

18.01.02

3a (ולרבה) → 4b (באותה מדינה במדה"י)

- I Continuation of analysis of dispute between רבא and רבה re: the reason for the ordinance of בפ"נ ובפ"י
- a *Note (רבה)*: the requirement of both בפני נכתב and בפני נחתם indicates that he assumes both must be done לשמה
- b *Challenge*: which תנא would require both לשמה?
- i ד"מ only requires לשמה לחתימה as evidenced by his ruling in ב"ד: גיטין ב:ד
- 1 *note*: he doesn't even require proper כתיבה practically (מדרבנן); he rules that a "found גט" is כשר
- ii ד"א only requires לשמה כתיבה
- 1 *note*: even מדרבנן – as we see in ד:ט – he only requires עדים as a precaution (מפני תיקון העולם)
- c *answer1*: it may be ר"א – he doesn't require עדים, but if there are עדים and they are forged – it's invalid
- i *support*: he agrees that מזוייף מתוכו is invalid
- d *answer2*: it may be ר' יהודה – as per his ruling in ב"ד: גיטין ב:ד (חתיבתו וחתימתו) must be proper
- i *question*: why didn't we answer this way immediately?
- 1 *Answer*: we prefer to attribute our משנה to ר"מ (סתם משנה ר"מ) or to ר"א (since כר"א בגיטין)
- II Suggestions, assigning the dispute to the various opinions in our משנה:
- a Suggestion #1 – dispute between ת"ק/ר"ג/ר"א about proximity of towns where ordinance applies:
- i ת"ק (who only requires בפ"נ ובפ"י from a distant location) – issue is expertise of local courts
- ii ר"ג/ר"א (who require even from border towns) – issue is accessibility of witnesses
- iii *rejection*: each אמורא can explain the dispute according to his own design:
- 1 *דבה*: dispute is whether border-town courts are expert, and ר"א extends it to עיירות המובלעות so as to have one simple rule (שלא תחלוק במינת היס)
- 2 *דבא*: dispute is whether border towns are considered accessible; ר"א extends the rule "שלא תחלוק במדה"י"
- b Suggestion #2: apparent dispute between ת"ק and חכמים:
- i *Note*: חכמים seem to agree with ת"ק, but add מוליק (taking the גט from א"י to א"י מדה"י)
- ii *Suggestion*: ת"ק – issue is expertise, therefore taking an א"י writ is always good and needs no testimony; חכמים – issue is accessibility of witnesses and they are inaccessible in either direction
- iii *rejection*: each אמורא can explain the dispute according to his own design:
- 1 *דבה*: issue is expertise; dispute is whether there is a precautionary גזירה מוליק
- 2 *דבא*: issue is accessibility of witnesses; no dispute; later רבנן are explaining reason of ת"ק
- III Challenges to each approach from the משנה
- a *Challenge 1*: משנה lists "taking from one province to another in מדה"י" as requiring בפ"נ ובפ"י
- i *Implication*: within 1 province in מדה"י doesn't require it
- ii *Conclusion*: issue isn't expertise – challenge to רבה
- iii *Defense*: wrong inference – should be "from province to province in א"י doesn't require it" → expertise is issue
- 1 *Challenge*: this is already stated – במביא בארץ ישראל אינו צריך –
- 2 *Answer*: that would only imply בדיעבד – our new implication establishes that לכתחילה there is no בפ"נ ובפ"י
- iv *Note*: some read this argument as starting from the opposite position, supporting רבה (inference that from province to province in א"י there is no need) and re-inferring as per רבא (within 1 province in מדה"י there is no need)
- 1 *Challenge*: it should just read "from province to province" – why single out מדה"י?
- 2 *Answer*: in א"י there is never a need since there are pilgrims going to ירושלים, עדים are always accessible
- (a) *Note*: even after the חרבן, since courts are fixed there, עדים are accessible from למדינה
- b *Challenge 2 (to רבה)*: רשב"ג adds in "from one hegemony to another"
- i *Explanation*: there was one city in א"י (עססיות) under two governments which didn't cooperate with each other
- ii *Conclusion*: all must agree (at least as an understanding of רשב"ג) that issue is accessibility
- iii *Answer*: רבה accepts רבא's argument
- 1 *However*: he also adds consideration of expertise
- 2 *Therefore*: wherever witnesses are accessible but courts are suspect, we require בפ"נ ובפ"י (contra רבא)
- 3 *Split the difference*: if 2 brought it, or within one province in מדה"י – רבה would still require בפ"נ ובפ"י