

18.04.06

37b (משנה 17) → 38b (נעקרו)

1. וגם מבני התושבים הגרים עמכם מהם תקנו וממשפחתם אשר עמכם אשר הולידו בארצכם והיו לכם לאחזה: ויקרא כה, מה
 2. והתנחלתם אתם לבניכם אחרים לרשת אחזה לעלם בהם תעבדו ובאחיכם בני ישראל איש באחיו לא תרדה בו בפרך: ויקרא כה, מו
 3. וישמע הכנעני מלך ערד ישב הנגב כי בא ישראל דרך האתרים וילחם בישראל וישב ממנו שבי: במדבר כא, א
 4. וכל עבד איש מקנת כסף ומלתה אתו אז יאכל בו: שמות יב, מד

- I עבד כנעני status of redeemed מ:שנה 17
- a ת"ק: if redeemed to be enslaved (by redeemer) – enslaved; if for freedom, the redeemer may not enslave him
- b רשב"ג: in either case, he may enslave him
- c identifying circumstance of מ:שנה
- i י"אוש before י"אוש (of original owner)
- 1 if: redeemed for enslavement, enslaved to original owner (since no י"אוש)
 - 2 if: redeemed for freedom, not enslaved to either master (not to 1st, else people won't redeem them)
 - 3 רשב"ג: maintains that just as it's a מצוה to redeem freemen, it's a מצוה to redeem slaves
- ii י"אוש after דבא
- 1 if: redeemed for enslavement, enslaved to 2nd owner (redeemer)
 - 2 however, if: redeemed for freedom, not enslaved to either
 - 3 רשב"ג: as per חזקיה, so that slaves won't "throw themselves into captivity", always redeemed to enslavement
 - 4 challenge: רשב"ג is reported to have responded "just as it's a מצוה..." (as per above) – supports אב"י
 - (a) answer: רשב"ג was unclear on the circumstance of חכמים' position – answered for both possibilities
 - 5 Challenge: from whom does the new master acquire him?
 - (a) Answer: from the captives, who may acquire a non-Jew for his wages (as per inference from v. 1)
 - (i) Note: this acquisition can even take place via חזקה, as proven by the lands of ומואב
 1. acquired from by סיחון ועוג and thus permitted for us to conquer
 2. note: even a Jew may be acquired by a non-Jew for those purposes, as per v. 3
- d a slave who fled from prison: ר' יוחנן – ר' יוחנן he earns his freedom and his master must write a writ of emancipation
- i challenge: ר' יוחנן ruled that we always³ follow רשב"ג when his opinion is recorded in the מ:שנה
- 1 in our case: he ruled that a slave is always redeemed into slavery
 - (a) י"אוש could answer that ר' יוחנן's ruling only applies after י"אוש
 - (b) דבא should be "stuck" with a contradiction within יוחנן's rulings
 - (i) answer: חזקיה's reason ([ii 3] above) wouldn't apply here, since he risked his life to run away
- e Stories:
- i שמואל's maidservant: was taken captive, she was redeemed to be enslaved
- 1 the redeemers held like רשב"ג, but even כרבנן, they had redeemed her for enslavement (i.e. should return to עבדות)
 - 2 reason: they thought that he hadn't had י"אוש; he had and didn't even require a גט שחרור as per:
 - (a) his ruling: if a master is מפקיר his slave, he is free without a גט שחרור as per the דרשה on v. 4
- ii אבא בר זוטרא's maidservant: was taken captive and redeemed by a non-Jew for marriage
- 1 גט שחרור sent a message, instructing ר' אבא to send her a גט שחרור
 - (a) reason: if they could redeem her, the גט שחרור would motivate the townspeople to help out;
 - (b) and if: they couldn't, the גט שחרור would lower her value in their eyes and they'd allow her to be redeemed
- iii a particular maidservant: was being abused, אב"י argued that she should be freed, except for the עשה (v. 2) as per שמואל
- 1 דבינא here, even שמואל would agree that she should be freed
 - 2 question: wouldn't אב"י agree here, as in case of 1/2 שפחה, 1/2 חורין בת חורין whose (1/2) master was forced to free her?
 - (a) Distinction: there, she can't have relations with anyone
 - (b) Challenge (to עשה): ר"א came into ביהכ"נ, found 9 men and freed his slave to complete מנין
 - (i) Answer: for a מצוה, we allow the עשה to be violated
 - (ii) Note: perhaps ר"א follows ישמעאל (v. 3 is רשות)
 1. answer: ר"א explicitly states that it is a חובה (as per ר"ע)
 2. note: this is one of the 3 violations which cause landowners to lose their wealth, along with:
 - a. on שבת: checking out their property/merchandise
 - b. on שבת: making a meal during time of מדרש בית

³ except for the 3 cases of עירוב, צידוק and ראייה אחרונה