

– אמר רב המקדיש ידי עבדו –

רב said one who sanctifies the hands of his slave

OVERVIEW

The גמרא cites a ruling of רב; if a master is מקדיש the hands of his slave, the rule is that anything which the slave accomplishes (with his hands) belongs to הקדש (and therefore appropriate steps need to be taken). תוספות first insists that the proper גירסא is עבדו (not המקדיש עבדו). תוספות then discusses the rule if one is עבדו מקדיש עבדו.

גרסינן ולא גרסינן המקדיש עבדו דהתם יצא לחירות –

The text reads המקדיש ידי עבדו; however, the text does not read המקדיש עבדו (one who sanctifies his slave), for in that case, the slave is freed -

כדאמר רב בשולח (לקמן דף לח, ב) דליהוי עם קדוש קאמר¹ –

As רב ruled in פרק השולח, that when the master states that he is עבדו מקדיש עבדו, he means that the slave should be freed and become part of the ‘holy nation’.

תוספות asks:

ואם תאמר וכי היכי דמקדיש ידי עבדו אמרינן דהן קדושים למלאכתן –

And if you will say; that just as when one is מקדיש the hands of his slave, we say that they become holy regarding their work (that the work that he does with his hands belong to הקדש) -

הכי נמי כשהקדיש כל עבדו הוה לן למימר שהקדישו למלאכתו –

Similarly we should also say, that when he is מקדיש the entire עבד, he is עבד מקדיש every aspect of the עבד for its work, this means -

פיו לדבורו ידיו למעשהו רגליו להילוכו² –

The mouth of the עבד is הקדש, regarding his speech, his hands are הקדש regarding what he does, his feet are הקדש regarding his walking³ -

¹ רב is teaching there that one should not (mistakenly) assume that when a master is מקדיש the עבד, he means to transfer the ownership of the עבד to הקדש so that the עבד receives a קדושת דמים and הקדש can either have the עבד work for הקדש or sell the עבד and keep the money, but rather the intention of the owner is to free the עבד. The master was מקדיש the עבד, therefore we presume that he meant for the עבד to become a גמור ישראל (by becoming a חורין), and thereby be part of the קדוש, עם, so the עבד will be קדוש. If however the עבד will retain a קדושת דמים, then the עבד will be forbidden (perhaps) from deriving benefit from his own body.

² This would seemingly mean that any action the עבד does, becomes הקדש and no one (except for הקדש) is permitted to derive any benefit from it. [If the עבד teaches, the payment should go to הקדש; if he travels as a messenger, the fee should go to הקדש, etc.]

דבענין זה חשיב הקדש כדאמרינן בסוף פרק קמא דנדרים⁴ (דף יג,ב) –

For being מקדיש in such a manner is considered a valid הקדש as the גמרא states in the end of the first פרק of נדרים.

answers: תוספות

– ואומר רבינו יצחק דסברא הוא דלא נתכוין להקדישו למלאכתו –

And the ר"י answers that it is logical to assume that the master had no intention to be מקדיש the עבד for his work (that all his work should be הקדש) -

– לפי שיש חילוק במלאכתו שאין פיו ידיו ורגליו שוין במלאכתן –

Since there is a difference in his work; for his mouth, his hands and his feet are not equal in their work (they all do different types of work) -

– הלכך אית לן למימר דלשחררו נתכוין דהוי הכל בענין אחד⁵ –

Therefore we rather assume that he intended to free him (when he was מקדיש the עבד) **for then it is all in one context** (the entire עבד is equally freed).

offers a different distinction between המקדיש ידי עבדו (where his מעשה ידי become הקדש) and המקדיש עבדו (where the עבד is freed): תוספות

– אי נמי יש לומר התם כשמקדיש עבדו שתם משמע יותר למיהוי עם קדוש –

Or you may also say; there when he is מקדיש his slave generally without being specific what he is מקדיש, **it is more indicative that** the master meant that the slave **become an קדוש** (by being freed) -

– דהא למלאכתו לא קאמר –

For the master did not mention that he is מקדיש him for his work -

אבל מקדיש ידי עבדו הקדיש מלאכת ידיו דלא שייך למימר בענין אחר⁶:

However when he is מקדיש the hands of his slave (even though here too

³ This would seemingly be a better interpretation of his הקדש; the actions of the עבד are הקדש, as opposed to saying that the עבד is freed, which is seemingly not what he said (and meant) when he was מקדיש the עבד. This would also remove the difficulty we encountered if we say that the עבד retains a קדושת דמים (mentioned in footnote # 1), for here the הקדש will merely affect his actions See [however] אמ"ה # 75.

⁴ The גמרא there states that even though one cannot make a נדר to prohibit someone to derive benefit from his speech (since it is considered a ממש בו ממש), nevertheless he can say that my mouth should be forbidden to you (for the mouth is a ממש בו ממש), thereby forbidding that person from deriving benefit from his speech (which emanates from his mouth). Similarly here too since he is being מקדיש the עבד, it should have the effect that whatever the עבד does should be הקדש and אסור for everyone except הקדש.

⁵ The master stated that he is מקדיש the עבד; indicating one (and the same) קדושה for the entire עבד, including all his parts. This occurs if the עבד is freed. However, if the various parts of the עבד become קדוש for the different actions they produce, then it becomes a multi-faceted הקדש as opposed to a single הקדש.

⁶ One cannot be מקדיש only the hands of an עבד (and one cannot free only the hands of an עבד), therefore since it cannot mean anything else we assume that he was מקדיש מעשה ידי for his work. See 'Thinking it over'.

the master did not mention work, nevertheless), the master was certainly **מקדיש his handiwork, for it cannot mean anything else!**

SUMMARY

If one is מקדיש עבדו he becomes free and joins the עם קדוש; he does not become הקדש regarding his various actions, since the owner made only one general statement of הקדש and (in addition) he did not mention that he is מקדיש him for his work.

THINKING IT OVER

second answer is that by מקדיש ידי עבדו, it cannot mean actual הקדש (for one cannot be מקדיש part of the ⁷עבד). However we know there is a rule of פשטה קידושי בכללה, that if one is מקדיש part of an animal, the קדושה spreads to the entire animal; let us say here as well that if he was מקדיש the ידים, they become actually הקדש and the קדושה spreads throughout the entire עבד, that he becomes completely הקדש!⁸

⁷ See footnote # 6.

⁸ See אמ"ה # 77-79.