

18.01.08

11b (משנה ו) → 13a (ליה פריצה ליה)

1. ובקצרכם את קציר ארצכם לא תכלה פאת שדך בקצרך ולקט קצירך לא תלקט, לעני ולגר תעזב אתם אני ה' אלהיכם: ויקרא כג, כב
 2. לנס שמה רוצח אשר ירצח את רעהו בבלי דעת והוא לא שנה לו מתמל שלשום ונס אל אחת מן הערים האל ותי: דברים ד, מב
 3. כל קבוצה בת מקל פנימה ממשבצות זהב לבושה: תהלים מה, יד

- I Retracting agency for a גט and for שטר שחרור – in the case where someone orders a writ be "given" ("תנו")
- a Operating principle: זכין לאדם שלא בפניו... - one *may* act on another's behalf without his explicit agreement
 - b ... ואין חבין לאדם אלא בפניו... - one *may not* incur a debt or obligation on behalf of another without his explicit agreement
 - c Dispute:
 - i חכמים – one may only retract agency for a גט, since it is to her detriment and the agent has not accepted it on her behalf → she isn't divorced until the גט reaches her hand; one may not retract agency for a שטר שחרור as emancipation is a benefit to the slave; the receiving agent acts on his behalf to accept it → he is freed immediately
 - 1 distinction: he must feed his wife, he may not feed his slave
 - ii ר"מ – one may retract both, as both divorce and emancipation are detrimental to the wife/slave; ergo, they do not take effect until the writ reaches their hands.
 - 1 Defense: the slave is disenfranchised from eating תרומה (if the owner is a כהן)
 - 2 Response: that's because he is owned by the כהן
 - (a) Meaning: if he **isn't** an עבד כהן, what is the downside for him to become liberated?
 - (i) Answer: he is banned from כנענית
 - (ii) Response: but he is now permitted to marry a חורין
 - (iii) Answer: a slave would prefer the promiscuous שפחה
- II Inference from "תנו": if someone seizes property on behalf of a בע"ח, even at a cost to others' ability to collect – valid seizure
- a rejection: anyone who says "תנו" is considered as if he also said "זכר" and made them agents for reception
 - b aside: the issue of תופס לבע"ח במקום שחב לאחרים should follow the dispute ר"א/רבנן about a non-עני seizing פאה on behalf of a poor man (ר"א – valid seizure; חכמים – he must give it to the first עני he encounters)
 - i rejection:
 - 1 ר"א permits it because anyone could become an עני by declaring all his property ownerless, and since this one could theoretically have rights to פאה, he could seize for another עני;
 - 2 רבנן disallow it on account of the Midrashic read of v. 1
 - (a) counter: ר"א interprets v. 1 as warning an עני who owns land to leave his own פאה
- III Inference from "שלא לזון": a master may withhold מזונות from his slave
- a Circumstance: here he told the slave to use his own wages to feed himself
 - i Counter: parallel case with woman – why isn't this valid?
 - 1 Answer: where her earnings don't cover her food bill
 - 2 Challenge: in parallel case –if the slave's earnings don't cover his food bill, why are they keeping him?
 - b Attempted proof: if a slave is exiled (ערי מקלט) his master keeps his wages and isn't required to feed him
 - i Circumstance: he told him to feed himself with his wages –ר"א he should add more (v. 2) - קמ"ל -
 - 1 Counter: if so, why does the master keep his wages? (a: refers to surplus wages)
 - 2 Challenge: in 2nd clause, a woman who is exiled must be fed → must be case where he didn't say יצאי...
 - (a) Answer: in her case, her wages don't cover her food bill
 - (b) Final clause: where her wages are sufficient, he may tell her to feed herself, in spite of v. 3
 - ii Attempted alignment: with dispute רשב"ג/חכמים about right of slave to demand freedom during famine
 - 1 Answer: dispute is whether he'll get more compassion as a free man or it won't make a difference
 - iii Attempted proof: רב – a master who is מקדיש the wages of his slave – the slave borrows to eat
 - 1 Circumstance: refers to surplus – but he must redeem each מש"פ פחות before it adds up to a פרוטה
 - (a) Proof (to this caveat): רב also said that הקדש doesn't work here → must be a case where master isn't feeding
 - (i) Conclusion: master may not withhold מזונות unless he lets slave keep wages
 - (b) Challenge: why doesn't הקדש tell him to "hand over" the surplus?
 - (c) Answer: it's in הקדש's interest that he be stronger and more well-fed
 - 2 Counter: ר' יוחנן – if someone maims another's slave, lost wages and medical expenses go to the master
 - (a) Implication: the master has the right to tell his עבד to feed himself and to hand over his wages