

18.04.08; 39b (ולא פליגי: הא באבא, הא בברא) 40b → (אמר מר: אמר להם, אומר אני) 39b

7. ואיש כי ישכב את אשה שכבת זרע והוא שפחה נחרפת לאיש והקפדה לא נקדחה או חפשה לא נתן לה בקרת תהיה לא יומתו כי לא חפשה: ויקרא יט, כ.

- I Dispute between ר"ש חכמים as to whether עבד כנעני or whether גט שחרור is also needed
- a (background: in previous שיעור רבי was quoted as saying that the slave must be freed via שטר; but in the earlier ברייתא, he said that the slave may even redeem himself with purchase)
- b (resolution: רבי meant that he may be freed with שטר or כסף...)
- c *contra*: ר"ש who maintains that a slave may only be freed via שטר
- i *Proof*: v.1 identifies a שפחה as one who has not been given חופשה, i.e. חופשה פדיון isn't enough to modify her status
- ii *Rulings*:
- 1 ר"ש was reported as ruling in accord with ר"נ
- (a) *contra* יוחנן ר', who ruled against ר"ש
- (b) *Inference*: a maidservant's master was dying, she begged him to free her; he threw her his hat and told her to acquire it and herself along with it (קנין סודר) and ר"נ said that the move was ineffective
- (i) *Assumption*: he ruled it ineffective because he rules in accord with ר"ש
- (ii) *Correction*: the vehicle for קנין must belong to the purchaser (slave-girl) and not the מקנה
- 2 ר"ש הלכה – ר' המנונא (rejected)
- II Acts which carry implicit liberation of slave
- a רבי: if a slave marries a freewoman in the presence of his master (wouldn't have allowed it if he hadn't freed him)
- i *challenge* (ר' יוחנן): even if the master writes a שטר אירוסין for his slave, dispute ר"מ/חכמים if she is freed (ר"מ – freed)
- 1 *answer*: in our case, the master married him off (as in case of תפילין, below)
- 2 *challenge*: why would we think that he would be willing to violate an איסור (challenge to ר"מ)
- (a) *answer*: in that case, he told her to take the שטר אירוסין and "go out and התקדשי with it"
- (i) *ל"מ*: this may be a language of liberation; חכמים disagree
- b ריב"ל: if his master put תפילין on him, he is free
- i *challenge*: if he lent money to his master, his master made him an executor, he put on תפילין or read 3 פסוקים in ביהכ"נ in the presence of his master – he isn't (yet) free
- 1 *answer*: in our case, the master put the תפילין directly on him
- III Liberating slave based on requests of a dying owner
- a (בשם ר' יוחנן): if directed "they should not enslave her after my death", they must free her
- i *Challenge* (to יוחנן ר'): shouldn't her children remain slaves (i.e. interpret "אל ישתבערו" as not make her work too hard)?
- b (בשם ר' יוחנן): if he says "she comforted me, comfort her", they must do so (even freeing her)
- i *Reason*: מצווה לקיים דברי המת
- c *ruling*: אממר - if someone is מפקיר his slave and then dies, the עבד has no solution
- i *Challenge*: יוחנן ר' ruled that if he's מפקיר his slave, he needs a שחרור גט
- 1 *Answer*: indeed – he needs one and cannot get one (has no solution)
- (a) *Reason*: איסורי status of the עבד isn't bequeathed to the heir (without ownership) for him to release it
- ii *Challenge*: דימי דמי report!
- 1 *Answer*: it is in error – since the owner didn't use wording of emancipation
- (a) *Implication*: had he used that wording, she'd be free (nonetheless)
- (i) *Answer*: אממר accepted יהודה בר שמואל בר יהודה ר' version (and not דימי ר' of יוחנן ר')
- iii *Story*: group of slaves were purchased by non-Jews; they came to רבינא, who told them to find their original owners that they should write them שחרור גיטי to allow them to marry Jewesses
- 1 *Challenge*: אממר's ruling (they should be "stuck")
- (a) *Answer*: רבינא accepted דימי ר' account (even if it was in error, if said as "שחרור" it would work) וכן הלכה
- 2 *story*: man tried to prevent ½ עבד from going free; gave his portion to his minor son – רבנן used executor to beat him at his own game
- IV Declarations of owner:
- a "my slave is free" etc. – he is free; "I will free him" – dispute רבי/חכמים (ר' יוחנן: there must be a שטר in any case)
- b "I've given this field to פלוני" etc. – it is given; "I will give it" – dispute ר"מ/חכמים (ר' יוחנן: there must be a שטר in any case)
- c in both cases – if the recipient/slave disputes, we believe the master (he may have used a 3rd party to acquire)
- i *however*: if the master says "I wrote and gave him" and the recipient denies it, we believe the recipient
- 1 *proceeds of disputed field*: ר' חסדא – original owner; רבה – held in trust until case is clarified (if son of recipient)