

21.7.10 ; 93a (משנה ו') → 94a (סיום הפרק)

1. ותפל שקבא ותקחם ואת הנערים הפו לפי חרב ואמלטה רק אני לבדי להגיד לך: איוב א, טו
 2. הייתי ביום אכלני חרב וקרח בלילה ותדד שנתה מעיני: בראשית לא, מ

- I ו' משנה: making an arrangement to forego the right to eat (for, presumably, a greater wage)
- a *permitted*: for himself or adult members of his family, including slaves, as they have דעת and can be מוחל
- b *prohibited*: for minor members of his family and minor slaves, as well as his animals (discussed above)
- II ז' משנה: hiring workers to work with food that is forbidden
- a ארבעי: if he didn't tell them in advance, he must redeem it and feed them
- b מעשר: if he didn't tell them that it was already processed vis-à-vis מעשדות, he must separate and feed them
- III חו משנה: מה"ת eat (חיוב מעשדות) but מה"ת שומרי פירות: משנה חו
- a רב: only applies to שומרי גינות, but people watching the wine-press and sheaves (before מעשרות) eat מה"ת (חיוב מעשרות)
- i *reason*: watching is considered an action
- b שמואל: only applies to שומרי גתות וערימות, but people watching gardens etc. – do not eat at all (even מהלכות מדינה)
- i *reason*: watching is not considered an action
- ii *challenge*: watcher of פרה אדומה is פרה בגדים → action *answer*: due to a concern that he may move a limb of the פרה
- iii *challenge*: if someone is watching a few squash-beds, he may eat a proper amount from each one
- 1 *answer*: that is in re: uprooted (harvested) squash – but not yet במעשרות (flower wasn't yet taken off)
- c ר' אשי: support from משנה ב' → משנה ב' working מלאכה שאין גמר מלאכה doesn't yet – even מהלכות מדינה
- IV ח' משנה: the four שומרים (with three categories of payment) ; follows ר' יהודה ש"ש to שוכר who equates ש"ש to שוכר (ר"מ/ר"י רבה בר אבוה) flips ר"מ/ר"י
- a שומר חנם – swears and is exempt (except in case of neglect)
- b שואל – pays (except in case of מחמת מלאכה)
- c ש"ש and שוכר – swears in case of אונס, pays in case of theft or loss
- i Case of shepherd brought to רבה: lamb slipped, fell into river – רבה – exempt, since he watched in the normal fashion
- 1 *Challenge* (אב"י): if he entered city when all do or slept when all do (animal was lost) is he exempt? (*answer* – yes)
- 2 *Challenge*: אונס is defined by v. 1; responsibility of ש"ש by v. 2
- (a) *Answer*: that is in re: hired guards of city (and יעקב claims that he watched to that extent 'tho exempt)
- 3 *Challenge*: if רועה leaves the flock and they are eaten by wolf, we estimate if he would have been able to save – חייב
- (a) *Assumption*: he left at a time when people generally come into the city
- (i) *Rejection*: he left when people generally do not come in – he may be exempt if he was attacked by lion
1. *Challenge*: if so, he is certainly exempt – what could he have done?
2. *Answer*: he could've hired (if ש"ש) or gotten (ש"ח) other shepherds and sticks to ward it off
- a. *Note*: ש"ש must spend up to their value – which he recovers from owner – to hire help
- i. *Question*: if so, how does he help owner?
- ii. *Answer*: saves the animals and saves the owner from extra trouble (to buy new ones)
- ii חסדא וראב"ה: dissent from רבה's ruling – that's why employer paid more, for better guarding
- iii *Story*: animal driver had animals on bridge, one pushed the other off into water, ר"פ found him liable
- 1 *Reason*: he should've taken them across one at a time
- iv *Story*: entrusted flax with רוניא, from whom it was stolen but the גנב was later identified
- 1 *Ruling* (ר"נ): liable; in spite of רבה's ruling that a ש"ח may choose to swear or deal directly with גנב
- 2 *Defense*: in this case, here, there were officers around, the שומר could've called out and been rescued
- V ט' משנה: Definition of אונס for exemption for שואל –
- a 2 wolves are an אונס, 1 is not (ר' יהודה) – if there is a wave of wolves, even 1 is an אונס; 2 dogs aren't אונס
- i אונס – ידוע הבבלי בשם ר"מ: if they come from different directions – אונס
- b Armed robber – אונס; even if the shepherd is armed, as the robber will risk his life for the theft
- c Dangerous animals (lion, bear, leopard, cheetah, snake) are an אונס, unless he led the flock there
- i רבא (אב"י): same if the shepherd gave information to robbers – as if he led them there
- VI י' משנה: if it climbed to a promontory and fell – אונס; if he led it there and it fell – liable
- VII י"ב משנה: any שומר may condition his שמירה on being exempt where he would otherwise be liable
- a *Apparently*: follows ר' יהודה who allows conditions to alter תורה's liability in financial matters
- i *Block*: כל המתנה ע"מ שכתוב בתורה – *Answer*: it is ר"מ, since he didn't obligate himself, may make תנאי
- b *And*: any condition made against the תורה's definition is null
- c *And*: if he stated the commitment before the condition – condition is null
- d *And*: only conditions which can be fulfilled are valid (as per תימא בן יהודה ר' יהודה *contra* חכמים – הלכה)