

18.04.02; 33a (מפני תיקון העולם) → 34b (והלכתא כנחמני)

- I Analysis of the final ordinance – מפני תיקון העולם, he may not cancel the גט in the absence of the שליח
- a For whose benefit was the תיקון העולם made?
- i ממזרים (avoiding the production of) ר' יוחנן
- 1 reason: he holds like ר"ג, that originally he could cancel in front of 2 people – the word doesn't get out, she thinks she's divorced, remarries and has children → ממזרים
- ii עגונות (avoiding the creation of) ר"ל
- 1 reason: he holds like ר"ש, that originally he must cancel in front of 3 people – the word gets out and she knows that she hasn't been divorced and is "stuck"
- b consequences of violating תקנת חכמים:
- i רבי: if he goes ahead and cancels it in the absence of the שליח – cancellation is valid
- ii רשב"ג: in such a case cancellation is invalid and גט remains valid; neither may he add to the conditions on the גט
- 1 reason: the integrity of the ב"ד is for naught
- 2 challenge: how can a גט which is cancelled מה"ת be kept valid because of תקנת חכמים → allowing an איש אשת אשת זנות → ביאת קידושין and מתנה → קידושי כסף – turning his קידושין רבנן
- (a) Answer: uproot his קידושין – turning his כסף → מתנה and ביאת קידושין
- (i) כדת משה וישראל תוס': that's why he said
- c parallel (?) dispute re: if he made 10 agents, may he cancel them in separate groups
- i רבי: he may cancel them separately
- ii רשב"ג: he must cancel them together
- 1 analysis1: they disagree about שבטלה מקצתה –
- (a) דבי: it is not all dissolved, and if 2 of them (who didn't hear) give her the גט, it's still valid
- (b) דשב"ג: it is dissolved and if 2 of them (unknowingly) give her a גט, it's invalid (but she won't know)
- 2 analysis2: they agree that שבטלה מקצתה לא בטלה כולה;
- (a) דבי: a matter that which announced in front of 10 may be cancelled piecemeal
- (b) דשב"ג: a matter which was charged to 10 must be cancelled in front of all of them
- 3 test case: what if he said "כולכם" (all of you must sign together)
- (a) if: רשב"ג's reason is שבטלה – wouldn't apply here, since they cannot sign independently
- (b) however, if: רשב"ג's reason is "something charged to 10...", it applies here as well
- 4 solution to test case: רשב"ג explicitly states that the 2 witnesses must both be present for cancellation
- (a) explanation: the 2 witnesses are simply a microcosm of כולכם – and he still requires "all" be present
- (b) rejection (ר"ב אשי): this isn't referring to the עדי חתימה, rather to the עדי הולכה
- (i) support: the end of that ruling – "if he charged each independently, he may cancel independently"
- (ii) explanation: עדי חתימה cannot sign independently (witnesses must see the act together)
1. rejection: might follow ריב"ק – witnesses may see act separately and still be a כת
- d rulings:
- i ר' אבא ruled like רבי in one case ([b/c]) and in accordance with רשב"ג in the other
- 1 inference: רבי was reported to have acceded to רשב"ג in [b] (due to protection of integrity of ב"ד) → [c] like רשב"ג
- 2 further: from case of אושה ר' יאשיה where he ordered the 5 witnesses to hide → [b] follows רשב"ג (he can't cancel in their absence) and [c] follows רבי (else, they could just separate)
- ii ר"נ follows רבי in both cases (i.e. רבי never acceded to רשב"ג in [b])
- 1 challenge: ר"נ does demonstrate concern for integrity of ב"ד: executor's division of property isn't revocable
- (a) answer: that's a case of ממון (הפקר ב"ד הפקר); our case is איסורא (no employment of קידושין here)
- II גילוי דעתא בניטא (impact of clear intent vis-à-vis cancellation of a גט) – dispute between אביי/רבא
- a Case: man sent גט to wife, when agent was rebuffed, husband thanked God
- i אביי: ברוך הטוב והמטיב אביי – but גט is still valid
- ii רבא: ברוך הטוב והמטיב רבא – and therefore גט is cancelled
- iii (Cases brought by each to support and rebuffed by the other)
- III Final rulings in the disputes discussed in our סוגיא:
- a ר' ששת (cancellation was originally in the presence of 2 – contra הלכה כנחמן)
- b הלכה כנחמן follows רבי in both disputes with רשב"ג – if he violates תקנת חכמים and cancels in absence of שליח, cancellation is valid; the תקנה allows for cancellation of segments of the group separately)
- c גילוי דעתא בניטא לא הוה מילתא – הלכה כנחמני (אביי)

² Wherever רבא and אביי disagree, the הלכה follows רבא except in these 6 cases – the "ג" case is ours, מילתא לא הוה בניטא