

21.4.7; 49b (משנה ג) → 51a (לא מזבין להו אי לאו בדמי יתירי)

- I אונאה: parameters of משנה ג
- a Ratio: $4/24 - 1/6^{\text{th}}$ of the transaction
 - b Duration during which it may be returned: as long as it takes to show it to someone else for appraisal
 - c טרפון in ר' אונאה is $8/24 - 1/3^{\text{rd}}$ of the transaction (vendors happy); but buyer has all day to return (vendors unhappy)
- II Analysis - רב/שמואל
- a רב: only $1/6^{\text{th}}$ of the item (e.g. if the value is 6 זוז and its sold for 5 or 7 זוז – this is אונאה)
 - i But: an item worth 7 sold for 6 is נמחל ($1/7^{\text{th}}$); an item worth 5 sold for 6 is בטל ($1/5^{\text{th}}$) (אונאה)
 - b שמואל: $1/6^{\text{th}}$ of the price is also considered אונאה
 - c Testing against our משנה:
 - i First clause: 4 pieces of silver out of 24 is אונאה
 - 1 Assumption: this means selling something worth 20 for 24 (supports שמואל)
 - 2 Rejection: means selling something worth 24 for 20 ($1/6^{\text{th}}$ of value); seller was the victim of אונאה
 - (a) Block: (background: ר"נ limited duration-rule to buyer, seller has all day to return it)
 - (b) Block: In סיפא the buyer wants to return it as he was the victim of אונאה
 - (c) Defense: might be case where he sold item worth 24 for 28 – overpaid by $1/6^{\text{th}}$ value of item
 - ii 2nd clause (ר' טרפון): אונאה is $8/24$ ($1/3^{\text{rd}}$)
 - 1 Assumption: this means selling something worth 16 for 24 (supports שמואל)
 - 2 Rejection: means selling something worth 24 for 16 ($1/3^{\text{rd}}$ of value); seller was the victim of אונאה
 - (a) Block: In final clause, he gave the buyer all day to return (vendors were unhappy)
 - (b) Defense: might be case where he sold item worth 32 for 24 – overpaid by $1/3^{\text{rd}}$ value of item
 - d שמואל supporting ברייתא: whoever is the victim of אונאה has the choice:
 - i If: buyer is the victim, buying item worth 5 for 6 he may request the money back or just the amount of אונאה
 - ii If: seller is the victim, selling an item worth 6 for 5, he may request item back or אונאה
- III Defining parameters of מחילה (if less than אונאה-threshold) and בטול מקח (if past אונאה-threshold)
- a Q: Is less than $1/6^{\text{th}}$ (לרבנן) forgiven immediately, or only after the duration-frame in the משנה?
 - i Challenge: if it is only forgiven after that time (to show an appraiser) – how is $1/6^{\text{th}}$ different from less?
 - ii Answer: if it is $1/6^{\text{th}}$, victim has choice (as above); if less, deal is valid and אונאה is returned
 - iii Suggested answer: from response of vendors to ר"ט (when he allowed all day, they preferred חכמים)
 - 1 Assumption: ר"ט treats $1/3^{\text{rd}}$ as רבנן treat $1/6^{\text{th}}$
 - (a) If: we accept that רבנן accept מחילה after duration; and ר"ט allows all day, this explains their preference
 - (b) But, if: we assume that רבנן (& ר"ט) accept מחילה of less than the threshold immediately – why prefer רבנן?
 - iv Answer: assumption is incorrect; ר"ט treats from $1/6^{\text{th}}$ to $1/3^{\text{rd}}$ as רבנן treat $1/6^{\text{th}}$
 - 1 Challenge: if so, why were they originally happy with ר"ט?
 - 2 Inference: according to רבנן, deal (if more than אונאה) can be retracted anytime (even after duration)
 - (a) Else: why would vendors be happy with ר"ט's extension to $1/3^{\text{rd}}$?
 - (b) Answer: happy about exact threshold being raised to $1/3^{\text{rd}}$, less than that is מחילה (לר"ט) but not רבנן
 - b Q: is the transaction (if more than $1/6^{\text{th}}$) able to be retracted forever or only within duration?
 - i Challenge: if only 'til duration, how is $1/6^{\text{th}}$ different than more than $1/6^{\text{th}}$?
 - ii Answer: at $1/6^{\text{th}}$, only victim may retract; at greater than $1/6^{\text{th}}$, either can retract
 - iii Suggested answer: from vendors preference for רבנן; they must only allow retraction through duration
 - 1 Block: בטול מקח is uncommon and that wouldn't be the focus of their reaction
 - c Final ruling (רבא): $<1/6^{\text{th}}$ is a valid transaction; $>1/6^{\text{th}}$ is cancelled; $=1/6^{\text{th}}$ is valid but אונאה must be returned
 - i And: both of these are only within amount of time it takes to get goods appraised
 - ii Support: ברייתא (נתן) ר' rules as above; רבי: in case of exactly $1/6^{\text{th}}$, victim has the choice to retract or return אונאה
- IV Analysis of "duration-clause"
- a ר"נ – only applies to buyer; seller has no time limit on retracting transaction in which he is victim of אונאה
 - i Support: sellers in לוד preferred ruling of חכמים – if seller is likewise limited, what do they gain?
 - ii Answer: vendors in לוד rarely err; their main concern is buyers coming back later in day to try to return items etc.
 - 1 Story: ר' רב"ח's host undersold wine and was sad, as the time had lapsed; he instructed him to find buyers
 - 2 Reason: מקח has לוקח in hand, can get it appraised ASAP; מוכר has to wait until similar item comes to him
 - b Stories: of people who disingenuously bought from בעה"ב at $1/6^{\text{th}}$ in order to claim it back
 - i Ruling: אונאה is limited to buying from vendor, but no אונאה from בעה"ב
 - 1 Challenge: משנה ד' – as אונאה applies to הדיוט, it applies to vendor
 - 2 Answer: only applies to cheap items that they will typically sell; not personal goods