

But there are witnesses overseas – והא איכא עדים במדינת הים –

OVERVIEW

ruled that the daughters of שמואל are מותרות לכהונה (for they have a עדים who know that they were שבויות). challenged this ruling and asked 'but there are עדים' (which the גמרא initially assumed to mean that there are עדים that they were captured). will discuss the meaning of 'that there are עדים'; is it a known fact, or merely a concern, etc.

- 'והא איכא עדים במדינת הים' comments that the phrase

אין לפרש דלמא איכא עדים במדינת הים¹ דאם כן תיקשי ליה נמי אמתניתין -
Cannot be interpreted to mean that **perhaps there are witnesses overseas** who know that they were שבויות (even though we are not at all aware that there may be עדים במדה"י); **for if that would be** the interpretation and the concern of ר' שמן בר אבא, **then he should have the same difficulty with our משנה -**

דקתני נשביתי וטהורה אני נאמנת ואמאי דלמא איכא עדים² -
For the משנה states that if she claims **נשביתי וטהורה אני**, **she is believed;** **why** should she be believed (and permitted to marry a כהן) **perhaps there are עדים** who know that she was a שבויה?³

offers his interpretation of 'והא איכא עדים במדה"י':

אלא הכי פירושה הא יצא קול דאיכא עדים במדינת הים שיודעים שנשבית⁴ -
But rather this is the explanation; 'for a rumor has gone out that there are עדים במדה"י who know that she was captured'.

asks a question:

ומיהו קשה לרבי שמשון בן אברהם -
The רשב"א however has a difficulty -

¹ On account of this concern they should not be permitted to marry. For if there are עדים that they were שבויות; they no longer have the שאסר. It is reasonable to assume that there may be עדים; since we know that she is a שבויה (according to her own admittance), it is (very) likely that people are aware of it. See 'Thinking it over' # 1.

² According to the לפרש אין this concern has no real basis, and it should apply therefore in all instances.

³ The fact the תוספות rejects the 'אין לפרש' indicates that (according to תוספות) we are not concerned about all types of possibilities, unless there is a basis.

⁴ knew of this קול, therefore he was concerned. The משנה however is discussing a case where there is no such rumor; therefore she is מותרת לכהן. See 'Thinking it over' # 5.

דהיכי סלקא דעתיה השתא דעדים היינו עדי שבויה -

For how did it enter the mind of the גמרא **now** to assume that the term **עדים** **refers to עדי שבויה** (that they are [merely] aware that they were captured, but they are not טומאה) -

דאם כן מה הוה צריך למימר הא איכא עדים במדינת הים -

For if that is so (that the concern is that there may be עדי שבויה) then **why** **was it necessary to say; 'but there are עדים במדה"י'** (which is merely a maybe, based on a קול), when רב שמן בר אבא -

הוה ליה למימר הא איכא עדים קמן דהא איכא שבויינהו:

could have asked, there are עדים before us; for their captors are present!

The captors are telling us that they were definitely שבויים.⁵ There is no need to mention a concern that perhaps there are עדים במדה"י! תוספות does not answer this question.⁶

SUMMARY

If there is no reasonable basis, we are not concerned that there may be עדים (to nullify the פה שאסר). It is not clear why the potential עדים במדה"י should negate the פה שאסר any more than the שבאים that are present before us.

THINKING IT OVER

1. According to the 'אין לפרש' how can we generally rule on any issue;⁷ there is always a concern perhaps there are עדים that will support the other view?!

2. Is there any reason why we would have preferred the אין לפרש over תוספות explanation?

3. Is there any connection between the קשיא of the רשב"א, and that which was discussed previously in this תוספות?

⁵ See 'Thinking it over # 4.

⁶ See (in the margin) who answers this question stating: ויש לומר דמחמת השבאים לא איתסרו דהא אינהו אתי בתר דשרינהו אבל הכא מחמת שבא הקול מקמי שריותא דידהו איכא למסרינהו והכי פירושא טעמא דלא אתו עדים הא אתו עדים מיתסרו כיון שנתגלה [שאמת] היה הקול שיש עדים [והקול הרי היה] מלפני ההיתר (free translation): that on account of the captors, they will not be אסורות, since the captors came after they were already לינשא. התירוה. However the concern here is on account of the קול which preceded the התירוה, therefore they should be prohibited. And this is how the גמרא should be understood; the reason they are permitted is because no עדים actually came, however if the עדים came (now) they would be אסורות on account that the קול that there are עדים, was known before the היתר. See also ח"ב אות שלו.

⁷ See footnote # 1.

4. What does the רשב"א mean that 'the captors are present'?⁸ Presumably no one knew that they were captives (otherwise there is no הפה שאסר). It cannot mean that the captors will testify that בנתיב דשמואל were captives, for they are עכו"ם and their testimony is worthless!⁹

5. תוספות explains that there was a קול that there are עדים במדה"י who that they were captured.¹⁰ Was this קול known before the היתר of רבי חנינא or not?

⁸ See footnote # 5.

⁹ See רש"י.

¹⁰ See footnote # 4.