

20.7.12

76a (אלמא כל העומד לפדות כפדוי דמי) → 77b (גנב והקדיש ואח"כ טבח ומכר וכי)

1. כי יתן איש אל רעהו כסף או כלים לשמר ונגב מבית האיש אם ימצא הגנב ישלם שנים: שמות כב, ו
 2. מכל האכל אשר יאכל אשר יבוא עליו מים יטמא וכל משקה אשר ישתה בכל כלי יטמא: ויקרא יא, לד

- I Analysis of last case in משנה – גנב and then הקדיש, followed by ט"מ – no liability for וחמשה
- a Challenge: should be liable for the מכירה – to הקדש! (is understandably exempt, as it is no longer the owner's)
 - i Argument: should be no distinction between selling to a citizen or to הקדש
 - b Answer1: follows ר"ש, who maintains אחריות שיש להם אחריות as being בעלים
 - i Block: since ר"ש dissents, clearly his opinion cannot be ת"ק
 - c Answer2: ruling is only in re: קדיש and follows ריה"ג (קד"ל belong to בעלים)
 - i Challenge: if so, our משנה should distinguish and assign קדיש to ב' where liability for 4/5 obtains
 - d Answer3: ruling applies to both קד"ל and קדש"ק
 - i Answer to question: selling to a citizen, it was A's ox, now it's B's ox; after הקדש, it was A's ox and it is still A's ox
- II Analysis of ר"ש's opinion, distinguishing between קדיש שחייב באחריות and those that have no אחריות
- a Challenge: (assumption: ר"ש holds liability due to act of הקדש, not slaughtering)
 - i considering that ר"ש holds that the act of הקדש ≡ selling, should be opposite: חייב באחריות should be exempt
 - ii rather: ר"ש dissents from another ruling: stealing הקדש from owner doesn't generate חיוב for כפל or 4/5 as per v. 1
 - 1 challenge: if the owner has אחריות for the הקדש, גנב is liable (as it is considered מבית האיש)
 - (a) Challenge: if so, the קרן reverts to the בעלים (as they accomplished the קרבן) → no כפל
 - (b) Answer: if the blood was spilled out (and not sprinkled properly – no כפרה → proper שחיטה יד"ח, לא יצאו יד"ח)
 - 2 Answer2: ר"ש (as per ריב"ן) if he slaughters תמימים עזרה without intending for בעלים
 - (a) alternatively: ר"ל: if he slaughters animal as בעל מום outside of עזרה
 - 3 challenge (to both): ר"א:
 - (a) to זרה"ד does not permit the שחיטה of a קרבן, rather זרה"ד does
 - (b) To ר"א does not permit (בעלי מומים בחוץ) שחיטה, rather redemption does
 - (c) Note: ר"ש missed ר"א's statements:
 - (i) זרה"ד: any blood waiting to be sprinkled is considered already on the מזבח
 1. proof: background - ר"ש maintains that איסורי הנאה can't have טומאת אוכלין as per v. 2
 2. ד"ש (ברייתא): there could be נותר which has טומאת אוכלים - if it wasn't לן before זריקה
 - a. meaning: it there was time to do זריקה before שקיעת החמה → דמי כזרוק דמי
 - (ii) פדייה: any animal waiting to be redeemed is considered to be redeemed
 1. proof: ר"ש maintains that פרה אדומה has טומאת אוכלין because it had a potential moment of היתר:
 - a. Meaning: (as per ר"ל's report in ר"ש's name) – a פרת חטאת (=פרה אדומה) can be redeemed even while on its fire (e.g. if they found a better one)
 - i. → anything which is in a position to be redeemed is considered פדוי