

Therefore ר"י must maintains that it is effective not on account of an enactment, but rather it is justified lawfully⁴ –

questions his assumption:

ולא בעי למימר דלענין ברירה דוקא קאמרי דבר אחד דתרווייהו לית להו ברירה⁵ -

But ר"ד did not want to say that the צנועין and ר"ד say the same thing only regarding ברירה, namely that both of them do not maintain ברירה, but not that the צנועין is effective מעיקר הדין, rather it is only⁶ מחמת התקנה והפקר –

rejects this approach:

שהרי דבר אחד משמע ממש דבר אחד -

For when ר"י states דבר אחד, this indicates it is actually the same thing regarding all matters, including that ר"ד agrees with the צנועין.

asks:

וקשה דבפרק העור והרוטב (חולין דף קכד,ב) אמר רבי יוחנן -

And there is a difficulty, for ר"י states in פרק העור והרוטב -

רבי ישמעאל ורבי דוסא בן הרכינס אמרו דבר אחד דלאו ממש דבר אחד -

‘and ר"י said the same thing’, however there it is not actually the same thing -

דבמגע דוקא אמרו דבר אחד אבל במשא פליגי -

For it is only regarding ‘touching’ that they say the same thing, but they argue regarding ‘carrying’. cites the relevant sources -

דהתם⁷ תנן שני חצאי זיתים מטמאים במשא ולא במגע דברי רבי ישמעאל -

For the משנה taught there, ‘two half-זיתים of meat are מטמא when you carry them, but not by touching them, this is the opinion of ר"י -

ובהיה דרבי דוסא תנן במסכת אהלות⁸ בפרק ג' (משנה א) כל המטמאין באהל⁹ שנחלקו -

And in that ruling of ר"ד, the משנה taught in פרק ג' מסכת אהלות, ‘all that cause

in that case there is no difference between עניים and גנבים. See ‘Thinking it over’.

⁴ חילול seems to be saying that the חידוש of ר"י is (not merely that ר"ד agrees with the צנועין, but rather) that the חילול is effective מעיקר הדין, and not only מחמת התקנה והפקר.

⁵ How does ר"י know that ר"י maintains that it is מעיקר הדין and ר"ד agrees with the צנועין, maybe all ר"י meant to say is that both ר"ד and the צנועין maintain ברירה אין.

⁶ Therefore ר"ד would still disagree with the צנועין.

⁷ משנה א, קכד, א. The case there is regarding the hide of a נבילה on which there are two pieces of meat, each the size of a זית. If a person touched the meat he is not מטמא since each piece which he touched is less than a זית and cannot be מטמא. However if he carried the hide with the two חצאי זיתים he is מטמא since he carried a כזית of נבילה.

⁸ The beginning of this משנה is also cited there in חולין.

⁹ This means for instance a כזית from a corpse.

10 - in a tent, which were divided

והכניסו לבית רבי דוסא בן הרכינס מטהר וחכמים מטמאין -

And he brought it into a house, רדב"ה is מטהר the content of the house, and the

חכמים are מטמא; the משנה continues to expound on this מחלוקת -

כיצד הנוגע בשני חצאי זיתים מן הנבילה או נושאן כולי -

How is this so; whoever touched the two חצאי זיתים or carried them, etc.' he is טהור

according to רדב"ה (and טמא according to the רבנן) -

משמע דרבי דוסא בן הרכינס מטהר במגע ובמשא -

This indicates that רדב"ה is מטהר by both מגע and משא, which is in conflict with ר"י

who is מטמא במגע but is מטמא במשא, so how can ר' יוחנן state אחד אחד אמרו דבר אחד ר' ישמעאל ורדב"ה, since they are not in complete agreement?!

answers: תוספות

ויש לומר כיון דבמגע אמרו דבר אחד אין חושש אף על גב דלא שוו במשא¹¹ -

And one can say; since regarding 'touching' they agree, we are not concerned that they are not in agreement regarding 'carrying' -

offers an alternate explanation: תוספות

ועוד אומר רבינו יצחק דלגמרי מצית למימר דסבר רבי דוסא כרבי ישמעאל -

And additionally, says the ר"י that it is possible to say that ר"ד agrees completely

with ר"י even regarding משא -

והא דלרבי ישמעאל מצטרפים היינו במרודד¹² ורבי דוסא איירי במפוזר לגמרי -

And this which ר"י maintains that the two חצאי זיתים are combined to be מטמא that

it in a case where the two חצאי זיתים are somewhat attached, however ר"ד is

discussing a case where the two חצאי זיתים are completely separate therefore he is

- מטהר

דלגבי משא בעי נושא והוא דנישא שיהא מחובר יחד¹³ כדקאמר עולא בהיהא שמעתא -

For regarding 'carrying', we require a carrier provided that the object being carried should be attached together, as עולא stated in that סוגיא -

¹⁰ Now each piece is less than a כזית.

¹¹ In our case if ר"ד does not agree with the צנועין, and since their only agreement is ברירה (which they do not mention at all), we cannot consider it to be אחד דבר אחד, since they do not agree in their explicit rulings (the צנועין maintain that there is a תקנה for גנבים, while ר"ד maintains there is a תקנה for עניים (only) [The צנועין never ruled explicitly that there is a תקנה for עניים]). However by the case of טומאה, since they both explicitly agree that there is no אחד דבר אחד for two חצאי זיתים, it can be considered as אחד דבר אחד..

¹² There is a thin strip which combined the two חצאי זיתים.

¹³ The (read והנושא, the one who is carrying) והנשא את נבלתה וגו' וטמא וגו' (ויקרא [שמיני] יא, מ) in פסוק (The word והנשא (read והנושא, the one who is carrying) is written without a 'י' allowing us to read it והנישא (and that which is carried). עולא interprets this to mean that the item carried has to be attached to combine them for a כזית.

ואוקי עולא כרבי דוסא¹⁴ ולא כרבנן¹⁵ דבלאו הכי פליגי בה תנאי בדעולא¹⁶ -

And we will establish עולא like ר"ד, but not like the רבנן, for disregarding this issue there is a dispute of תנאים regarding this ruling of עולא -

ומה¹⁷ שיכול לתרץ אליביה מתרץ -

And whatever we can justify according to עולא we will establish it so -

Another option:

אי נמי עולא מוקי פלוגתייהו במרודד ואתי כרבנן¹⁸ ולית ליה דאמרו דבר אחד:

Or you may also say, עולא will establish the dispute between ר"ד וחכמים in a case of מרודד (attached), and עולא agrees with the רבנן, and עולא does not agree with ר"י that ר"ד ור"י said the same ruling.

Summary

ר' יוחנן is teaching that legally one can be פודה or מפקיר something which is not in his possession. אחד can apply even if they argue as long as in one case they explicitly agree.

Thinking it over

How can we reconcile that on one hand ר' יוחנן maintains הבעלים גזל ולא נתייאשו הבעלים owners cannot be מקדיש since it is not ברשותו, and here we say according to ר"י that the owners can be מחלל ומפקיר even though it is not ברשותם?¹⁹

¹⁴ Therefore ר"ד maintains if the two pieces are not attached they are not מטמא as עולא rules, and if they are attached they will be מטמא just like ר' ישמעאל במשא.

¹⁵ The רבנן are מטמא by חצאי זיתים. They do not agree with עולא and they are מטמא במשא whether they are attached or not.

¹⁶ A marginal note adds here; ועולא ס"ל כר"א. Perhaps תוספות is explaining that one should not wonder why עולא follows ר"ד and not the רבנן, therefore תוספות adds that there is also there in חולין a dispute between ר"א and ר"ד, therefore there is no difficulty in saying that he also follows ר"ד, who argues with the רבנן.

¹⁷ The גמרא there in חולין challenges עולא from the ruling of ר' ישמעאל and ר"ע, and provides an answer. Seemingly what is the question, since עולא rules like ר"ד against the רבנן (see footnote # 16), we can understand that he rules like ר"ד against ר"י, so why ask and answer, תוספות responds we like to minimize the contradiction as much as possible.

¹⁸ This seems more likely for why should עולא rule like ר"ד against the רבנן (majority)?

¹⁹ See footnote # 3.