

19.01.16; 18a (שאינו הכא, דאמר רחמנא והפדה) 19a → (ת"ר יש בעברי שאין בעבריה) 18a

1. אם זרחה השמש עליו דמים לו שלם אם אין לו ונמכר בגנבתו: שמות כב, ב.
 2. אם רעה בעיני אדניה אשר לו יעדה והפדה לעם נכרי לא ימשל למכרה בגדו כה: שמות כא, ח.
 3. ואיש אשר ינאף את אשת איש אשר ינאף את אשת רעהו מות יומת הנאף והנאפת: ויקרא כ, י.

- I אמה העבריה and its analysis – distinctions between עבד עברי and עבד עברי
- a עבד עברי: leaves after 6 years, at יובל, at the death of his master
- i as opposed to: אה"ע – who doesn't leave in those circumstances if ייעוד took place
- ii note: סימנין (mentioned in 2nd clause, below) work only if there was no ייעוד
- b אמה העבריה: leaves at סימנין, cannot be sold twice...
- i Implication: עבד עברי may be sold twice
- 1 Challenge: v. 1 implies בגנבתו –not for כפל, not for זממה (if found to be an עם זומם) nor may he be sold twice
- (a) Answer1 (רבא): if he stole twice, he may be sold twice (etc.)
- (i) Challenge (אב"י): בגנבתו implies multiple thefts
- (b) Answer2 (אב"י): if he stole from different victims, may be sold twice
- ii ברייתא: if the theft is greater than his worth, he is sold twice; if less, he isn't sold at all
- 1 dissent (ר' אלעזר): he is only sold if his value is equal to the theft
- (a) Note: רבא – ר"א – "beat" the rabbis – his position is consistent, while theirs is not
- c and may be redeemed against his (?) will
- i interpretation1 (רבא): against will of master
- 1 challenge (אב"י): why should he accept a שטר for her worth and let her go, rather
- ii interpretation 2 (אב"י): against will of father - to maintain dignity of family
- 1 challenge: why not apply this rule to עבד עברי, for the same reason?
- (a) Answer: he'll resell himself and keep getting redeemed
- (i) Challenge: why not raise same concern vis-à-vis אה"ע?
1. answer: since she may not be resold, irrelevant
- iii authority: ר"ש, as per dispute with חכמים:
- 1 חכמים: he may sell/betroth his daughter twice except for שפחות after betrothal
- 2 ר"ש: he may never sell her to שפחות after being sold or betrothed
- 3 dispute follows ר"א/ר"ע re meaning of בגדו בה (unvocalized) in v. 2
- (a) ר"ע (who reads it בגדו - as per the masoretic vocalization – once he has covered his garment (בגד) over her (=marriage) he may not sell her
- (b) ר"א (who reads it בגדו – as per simplest vocalization of written form – once he has acted treacherously against her (by selling her as אמה – an act of בגידה) he may not sell her
- (c) ר"ש accepts both למקרא אם and למסורת אם
- II רבה בר אבון's question: does ייעוד generate אירוסין or נישואין?
- a Split the difference: ירושה, תומאת מת, כהן (if he's a כהן) and הפרת נדרים
- b Above דרשה ("garment") - assumption – referring to ייעוד (even after ייעוד he may still marry her off)
- i Explanation; if it means נישואין, the father has no more authority over her → must be אירוסין
- ii Rejection (רב"י): refers to general קידושין - i.e. once father has handed her over to someone responsible for her garb (בגד), he has no more authority to "sell" her.
- c Ruling: dispute (חכמים/ר"א) if he may sell her to קרובים; all agree that he may sell her אלמנה לכה"ג (and גרושה לכה"ג)
- i Question: how is she an אלמנה? – if she accepted her own קידושין, not called אלמנה (meaningless); if her father did, he may not sell her אחר אישות; and we answer – it is ייעוד מקידושי ייעוד
- 1 Note: must follow יוסי בר יהודה – ר' יוסי בר יהודה – original כסף isn't מעות קידושין (→ she wasn't "given for אישות" by father)
- 2 Also: must be אירוסין – nonetheless, how can father "sell" her after אירוסין?
- (a) Answer: her אירוסין is different from her father's (can't say about נישואין which is essentially the same)
- (b) Note: רב"י (holds that even ריב"י agrees that original כסף קידושין is כסף) attributes ברייתא to ר"א
- d Question: may the master be מיעד her to his minor son?
- i Answer: he may not, since ייעוד requires דעת (v. 3 refers to יבם at 9, whose ביאה is fit; nonetheless doesn't generate חיוב מיתה for חיוב מיתה of that relationship)
- ii Alternatively: we only require her דעת (as per v. 2 – יעדה)
- 1 Note: that is only according to ריב"י, who maintains that there is need for new קידושין
- (a) might mean: מעות ראשונות לקידושין ניתנו (even if he holds that, he may require ש"פ left due to הפדה)