

## 32.5.1

19a (משנה א) → 20b (ואומדנא גילוי מילתא בעלמא הוא)

1. ותעגבה על פלגשיהם אשר בשר חמורים בשרם וזרמת סוסים וזרמתם: יחזקאל כג, כ  
 2. והיה לך לאות על ידך ולזכרון בין עיניך למען תהיה תורת ה' בפיך כי ביד חזקה הוצאך ה' ממצרים: שמות יג, ט  
 3. ונגשה יבמתו אליו לעיני הזקנים וחלצה נעלו מעל רגלו וירקה בפניו וענתה ואמרה ככה יעשה לאיש אשר לא יבנה את בית אחיו: דברים כה, ט  
 4. דבר אל בני ישראל ואמרת אליהם איש כי יפלא נדר בערך נפשת לה': ויקרא כז, ב

- I א משנה: Donation of weight in silver or gold
- a If someone commits to "משקלי עלי", they pay in either silver or gold, as per their explication
- i Note: only if they explicated; if not, they may use any material (even tar) if it is locally weighed (at least by some)
- 1 Even if: after weighing it, they throw a few more pieces in – still considered "weighed"
- b Story: wealthy woman committed to bring her daughter's weight and brought gold
- i Point: if the person is wealthy, they pay in gold even if they didn't explicate
- c Committing a limb: if he commits to משקל ידי
- i ד' יהודה fill barrel with water, put his hand in until the elbow, the refill with donkey bone, flesh and sinews
- ii ד' יוסי impossible to correspond exactly – rather, estimate weight and give based on estimate
- 1 clarifying dispute: (added – if he commits to weight of leg, uses same barrel displacement – until knee)
- 2 Allusion(יהודה): v. 1 (donkey meat/bones weigh approximately same as humans)
- (a) (ברייתא) ר' יוסי cannot measure sinews to sinews etc. with any exactitude
- (i) ד' יהודה we estimate
- (ii) ד' יוסי if so, just estimate the weight of the hand (or leg etc.)
- (iii) ד' יהודה we accomplish as much as we can
- 3 Challenge (to measuring "hand" until elbow): קידוש ידים ורגלים is until wrist
- (a) Answer: מה"ת – יד – is until wrist; for נדרים (our case) – we follow colloquial use (includes forearm)
- (b) Challenge: מה"ת – יד – is until shoulder (per v. 2)
- (i) Answer: מה"ת – יד – is until shoulder; for נדרים, follow אדם בני אדם and קידוש יר"ר is הלמ"מ
- 4 Challenge (to measuring "leg" until knee): רגלים (עלייה לרגל) – excludes בעלי קבין (amputees at ankle)
- (a) Answer: מה"ת – רגל – is until ankle; for נדרים, we follow אדם בני אדם
- (b) Challenge: מה"ת – רגל – is higher, per allowance for חליצה to be until knee (v. 3)
- (i) Answer: מה"ת – רגל – is until ankle (and נדרים – follow אדם בני אדם); חליצה has dispensation of מעל רגלו
- (ii) Challenge: if so, even higher than knee should be valid
1. Defense: מעל רגלו doesn't extend more than one joint (else – it would be מעל רגלו)
2. Observaiton (ר"פ): ankle must reach the ground; else until knee would already be מעל רגלו
3. Block (ר' אשי): if there is no interruption, all considered one (even though ankle doesn't reach)
- II דרב יהודה's dictum – if he says קומתי עלי, we take a narrow stick to his height; if he says מלא קומתי עלי – we take one that is thick enough as not to bend (→his height plus some depth)
- a Challenge (ברייתא): in either case, we use a thicker (non-bending) stick (and measure gold/silver to that height)
- i Defense: רב יהודה was following ר"ע's approach of reading significance into every word (per דב: דב)
- b Questions (all unresolved): if he said עומדי or רוחבי or ישיבתי or עובי – how is it measured?
- III משנה ב: if he commits to the value of his hand, we estimate the difference between his worth with vs. without hand
- a Note: this is a stringency of נדרים vs. ערכין (in ערכין, if he commits to the value of his hand, owes nothing)
- b Assessment:
- i דבא as we assess for damages (how much he has lost value on slave market)
- 1 Challenge (אב"י): נזקין, he is "damaged"; here, he must be assessed at present as against if he were damaged
- ii Rather (אב"י): we assess how much someone would pay for an עבד who works with one hand as opposed to two
- 1 Challenge: in either case, we are assessing a one-handed vs. two-handed slave
- 2 Rather: we assess as if the other hand were already committed to another master

- iii *Question (דנא)*: if he was already assessed for נזקין, then he said דמי ידי עלי - can we use that שומא for this חיוב?
- 1 *Lemma1*: he was already assessed OR
  - 2 *Lemma2*: we can't compare an assessment done by 3 (נזקין) with that done by 10 (דמים)?
    - (a) *If*: we accept that the two aren't comparable and he requires a new אומדנא, what if he said דמי ידי עלי and was assessed – then recommitted to that same hand – does he require a new אומדנא?
    - (b) *Lemma1*: in this case, he was already assessed by 10 OR
    - (c) *Lemma2*: he may have appreciated in the intervening time
      - (i) *If*: we follow the notion that he may have appreciated – what if he committed to דמי ידי עלי and before being assessed, he recommitted to that same יד – would he need two assessments?
      - (ii) *Lemma1*: since he committed at one "time", one assessment is enough OR
      - (iii) *Lemma2*: since his commitments were not בבת אחת, requires separate אומדנא
        1. *If*: we accept the approach that he requires separate אומדנא for each commitment, what if he said שני דמי ידי עלי –
        2. *Lemma1*: this commitment is certainly אחת OR
        3. *Lemma2*: since he said שני, as if two separate commitments
          - a. *If*: we follow the notion that שני implies separate commitments,
          - b. *Then*: what if he had been assessed inadvertently, would we accept it?
          - c. *Lemma1*: he was assessed OR
          - d. *Lemma2*: assessment requires כוונה לאומד
  - 3 *Resolution*: perhaps one of these can be resolved from next part of משנה ב – if he said דמי עלי and died, heirs do not pay, as a מת has no דמים
    - (a) *But*: if auto-assessment counts, certainly everyone is worth at least 4 זוז
    - (b) *Block*: דמי עלי doesn't assume אומדנא; if he was already assessed, then he was, indeed, assessed
- IV משנה ב: ...and stringency of ערכין over דמים -
- a *If*: he said דמי עלי and died, heirs pay full ערך; but if he said דמי עלי and died – heirs owe nothing (דמים למתים)
    - i ערכין (אין אדם מוציא דבריו לבטלה) ר"מ ר"מ: stringency of נדרין – apply to animals as well and there is no allowance for השג יד, unlike ערכין
      - 1 *And*: stringency of ערכין – per our rule (ערכי עלי ומת)
        - (a) *Inference (from ומת עלי)*: an oral debt is collected from heirs
        - (b) *Block*: in this case, it is a commitment written in the תורה
          - (i) *Inference*: ככתובה בשטר is מלוה הכתובה בתורה
          - (ii) *Block*: in this case, he was already עומד בדין (and it was written by ב"ד)
          - (iii) *And*: parallel in case of דמים – required אומדנא (and he died first) no אומדנא needed for ערכין
    - b *If*: he said ערך רגלי or ערך ידי or ערך ראשי – pays nothing; but ערך כבידי or ערך רגלי – pays full
      - i זב: if he said ערך ידי – must pay the דמים of his hand (or leg) - per ר"מ ר"מ (אין אדם מוציא דבריו לבטלה)
        - 1 *Challenge*: ערך כלי זה עלי, in re: ר"מ already expressed ruling like רב
        - 2 *Justification*: in that case, he certainly knew that there is no ערך לכלי and intended דמים
          - (a) *But*: in our case, he may have erred – if there is an ערך for ראש, might also be for hand → קמ"ל
      - ii *Rule*: if he commits to ערך of a vital organ, pays full amount (per "נפשות" [v. 4])
        - 1 *Note*: additional mention of rule – to extend to a leg above the knee (cf. יבמות טז:ד)
- V משנה ג: if he commits to half of his ערך – pays ½ total amount; if he commits to ערך of his half – pays full;
- a *ברייתא*: must pay full, as precaution against "ערך חציי עלי" which pays full
  - b *And if*: he commits to half of his דמים – pays ½ value; if he commits to דמים of his half – pays full (v. 4 – נדר בערך נפשות)
    - i *Rule*: if he commits to ערך or דמים of a vital organ, pays full amount
    - ii *ברייתא*: if he commits to כלי ערך כלי – חצי ערך כלי – ר"מ says he pays ½ דמי כלי רבנן, דמי כלי רבנן exempt him completely
      - 1 *Story*: students and אב"י came to visit רבא (who was ill); students challenged חכמים here – if they hold אדם מוציא (אין אדם מוציא דבריו לבטלה) ר"מ but also like ר"ש and exempt him because לא התנדבר כדרך המתנדבים (כלי כלי)
      - (a) *Answer (אב"י ורבא)*: they agree with ר"מ (אין אדם מוציא דבריו לבטלה) ר"מ but also like ר"ש and exempt him because
- VI משנה ד: if Y commits to ערך of X and both Y and X die – heirs of Y pay
- a *However*: if Y commits to דמי X; if Y dies, his heirs pay full; if X dies, Y owes nothing, as no דמים למתים
  - b *Challenge*: how is this different from משנה ב, which we already established as a case of עמד בדין
  - c *Answer*: needed for סיפא – if he committed to דמי פלוני and נודר died, heirs still pay
    - i *Even though*: דמי פלוני hadn't been assessed, שעבוד is immediate and אומדנא just clarifies obligation (גלוי מילתא בעלמא)