

14.1.12

14b (משנה י') → 15b (סיום הפרק)

7. וכי יהיה איש שגא לרעהו וארב לו וקם עליו והכהו נפש ומת ונס אל אחת הערים האל: דברים פרק יט פסוק יא

I צפורי in יוסי's report about the raped girl in משנה י'

- a **ריב"ג**: her status is defined based on the status of the majority of the townfolk
- b **challenge**: if we follow ר"ג, no need for majority; if ר"י, majority doesn't help
- c **answer**: it took place on market day and during market hours
 - i **stipulation**: as long as a majority of the traders (in the market) are also משיאין לכהונה
 - ii **formulation**: we need a majority of the city, as long as we also have a majority of the traders
 - iii **clarification**: we don't follow a majority of the traders alone, as it may lead to following a majority of the city, which is itself a precaution against the case of קבוע (see lecture by Prof. Aumann, linked at dafyomiyicc.org)
 - iv **challenge**: 1 רוב should be enough, as per case with found meat
 - 1 **clarification**: holds even if the city is sealed (i.e. only 1 רוב)
 - v **answer**: the threshold is higher for יוחסין
- d **tangent**: source for ruling of ר' זירא (קבוע)
 - i **suggestion #1**: from rule of 10 butcher shops, 9 of which sell שחוטה and he doesn't remember from which one he bought – אסור
 - 1 **rejection**: that's לחומרא
 - ii **suggestion #2**: rule of 10 amphibians, 9 not מטמא and 1 is and he touched one – טמא
 - 1 **rejection**: again – לחומרא
 - iii **suggestion #3**: rule of 10 amphibians, 9 מטמא and 1 is not and he touched one – we deal with it like an "even doubt" (50/50) → in רה"ר it is טהור
 - iv **question**: what is דאורייתא source?
 - 1 **Suggestion**: v. 1 – only culpable if he intends to kill the victim
 - (a) **Case possibility #1**: aimed at a group of 9 גויים and 1 ישראל – exempt
 - (b) **Rejection**: that's due to רוב (even if it was 5/5, ספק נפשות להקל)
 - (c) **Case possibility #2**: aimed at group of 9 ישראלים and 1 גוי – due to קבוע, he is exempt
- e **Ruling**: 2 versions of רב's ruling
 - i 1: יוסי follows הלכה
 - ii 2: it was a ruling made due to exigent circumstances (הוראת שעה)
 - iii **challenge**: (based on assumption that ר' יוסי permitted based solely on רוב העיר) – don't we need 2 "majorities"?
 - 1 **support**: a foundling is only judged to be ישראל based on a simple majority for purposes of sustenance – but for marriage (need more substantive proof)
 - 2 **answer**: assumption was wrong, ר' יוסי required 2 "majorities"
 - 3 **observation**: version 2 (הוראת שעה) - must read that it was a "simple majority"
 - iv **tangent**: foundling follows majority:
 - 1 **application (שמואל)**: for saving his life on שבת
 - 2 **challenge**: שמואל says we don't attend to majority in re נפש פקוח
 - 3 **answer**: שמואל's comment was in reference to 1st half – to save him on שבת, we disregard majority
 - 4 **Application**:
 - (a) If a majority are עכ"ם, he is עכ"ם: to feed him נבילות
 - (b) If a majority are ישראל, he is ישראל: to return אבידה
 - (c) If 50/50, ישראל – for damages; i.e. if his שור תם damages – המע"ה