

13.8.11

82b (תנן ואנדרוניוס) → 84a (סוף הפרק)

.1. וְאֵת זָכָר לֹא תִשָּׁכַב מִשְׁכְּבֵי אִשָּׁה תוֹעֵבָה הוּא: וַיִּקְרָא פֶּרֶק יוֹחַ פְּסוּק כַּב

- I Continued discussion re: ר"ל's position on אנדרוניוס (ספק איש) – cannot generate (אכילת חזה ושוק)
- a Challenge: Our משנה – נושא → fully male (sounds like an *ab initio* ruling)
  - b Answer: the meaning is *post facto*
  - c Support: 2<sup>nd</sup> clause – בדיעבד לא נושא
  - d Rejection: נושא always implies לתחילה
  - e Challenge: סיפא has ר"א finding one fully liable for זכור → ת"ק is in doubt as to his(?) status
  - f Block: both ר"א and ת"ק agree that he is judged a male; their dispute:
    - i ת"ק חייב in either male or female entry
    - ii ר"א: only חייב for male entry (anus)
- II assessing ר"י's real position
- a רב reject משנה (considered male) in favor of ברייתא ר' יוסי: אנדרוניוס is a unique creature, not M or F
    - i challenge: why not reject ברייתא for משנה?
    - ii Answer: since ר' abandoned his colleague (ר' שמעון) → ברייתא is later and more conclusive
  - b שמואל: reject ברייתא in favor of משנה (even though he is usually concerned about isolated opinion, that's only when a משנה isn't uprooted as a result)
  - c ר' יוסי follows הלכה: בי רב
    - i משנה (שמואל): follow (ברייתא) אנדרוניוס (as per ברייתא)
    - ii Grafting: graft needs 2 weeks to "take"; must be done 44 days before ר"ה of שמיטה (שמואל: 33 days)
  - d ר' יוסי follows הלכה: בי שמואל
    - i קישוי – how long before birth can we ascribe bleeding to birth-blood (דם לידה – טהור), before which it will be deemed זיבה ר' יוסי rules that it can be no more than 2 weeks before birth (רב: unclear)
    - ii קידוש (כלאים): if one person draws his grape arbor over another's wheat field, it isn't מקדש since you can't forbid that which isn't in your purview (ר' יוסי rejects רב) (אין אדם אוסר דבר שאינו שלו)
- III Reassessing ר"י's approach to a יהודה (סריס) (טומטום) (automatically)
- a Challenge: how will he deal with טומטום that sired 7 children?
  - b Answer: he would challenge the paternity
  - c Dissent: ר' יוסי בר יהודה doesn't perform חליצה; might be female, and even if male, **might** be סריס
  - d Split the difference: (between ר' יוסי בר יהודה and his father)
    - i Case1: if there are other brothers – לר' יהודה, חליצה's טומטום is meaningless and doesn't affect her relationship with the other brothers; ר"י sees him as ספק and his חליצה will invalidate her לאחים
    - ii Case2: if there are no other brothers – לר' יהודה, she is exempt
- IV Final clause – ר"ל's ruling re: אנדרוניוס with an משכב זכור
- a רב ruled against ר"א, following ר"י's interpretation of v. 1 – חייב for either type of intercourse
  - b opposing position (ר' אליעזר): את זכר → only liable in that manner
  - c difficulty: need for source for normal משכב זכור
  - d solution: אשה
  - e difficulty: need for source that ביאה=ביאה שלא כדרכה for all ענשין
  - f solution: אשה...ו
- V Observation about ר"א's approach to אנדרוניוס
- a He doesn't consider him a full male, as evidenced by his approach to hermaphrodite animals vis-à-vis הקדש (doesn't take except in re: עופות where gender isn't specified)