20.4.02

37a (משנה ב) ← 37b (מהו דתימא, הך שופר קמא סיוטא בעלמא הוא דנקטיה, קמ"ל)

I   משנה ב': varieties of מועד
- a   a שור may be "locally" מועד and he'll only pay נ"ש when attacking that for which he is מועד
  - i   his own species
  - ii   people (and not animals)
  - iii   calves (not adult oxen)
  - iv   days:
    - 1   *question asked of ר' יהודה:* what if he only gores on שבת
    - 2   *answer*: only מועד for שבת
      - (a)   *note*: he reverts to תם when 3 שבתות pass without incident

II   Dispute between ר' פפא/ר' זביד whether we read אינו מועד or ואינו מועד throughout משנה
- a   ואינו מועד (ר"ז): once he is מועד, that defines him, unless he demonstrates lack of מועדות vis-à-vis particular potential victims
  - i   Infers from סיפא: מועד לקטנים (ו)אינו מועד לקטנים:
    - 1   *If*: we read ואינו מועד ← otherwise, he is considered מועד for adults – it reads well
    - 2   *But if*: we read אינו מועד ← we assume him to be תם vis-à-vis adults
      - (a)   *Problem*: if we already established that he remains תם for other "kids" of other species, ק"ו he is תם here
    - 3   *Counter*: we might think that once he's attacked that species, there is no distinction between adult and kid – קמ"ל
- b   אינו מועד (ר"פ): he must establish violent patterns for each type, else he is considered תם
  - i   infers from רישא: מועד לאדם (ו)אינו מועד לבהמה
    - 1   *if*: we read אינו מועד ← we assume him to be תם for animals – it reads well
    - 2   *but if*: we read ואינו מועד ← otherwise, he is considered מועד for animals
      - (a)   *problem*: if we already established that from animal to animal he's מועד, need we say that מועד לבהמה is מאדם?
    - 3   *Counter*: clause is in re: reversion back to תם, teaching that if he was originally מועד for all and then demonstrated serenity in the proximity of animals but hadn't yet proved his docility near people, he's now תם vis-à-vis בהמה
  - ii   Support: סומכוס claims that מועד לבהמה **is** מועד לאדם
    - 1   ק"ו; if the animal is willing to attack a person, ק"ו he'll attack an animal
    - 2   *implication*: ת"ק (who disagrees) maintains that מועד לאדם is not automatically מועד לבהמה
    - 3   *defense (ר"ז)*: סומכוס's argument is in re: חזרה (reversion to תמות): if the animal shows restraint around animals, he is still מועד לבהמה since he is still מועד לאדם
  - iii   *Support for ר"ז*: from discussion with ר' יהודה in our משנה –
    - 1   *If*: they are presenting him with a situation (ואינו מועד), their question and his answer are reasonable
    - 2   *But if*: they are presenting him with a *fait accompli*, neither question nor answer makes sense
  - iv   *Further support (ר' ינאי)*: from ruling in משנה – ...את שהוא מועד לו;
    - 1   *If*: we understand ואינו מועד as describing an affirmative avoidance – it reads well
    - 2   *But if*: we understand אינו מועד as an assumption of innocence – we already know that rule (ח"נ)
    - 3   *Further*: even according to ר"פ, if an animal attacks 3 different species (once each) – he becomes מועד for all
      - (a)   *Note*: and we wouldn't require 3 gorings of each kind to establish status of מועד

III   Identifying patterns of violence
- a   ברייתא: if he saw an ox:*gored*, donkey:*avoided*, horse:*gored*, camel:*avoided*, mule:*gored*, wild ass:*avoided*
  - i   *ruling*: becomes מועד for alternating (סירוגין) for all types
  - ii   *4 questions*: (all of which are left as תיקו)
    - 1   what if he gored an ox, an ox, an ox, a donkey and a camel
      - (a)   *do we*: judge the 3 oxen as a pattern and he is still not מועד for other species
      - (b)   *or do we*: judge the last ox as part of the "universal" pattern and he's gored 3 species ← מועד לכל
    - 2   *inversion*: what if he gored a donkey, camel and 3 oxen
    - 3   *variation*: what if he gored on שבת, שבת, שבת, Sunday and Monday
    - 4   *variation*: what if he gored on Thursday, Friday, שבת, שבת, שבת
  - iii   *related question*: what if it gored on the 15th of the month, the 16th of the next month and the 17th of the next?
    - 1   *Follows dispute רב/שמואל about קביעת וסת*: רב – pattern established; שמואל – need a fourth (on 18th of next month)
- b   *Associated ruling (רבא)*: if the ox heard a שופר-blast and gored 3 times, becomes מועד for שופרות
  - i   *Challenge*: this is obvious
  - ii   *Answer*: סד"א that the first one simply frightened him into attacking and shouldn't be reckoned – קמ"ל