

23.1.6

8a (ואין אדם קרוב אצל ממונו) → 10a (תשלומי כפל)

1. על פי שנים עדים או שלשה עדים יומת המות לא יומת על פי עד אחד: דברים יז, ו  
 2. לא תשא שמע שוא אל תשׁת ידך עם רשע להית עד חמס: שמות כג, א

- I Analysis of next clause in משנה – כפל – משנה etc.
- a Question sent to דנב"י are 3 מומחים needed for קנסות
- i Answer: from משנה, which requires 3 – must be מומחים (no number of הדיוטות can adjudicate קנסות)
- II Analysis of final clause in 'א: dispute between ר'מ/חכמים about 3/23 for רע (issue is opinion of חכמים – 23)
- a עולא: dispute is whether we are concerned that the word will get out and draw in זנות רעה
- b רבה: all agree that we have no such concern;
- i 23 originally gathered for דיני נפשות, when husband couldn't produce עדים, they separated and then he asked the remaining 3 to adjudicate the דיני ממונות; dispute is whether we are concerned about כבוד הראשונים
- ii Challenge: בריתא rules that if he came for ד"מ – 3; if for ד"נ – 23 (works for רבה – not for עולא)
- c רבא – husband brought עדי זונה, father brought רבא
- i If: he's coming to collect money from husband – 3
- ii But if: he's coming to convict זונה – 23
- d אביי: all agree that we are חושש ללעז and for the כבוד הראשונים
- i התראה: the עדים gave (or heard) a general התראה with exact מיתה specified
- e ר' פפא: case where the woman was a חכמה (חברה)
- i And: follows dispute רבנן/יהודה/רבנן if ר' יוסי בר יהודה requires חבר
- f ר' אשי: case where they gave התראה (to her) for מלקות, but not for מיתה
- i Follows: dispute רבנן/שמעאל/רבנן (in our משנה)
- g רבנא: case where one of the (more than 2) עדים was found to be פסול או פסול
- i Follows: dispute ר' יוסי/רבי within opinion of ר"ע in re: v. 1 – 3<sup>rd</sup> (and further) עדים are like first two – if one is found to be פסול או פסול, entire עדות is invalidated
- 1 ר' יוסי: limits this to דיני נפשות; in דיני ממונות, the עדות is valid through other valid witnesses
- 2 רבי: applies to both – but only if this פסול או פסול gave התראה; if he was just present, doesn't invalidate group
- h Alternative answer1: case where others (besides עדים) gave התראה
- i Follows: dispute רבנן/יוסי/רבנן ר' יוסי requires that the עדים themselves are the מתרים, as per v. 1)
- i Alternative answer2: case where עדי זנות were found to be inconsistent in בדיקות, (but not חקירות)
- i Follows: dispute רבנן/ריב"ז/רבנן (ריב"ז checked out every tangential detail with עדים)
- III Rulings of רב יוסף and רבא re: testimony
- a רב יוסף: if the husband brings עדי זנות and the father brings מזימים – the עדי זנות are killed but don't pay
- i But: if the husband then brought מזימי מזימים – the original מזימים are killed and pay
- 1 Reason: they owe the money to the husband and their lives to the עדים
- b רב יוסף: if someone testifies that פ' raped him, he and another can join to form proper עדות
- i But: if he testifies that he consented, we reject his testimony entirely as per v. 2 – he is, by his own admission, רשע
- ii Dissent: רבא – we reject his statement about his own consent (אין אדם משים עצמו רשע) and accept the other part
- c רבא: if a man testifies to פ' adultery with his own wife – he can join another to form עדות against him (but not her)
- i Challenge: this is the same as רבא's ruling above (פליגין דיבורא)
- 1 Answer: we may have thought that אדם קרוב אצל עצמו רשע → א"א משים עצמו רשע doesn't extend to his wife – קמ"ל –
- d רבא: if עדים testify that someone had ביאה with נערה המאורסה and they are מוזם – they are killed, but no financial debt
- i But: if they identify a specific alleged victim – they die and must pay (different victims)
- e רבא: if עדים testify that someone committed bestiality and are מוזם – they die but don't pay
- i But: if they identify a specific alleged animal – they die and must pay (different victims)
- ii Question: isn't this case the same as the one before?
- 1 Answer: it was taught because they wanted to ask the question about it:
- 2 Question: what if he testifies that someone committed bestiality with his own animal (which he would lose)
- (a) Explication: do we apply אדם קרוב אצל עצמו רשע to his possessions and invalidate his testimony?
- (b) Ruling: we do not apply the rule and אדם קרוב אצל ממונו