

19.01.17

19a (מודו רבנן היכא דאיכא צד יעוד) → 20a (אמר רבא אמר ר' נחמן)

1. וכי ימכר איש את בתו לאמה לא תצא קצאת העבדים: שמות פרק כא פסוק ז
 2. אם רעה בעיני אדניה אשר לו יעדה והפדה לעם נכרי לא ימשל למכרה בבגדו בה: שמות כא, ח

- I Applications of the יהודה 'ר' יוסי בר יהודה (require at least ש"פ worth of work-time left at time of יעוד)
- a קידושי כסף: man may tell his minor daughter to accept נחמן ר' נחמן
- b מקודשת – if a man is מקדש with a loan to which there is collateral – נחמן ר' נחמן
- i explanation: the ש"פ (or more) that she owes him becomes the קידושין; she herself is the משכון
- c 1st ברייתא describing form of יעוד:
- i חכמים: he makes the declaration as late as the last moment – and then treats her as a wife (not as a servant)
- 1 model: delayed קידושין that are effective מעכשיו – if another gives her קידושין in the meantime, invalid
- 2 parallel: these קידושין are retroactively effective from time of original purchase
- ii ר' יוסי בר יהודה: only if there is a ש"פ's worth of work left in her term
- d 2nd ברייתא:
- i ר' יוסי בר יהודה: if after selling her, father accepts קידושין from another, the קידושין are valid
- 1 Model: delayed קידושין without "מעכשיו" – if another gives her קידושין in the meantime – valid
- ii חכמים: master may still perform יעוד
- e 3rd ברייתא – making a condition against יעוד
- i ר"מ: תנאי is valid and sale is effective without possibility of יעוד
- ii חכמים: תנאי is invalid – sale is effective and יעוד is still possible
- 1 Reason: this is a case of מתנה ע"מ שכתוב בתורה and in such a case – תנאו בטל
- 2 Challenge (to ר"מ): he generally holds that תנאו בטל – מתנה על מה שכתוב בתורה
- (a) Support: his position on קידושין conditioned on no obligation of ועונה
- (b) Answer: ר"מ sees this as an exception, as it says לאמה (v. 1)
- (i) Meaning: sometimes, the sale could be solely for servitude
- (ii) Counter (חכמים): interpret it as the license to sell her to פסולים (e.g. ממזר – where יעוד isn't possible)
1. Challenge: shouldn't that be understood via ק"ו:
- a. if: he can be מקדש her to פסולים,
- b. certainly: he should be able to sell her to פסולים
2. counter: he can be מקדש his daughter as a נערה, when he can no longer sell her to שפחות
- (c) dissent: ר' אליעזר infers פסולים from רעה (v. 2) – that her marriage to him is "sour"
- (i) And: he infers that father may sell her to קרובים from לאמה
1. Challenge: shouldn't that be understood via ק"ו:
- a. if: he can sell her to פסולים,
- b. certainly: he should be able to sell her to קרובים
2. counter: if a פסול performed יעוד, it would be valid (קידושין תופסין)
- (d) back to ר"מ: he infers פסולים from רעה and holds like חכמים in re: קרובים (may not sell her to קרובים)
- f 4th and 5th ברייתות (clash)
- i #5: he may not sell her to his father nor to his son
- 1 understood: follows רבנן – אין מוכרה לקרובים
- ii #4: he may sell her to his father, but not his son
- 1 unclear: whose opinion generates this ruling?
- (a) Answer: follows רבנן – since there's possibility of יעוד (buyer's son=seller's brother=paternal uncle)