

19.01.14

16a (ובשטר) → 17a (נעשה כמי שחלה כל שש וחייב להשלים)

1. אם אֶהָרַת יִקַּח לוֹ שְׂאֵרָה כְּסוּתָהּ וְעִנְתָּהּ לֹא יִגְרַע: שְׁמוֹת כֹּה, י  
 2. וְכִי יִמְכַר אִישׁ אֶת בְּתוּלָתוֹ לְאִמָּה לֹא תִצָּא קְצָאת הָעֶבְדִּים: שְׁמוֹת כֹּה, ז  
 3. וְהִתְנַחֲלֶתֶם אִתְּם לְבָנֵיכֶם אַחֲרֵיכֶם לְרִשְׁתָּ אַחְזָה לְעֵלָם בְּהֵם תַּעֲבֹדוּ וּבְאֲחֵיכֶם בְּנֵי יִשְׂרָאֵל אִישׁ בְּאֲחֵיו לֹא תִרְדֶּה בּוֹ בְּפָרְךָ: וִיִּקְרָא כֹה, מו  
 4. כִּי תִקְנֶה עֶבֶד עֲבָדִי שֵׁשׁ שָׁנִים יַעֲבֹד וּבְשִׁבְעַת יָצָא לְחֻפְשֵׁי חֹנָם: שְׁמוֹת כֹּה, נ  
 5. כְּשֹׁכֵיר כְּתוּשָׁב יִהְיֶה עִמָּךְ עַד שְׁנַת הַיָּבֵל יַעֲבֹד עִמָּךְ: וִיִּקְרָא כֹה, ס  
 6. אִם רָעָה בְּעֵינֵי אֲדֹנָיָהּ אֲשֶׁר לוֹ יַעֲדָה וְהִפְדָּה לְעַם נְכָרִי לֹא יִמְשַׁל לְמִכְרָהּ בְּבָגְדוֹ בָּהּ: שְׁמוֹת כֹּה, ח  
 7. אִם עוֹד רַבּוֹת בְּשָׁנִים לְפִיָּהּ יֵשֵׁב וְאַלְתּוֹ מִכְסָף מִקְנָתוֹ: וִיִּקְרָא כֹה, ט  
 8. כִּי יִמְכַר לְךָ אֲחִיד הָעֲבָדִי אוֹ הָעֲבָרְיָה וְעִבְדְּךָ שֵׁשׁ שָׁנִים וּבְשָׁנָה הַשְּׁבִיעִת תִּשְׁלַחְנוּ חֻפְשֵׁי מַעֲמָךְ לֹא תִשְׁלַחְנוּ רִיקָם: דְּבָרִים טו, יב – יג  
 9. הָעֲנִיק תַּעֲנִיק לוֹ מִצִּאֲנָה וּמִגְרָנָה וּמִיִּקְבָּה אֲשֶׁר בְּרַכָּה ה' אֱלֹהֶיךָ תִתֵּן לוֹ: דְּבָרִים טו, יד

## I Analysis of segments of ' משנה ב' – עבד עברי

- a Bought with שטר – from juxtaposition of אמה עבריה (v. 1)
- i challenge: this only works according to רב הונא (who posits that שטר is written by master [≠בעל])
- 1 however: according to רב חסדא (שטר written by father) – parallel doesn't work
  - 2 answer: v. 2 implies that she is acquired like עבדים (כנענים)
  - 3 challenge: perhaps that means that she is acquired בחזקה
    - (a) block: v. 3 implies that קנין עבדים כנענים is exclusive (i.e. חזקה doesn't work for ע"ע)
    - (b) challenge: perhaps it's inverted – שטר is excluded and חזקה is expansive
    - (c) response1: שטר has another application in אישות (divorce), untrue about חזקה
    - (d) response2: that's the impact of v. 1 – to demonstrate which angle to favor
  - 4 note: according to ר' הונא, v. 2 is unneeded
    - (a) answer: it's needed to exclude אמה עבריה from leaving due to loss of limbs (שן ועין)
    - (b) answer: ד' חסדא infers that from extra קצאת (הונא) discounts significance of that word
- b goes free with years – as per v. 4
- c goes free with יובל – as per v. 5
- d goes free with pro-rated buy out (גרעון כסף) as per v. 6
- i note: בריתא teaches that he can go free via כסף (as per v. 7b2) and שווה כסף (as per v. 7b1) and שטר
- 1 note: no need for שטר – if a payout – כסף or שווה כסף; if as proof, let the master free him in front of עדים
  - 2 answer; this proves רבא's position that עבד עברי is owned and מחילה won't work vis-à-vis גרעון (requires שטר)
- e additional liberator of אמה עבריה – סימנין
- i suggestion of ר"ל אה"ע goes free if her father dies – ק"ו from death of master
- 1 argument: סימנין ק"ו
    - (a) if: סימנין, which do not liberate her from father, but do liberate her from master
    - (b) Then certainly: death of father, which does liberate her from father, liberates her from master
  - 2 Challenges: our משנה and enumerated lists (one explicit) of those receiving העניקה - w/o אב mentioned
  - 3 Rejection: of ר"ל
    - (a) Reason: his ק"ו is broken – since סימנין reflect a physical change in the girl, unlike האב מיתת
    - (b) Possible resuscitation of ר"ל: rulings that ענק ע"ע ווא"ע go to them vs. ענק אה"ע goes to her father
      - (i) Suggested resolution: if she left בסימנין – goes to father; if she left במיתת האב – she keeps it
      - (ii) Rejection: resolution is whether or not father is alive; in any case, she left בסימנין (or years etc.)
    - (c) Note: reason we need to teach that s/he keeps ענק
      - (i) אה"ע: doesn't go to her brothers (as per implication of v. 3)
      - (ii) ג"ע: doesn't go to his creditor, as per אלוטאי's inference from v. 9

## II Introduction to סוגיא of העניקה (fully dealt with in next שעור – see next page)

III Note: text grants to one who leaves after 6; but wording in v. 8 implies others who receive, as long as they are "sent away by you"

- a ת"ק: all receive העניקה except one who goes AWOL ("בורח") or one who pro-rates the buyout (גרעון כסף)
- b ר"מ: בורח doesn't receive – but יוצא בגרעון does (considered "sent away" from master)
- i note: בורח must make up his missing time (he owes it to the master) – even after יובל
- ii Note: v. 4 grants freedom – even if he was sick up to 50% of the time and unable to work
- 1 Even: if he was sick more than 50% of the time but did some minimal work (מחט) – no need to make up
  - 2 However: if he was totally incapacitated for more than 50% of the time (>3 years) – must make it up
- c ר"ש: 3 methods באיש and 3 באשה (both: 6 years, יובל; man: רציעה of יובל; woman: סימנין)