שבתי דינין קבועים בכל יום –

Where the courts of law are in session every day

Overview

רב שמואל בר יצחק taught that the rule of בתולה נשאת ליום ד' is effective from the time of תקנת עזרא onward since the בי"ד are in session only on Mondays and Thursdays; however before תקנת עזרא, when the בי"ד was in session every day, a בתולה may be married any day. It seems that עזרא instituted that the בי"ד should not be in session that often. תוספות clarifies what תקנת עזרא accomplished.

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תוספות asks:

ואם תאמר וכי תיקן עזרא שלא יהו בתי דינין קבועים בכל יום אלא בב' ובה' בלבד[[1]](#footnote-1) -

And if you will say; and did עזרא indeed institute that the בתי דינין should not be in session every day, but only on ב' וה'?!

תוספות has an additional difficulty:

ועוד קשה דאמרינן בשבת (דף קכט,ב ושם) מי שיש לו זכות אבות יקיז[[2]](#footnote-2) בב' ובה'[[3]](#footnote-3) -

And there is an additional difficulty; for the גמרא states in מסכת שבת, only ‘he who has the merit of his ancestors should have bloodletting on ב' וה'’, but not anyone else -

וכי קודם תקנת עזרא לא היו מקיזין כל עיקר[[4]](#footnote-4) -

Is it indeed so that before this תקנת עזרא they were not מקיז דם at all?!

תוספות answers:

ואומר רבינו תם דקודם תקנת עזרא לא היו קבועים בכל יום -

And the ר"ת answers; that before תק"ע the בי"ד was not in session every day -

אלא כשהיו צריכין לשום דין היו יושבין בכל יום ויום[[5]](#footnote-5) -

But rather whenever a ruling was necessary the בי"ד would convene on whichever day it was; there was no set day when בי"ד was in session -

ועזרא תיקן[[6]](#footnote-6) שיהיו קבועין בב' ובה' וכל הרוצה לדון יבא וידון -

And עזרא instituted that בי"ד should convene on every ב' וה' (regardless if there was anything pending) and whoever wanted a ruling can come and be judged -

והיו יכולין להקיז בכל יום קודם תקנת עזרא כיון שלא היו קבועים -

And so therefore before תק"ע they could be מקיז דם every day, since בי"ד was not scheduled to convene (it was not such a severe יום הדין and it would not pose a danger).

תוספות offers an alternate answer:

ורבינו יצחק תירץ שלא היו קבועים תחלה אלא בעיר אחת ועזרא תיקן בכל עיר ועיר בב' ובה':

And the ר"י answered that initially before תק"ע the בי"ד would not convene everywhere, but rather only in one major city (every day[[7]](#footnote-7)),[[8]](#footnote-8) and עזרא instituted that the בי"ד should convene in every city on ב' וה'.

Summary

Before תקנת עזרא the בי"ד would either meet (any day) when the need arose, or they would only meet in one city, but not in all cities as it was after תק"ע.

Thinking it over

According to the ר"י did the תק"ע change anything in the city where בי"ד would convene every day?[[9]](#footnote-9) If עזרא did change it to ב' וה', the question remains why would עזרא change it, and if not, then a בתולה should be able to marry there every day?![[10]](#footnote-10)

1. If the prevailing custom was that בי"ד was in session every day, why would עזרא enact that they should only be in session on Mondays and Thursdays?! [↑](#footnote-ref-1)
2. One of the medical procedures (in those days) was bloodletting. [↑](#footnote-ref-2)
3. The גמרא there says because on ב' וה' the בי"ד שלמעלה ושלמטה are in session (the בי"ד שלמעלה is always in session) and since it is a יום דין his עבירות are remembered (see רש"י there ד"ה שב"ד), and unless he has זכות אבות it is dangerous for him to be מקיז דם. [↑](#footnote-ref-3)
4. Before תק"ע the בי"ד (שלמטה) was in session every day (as was the בי"ד שלמעלה [see footnote # 3]), so every day if one did not have זכות אבות he would not be מקיז דם. This seems very strange. [↑](#footnote-ref-4)
5. It will be necessary to say that when the גמרא writes שבתי דינין קבועין בכל יום it means they would convene any day if necessary, but they were not scheduled to convene every day [↑](#footnote-ref-5)
6. Since the בי"ד had no schedule it took time to convene the בי"ד, and it was a bother (for the בעלי דין), however with the תק"ע, the בי"ד was already in session and no time was wasted. [↑](#footnote-ref-6)
7. See ‘Thinking it over’. [↑](#footnote-ref-7)
8. There was therefore no danger to be מקיז דם since בי"ד was not convened in every city; only in select larger cities. [↑](#footnote-ref-8)
9. See footnote # 7. [↑](#footnote-ref-9)
10. See שטמ"ק. [↑](#footnote-ref-10)