21.4.14 56a (משנה ט') → 57a (תיקו)

1. וְכִי תִמְכְּרוּ **מִמְבֶּר** לַצְמִיתֶךְ אוֹ קַנֹה **מָיַד** צָמִיתֶךְ אֵל תּוֹנוּ אִישׁ אֶת **אָחִיו**: ייקרא פרק כה פסוק יד 2. כִּי חֶשְׁבּוֹן עִיר סִיחֹן מֶלֶךְ הָאֱמֹרִי הָוֹא וְהוּא נָלְחַם בְּמֶלֶךְ מוֹאָב הָרְאשׁוֹן וַיִּקָּח אֶת כָּל אַרְצוֹ מִיָּדוֹ עַד אַרְנֹן: בּמדבר פרק כא פסוק כו 3. אִם הִמָּצֵא תִמָּצֵא **רְדָּדוֹ** הַגְּנֵבָה מִשׁוֹר עַד חֲמוֹר עַד שֶׁה חַיִּים שְׁנַיִם יְשַׁלְּם: שִׁמוֹת פרק כב פסוק ג 4. כִּי יִקַּח אִישׁ אִשֶּׁה וּבְעָלָה וְהָיָה אָם לֹא תִמְצָא חֵן בְּעֵינָיו כִּי מָצָא בָהּ עֶרְוַת דָּבָר וְכָתַב לָהּ סֵפֶר כְּרִיתָת וְנָתַן **בְּיָדָה** וְשַׁלְּחָהּ מִבֵּיתוֹ: זברים פרק כד פסוק א

- I משנה ט': exclusions to rule of אונאה
 - a Items excluded:
 - i עבדים
 - ii שטרות
 - 1 Reason: they only have representative value
 - (a) However: if he sells שטרות for physical use (e.g. perfumer to cover his vials) there is אונאה
 - (i) Challenge: this is obvious, as the שטר is operating as real goods
 - (ii) Answer: needed to counter לוי (supporting לוי), rather, אונאה applies even to mere פרוטות
 - iii שטר as per v. 1 (מיד), which then gives us שטר (compared to קרקע) and שטר (which has no inherent value)
 - 1 Challenge: יד means "possession", not a literal "hand" as per v. 2
 - 2 Counter: יד means literal "hand" as per the exegetically derived extensions to גנבה (v. 3) and גע (v. 4)
 - (a) Answer: יד always means a literal "hand" unless it cannot (as in v. 2) where it means domain/possession
 - iv הקדש as per v. 1 (אחיו)
 - b Additional exclusions
 - i כפל and ד' וה'
 - ii שומרים aren't liable
 - ש"ח doesn't have to swear (re: neglect)
 - 2 ש"ש doesn't have to pay (if stolen from him)
 - c Suggested qualification to הקדש (ר"ש): only if there is no חיוב אחריות (i.e. נדבה)
 - d Additional items (ד' יהודה): selling a ס"ת, an animal or jewels isn't limited by אונאה
 - i Dissent (עבדים, שטרות, קרקע, הקדש) are excluded
- II Defining the parameters of אונאה
 - a Q אונאה וimited by אונאה? v. 1 stipulates ממכר
 - i Answer (אביי): doesn't state "permanent sale"; that day, the worker is "selling" his labor אונאה applies
 - b Q- אונאה is planting limited by אונאה? (i.e. if a sharecropper or worker plants less than expected or stated)
 - i Lemma1: do we consider the seeds as placed in a jug (מטלטלים applies) OR
 - ii Lemma2: are they considered as appended to the land (אונאה חס אונאה)
 - 1 Framing the question: if the owner told the sharecropper how much to plant and he planted less
 - (a) Then: obviously אונאה applies, even at less than 1/6, as a measured, weighed or counted item
 - 2 Rather: he must have directed him to plant the "customary amount"
 - (a) Associated question: does שבועת מודה במקצת apply or not (אין נשבעין על הקרקעות)
 - (b) Associated question: does the עומר permit this wheat to be eaten immediately or must he wait a year? (חדש)
 - (i) *Note*: whether or not they took root, it is explicitly taught:
 - (ii) אם השרישו קודם לעומר עומר מתירן, ואם לאו אסורין עד שיבא עומר הבא :מנחות י:ז
 - (iii) Rather: case is where he harvested them and replanted them before the עומר, they didn't yet take root 1. Lemma1: do we consider them "in a jug" → permissible to eat (and liable for אונאה and שבועה OR
 - 2. Lemma2: are they appended to קרקע (replanted → prohibited) and not liable for תיקו (אונאה/שבועה הישבועה