

17.06.01

31a (משניות א-ד) → 32a (סיום הפרק)

1. וְשָׁכַב אִישׁ אֶת־הַשְּׂכֵמָה וְזָרַע וְנִעְלַם מֵעֵינֵי אִשְׁתּוֹ וְנִסְתָּרָה וְהָיָא נִטְמָאָה וְעַד אֵין בָּהּ וְהוּא לֹא נִתְפָּשָׁה: בַּמְדָּבָר ה, יג  
 2. כִּי יִקַּח אִישׁ אִשָּׁה וּבָעֵלָהּ וְהָיָה אִם לֹא תִמְצָא חֵן בְּעֵינָיו כִּי מִצָּא בָּהּ עֲרוּת דְּבָר וְכָתַב לָהּ סֵפֶר כְּרִיתוּת וְנָתַן בְּיָדָהּ וְשָׁלְחָהּ מִבֵּיתוֹ: דְּבָרִים כד, א  
 3. לֹא יִקּוּם עַד אֶחָד בְּאִישׁ לְכָל עוֹן וּלְכָל חַטָּאת בְּכָל חַטָּא אֲשֶׁר יִחְטָא עַל פִּי שְׁנֵי עֵדִים אוֹ עַל פִּי שְׁלֹשָׁה עֵדִים יִקּוּם דְּבָר: דְּבָרִים יט, טו

- I 'א משנה: if someone issued קינוי and there were עדי סתירה and then he got trustworthy information – but without an עד – to her infidelity
- a result: immediate divorce without כתובה
- i reason: he cannot give her to drink, since he already knows that she is guilty
- b parameters: "א"ר – even if he heard from "the birds"
- c dissent: "ר" יהושע – has to be a "bona fide rumor"
- II 'ב משנה: any single witness to the infidelity invalidates the process and disallows her from drinking
- a even a slave is valid for this testimony
- b even the 5 women (mother-in-law, sister-in-law, co-wife, co-יבמה and husband's daughter) who are not believed to testify to the husband's death are believed here
- i however: she is not deprived of her כתובה if one of these 5 is the witness
- III 'ג משנה: reasoning that would have inverted the number of עדים required for סתירה or טומאה
- a if סתירה, which doesn't ban her forever, requires 2 – ק"ו that טומאה should require 2
- i trumped by text: עד אין בה (v. 1)
- b if טומאה, which does ban her forever, requires only 1 – ק"ו that סתירה shouldn't require 2
- i trumped by text: דבר::דבר (vv. 2-3)
- ii challenge: 2 עדים for סתירה is inferred from v. 1 – בה (that only טומאה can rely on 1)
- iii rather: דבר::דבר is used for טומאה בעלמא (a non-סוטה case) that 2 witnesses are always required
- IV 'ד משנה: contradictory testimony about טומאה (once קינוי וסתירה have already been established)
- a 1 vs. 1 – process continues
- i challenge: once we believe 1 witness (as per v. 1), following עולא's dictum that wherever the תורה grants credibility to one, it is considered as two – why does the second witness' contradiction count?
- 1 Explanation: it should be considered like 2 vs. 1
- 2 Answer: some read the ruling here as "the process stops" (לא היתה שותה)
- 3 Answer2 (ר"י חייא, who maintains our reading): if the witnesses came simultaneously, they cancel each other out
- (a) However: if the accusing witness came first, the single opposing witness isn't heard
- (b) Challenge: from case [c] implies that 1 vs. 1 would stop the process (לא היתה שותה)
- (c) Retort: case [d] implies the opposite, that 1 vs. 1 would allow the process to continue (היתה שותה)
- (d) Rather: the entire case deals with פסולי עדות as per נחמיה ר':
- (i) Rule: anytime the תורה allowed פסולי עדות, we simply follow the testimony of the majority
1. Therefore: 2 women against 1 man are parallel to 2 men against 1 man
- (ii) Alternate version: if the 1<sup>st</sup> witness was כשר, later invalid witnesses are like 1 (don't cancel his עדות)
- (iii) However: in our case, the first witness was (e.g.) a woman
1. in that case: נחמיה ר' rule is that 2 woman against 1 woman::2 men against 1 man
- 4 note: the reason that we needed both cases [c] and [d] in re: פסולי עדות → we even follow this rule לקולא
- b 1 invalid witness vs. 1 invalid witness – process continues
- c 1 says she is guilty and 2 testify to her innocence - process continues
- d 1 says she is innocent and 2 testify to her guilt – process is stopped (divorced without כתובה)