ** וְהָיָה אִם לֹא תִמְצָא חֵן בְּעֵינָיו כִּי מָצָא בָהּ עֶרְוַת דָּבָר וְכָתַב לָהּ סֵפֶר כְּרִיתֻת וְנָתַן בְּיָדָהּ וְשִׁלְּחָהּ מִבֵּיתוֹ: *דברים פרק כד פסוק א*

I   **משנה ז'**: simultaneous קידושין to multiple women who generate ערווה
- a   *examples*: woman and her daughter; woman and her sister
- b   *story*: man gave קידושין to five women during שמיטה using basket of figs that belonged to them with 2 sisters in the group
  - i   *ruling*: neither of the sisters are מקודשות
- c   *source* (רמי בר חמא): v. 1 – at a time that they are צרות to each other (i.e. simultaneity), קידושין are invalid
  - i   *challenge* (רבא): v. 2 – how can there be כרת if neither קידושין were valid?
  - ii   *Rather*: v. 1 refers to sequential קידושין (only latter is invalid) – simultaneous קידושין invalid as per רבה:
    1   *רבה*: anything invalid in sequence is also invalid if done simultanesouly (כל שאינו בזה אחר זה אפי' בבת אחת אינו)
    2   *challenge to רבה's rule (אביי)*: if someone gives excessive מעשר, the מעשר is fouled (טבל ומעשר are mixed)
      - (a)   *explanation*: according to רבה, none of it should be מעשר, since if he gave 1/10 and then more, the excess would certainly be חולין
      - (b)   *answer (רבא)*: מעשר is unique, since it could apply to half (a stalk) →it applies to half of his excessive gift
    3   *Challenge*: מעשר בהמה , which cannot apply to half (an animal) and בזה אחר זה is certainly invalid
      - (a)   *Yet*: if 2 came past after #9, they're both considered מעשר בהמה
      - (b)   *Answer*: מעשר בהמה is unique – it is valid even if in error (9/10/11)
    4   *Challenge*: the (40) תודה-loaves, which have no half-way הקדש nor are valid if done in error, yet if he declares on 80 loaves, חזקיה maintains that 40 of them are הקדש
      - (a)   *Answer*: חזקיה ור"י agree that if he designated 40/80 – valid; if he makes the הקדש of 40 conditional on the הקדש of 80 – invalid; their disagreement is how to interpret an unspecified declaration
  - iii   *Note*: רבא has his own answer – קידושין שאין מסורין לביאה (see below); but he's answering acc. to רמי בר חמא
II   קידושין שאין מסורין לביאה (אביי v. רבא) – i.e. קידושין which, due to ambiguity, are unable to be consumated (e.g. קידושין given to one of two sisters where the identity of the מתקדשת is unknown)
- a   *אביי*: valid
- b   *רבא*: invalid - as per v. 1
- c   *analysis*: our משנה seems to support אביי, since it only invalidates the twinning of the two women, but "one of you" is valid
  - i   *however*: story seems to support רבא, as only way to explain it is that he said "one of you" – and sisters aren't מקודשות
  - ii   *אביי*: explains story as the man saying: "whomever of you is 'fit' for me is מקודשת" →sisters are out
  - iii   *רבא*: explains ruling as "one of אשה ובתה etc." and certainly both of them – invalid
    1   *and explains the story*: he gave the figs for "all of you and one of the sisters" →invalid
  - iv   *challenge*: ruling that if someone accepts קידושין for his daughter – without specifying which –בוגרות aren't included
    1   *implication*: all קטנות are considered – although this is קידושין שאין מסורין לביאה (אחות אשה)
    2   *answer1*: case where he only has 1 קטנה (but the phrase בוגרות militates against that – *defense*: בוגרות דעלמא)
      - (a)   *block*: if so, it's obvious that only the קטנה is a possible מתקדשת
        - (i)   *defense*: סד"א he wouldn't ignore his older daughter in favor of his younger
        - (ii)   *Answer*: he'll always go for the source of revenue/הנאה (קידושי קטנה go to the father)
          - 1. *and even*: if בוגרת told him that the קידושין are his; he won't forestall his מצוה (of marrying off קטנה)
  - v   *challenge*: if someone states that he was מקדש his "older daughter" – ר"מ says all but the youngest is a potential
    1   *answer (for רבא)*: case where the מתקדשת was originally recognized, then they were mixed up
    2   *support*: the phrasing is איני יודע (not לא ידוע) – *contra* ר' יוסי who holds that someone never puts himself into ספק
  - vi   *challenge*: if someone is מקדש one of two sisters – gives a גט to both
    1   *answer*: the confusion came later (as proved by איני יודע) – needed to teach סיפא in re: ייבום וחליצה
  - vii   *challenge*: if 2 are מקדש 2 sisters and then they get mixed – each needs 2 גיטין
    1   *answer*: (again) – they were originally clear, then got mixed up (needed to teach סיפא in re: ייבום וחליצה)
  - viii   *challenge*: father of 5 boys gives קידושין to father of 5 girls and unknown which (at any time) – each girl needs 5 גיטין
    1   *conclusion*: רבא is defeated and הלכה follows אביי
    2   *note*: this is the "ק" of יע"ל קג"ם, 6 disputes between אביי/רבא where we rule according to אביי