

20.4.06; 41a (משנה ה') → 42a (כרב אדא בר אהבה) → 42a

1. וכי יגח שור את איש או את אשה ומת סקול יסקל השור ולא יאכל את בשרו ובעל השור נקי: שמות פרק כא פסוק כח
 2. את ה' אלהיך תירא ואתו תעבד ובשמו תשבוע: דברים פרק ו פסוק יג
 3. וכי ינצו אנשים ונגפו אשה הרה ויצאו לדיה ולא יהיה אסון ענוש יענש פאשר ישית עליו בעל האשה ונתן בפללים: שמות כא, כב

I 'משנה ה': an ox that kills a person

- a if he kills any freeman, regardless of age, he is killed; if מועד – also pays כופר – exempt from כופר
- i question: if he's killed as a תם, how could he ever get to the status of מועד?
- 1 Rejected answers: he did something less than killing free ישראלים 3 times (chased them, mortally injured people, killed animals, killed non-Jews, killed dying people)
 - (a) Reason for rejection: none of these establish מועדות for killing ישראלים who are otherwise healthy
 - 2 Answer1 (ר"פ): everytime he killed, he ran away and ב"ד couldn't get to him to kill him
 - 3 Answer2(ר"אחא): the עדים of the 1st times were מוזם; after the 3rd time, their accusers were accused of הזמה
 - (a) challenge: this is only valid if they were coming to testify about the ox;
 - (b) But: if they were testifying about the owner, he can say that he had no reason to watch the שור since the witnesses were disproven via הזמה, on which he relied
 - (i) answer: if they testify that he was standing there every time it gored
 - 4 answer3 (רבינא): they know the owner but not the שור, and he now knows that he has to watch all of his שוורים
- b if he kills a slave, liable for 30 סלעים, regardless of value of slave

II Interpretation of v. 1:

- a Question: We already know that שור הנסקל is a נבילה (since it was stoned); why say לא יאכל?
- b answer: teaches that if he slaughtered it after גמר דין – it's prohibited nonetheless; בעל השור נקי extends it to איסור הנאה
- i Challenge: perhaps לא יאכל teaches איסור הנאה after סקילה (but שחיטה renders it fit) –
- 1 As per: ר"א who taught that, unless noted otherwise, (e.g.) לא תאכלו always includes both והנאה ואכילה
- ii Answer: that only holds where איסור אכילה is derived from (e.g.) לא תאכלו; here it is from סקול יסקל
- (a) Proof: if the only intent was to teach איסור הנאה, let it state לא יהנה
- iii Challenge: perhaps the איסור only applies if he used a flintstone (looks like סקילה), but not a knife
- 1 Blocks: "knife" isn't written anywhere in תורה and all such tools are equally valid for שחיטה
- iv Consider: now that both איסור אכילה והנאה are inferred from לא יאכל, what is בעל השור נקי teaching?
- 1 Answer1: extends איסור הנאה to pelt (not בשר)
 - 2 Answer2: teaches exemption from חצי כופר (if תם) and דמי וולדות
 - (a) Note: those who use בעל השור נקי for חצי כופר etc. derive איסור הנאה from extra word (בשרו) את
 - (b) response: as per those who don't see את as extension (debate about v. 2 and ר"ע's solution)
- c further interpretation: meaning of בעל השור נקי:
- i כופר ½ – "נקי" – ר"א
- ii this is obvious, since he is stoned and all payments would come from his body (תם)
- 1 ר"א: only intended his interpretation when the ox isn't being killed, e.g. only 1 witness or owner admitted
 - (a) block: if owner admitted, there is no liability at all (מודה בקנס)
 - (b) answer: ר"א may hold that כפרה = כופרא and it wouldn't be exempted without explicit exclusion
 - 2 ר"א: only intended his interpretation when the ox intended to kill someone w/o liability (animal, מצרי etc.)
 - 3 question: which answer did ר"א give first?
 - (a) ר"א (כהנא) רבאו
 - (b) ר"א (טביומי) רבאו
- d Another interpretation: excluding liability for וולדות (ריה"ג)
- i Dissent: ר"ע – v. 3 excludes oxen as it stipulates אנשים as the aggressors
- ii Counter: ר"א only oxen akin to people (מועדין) are exempt, leaving שור תם as liable for וולדות
- 1 Challenge (ר"בא): how could מועד be less severe than תם?
- iii Rather: ר"א people, not oxen akin to people (מועדין) are liable, ק"ו for תם, to which תורה states בעל השור נקי מועד is liable
- 1 Challenge (אב"י): why not interpret and apply בושת in same way → מועד is liable for בושת
- iv Rather (אב"י ור"בא): if there is no tragedy (woman lives) – people have to pay; if she dies – exempt; oxen pay in any case
- 1 To which: תורה states בעל השור נקי → exempt from דמי וולדות
- v Challenge (דאב"א): אסון is not the threshold – intent is:
- 1 Therefore: people are only liable if they intend to hurt each other (not the woman); oxen are liable in any case
 - 2 To which: תורה states בעל השור נקי → exempt from דמי וולדות (דמי ברייתא supports ר"א's take)