

23.2.1; 18a (משנה א') → 19a (שמע מינה)

Note: 23.2.1; 18a are grouped together, we'll study 'א now and refer back to 'ב when we get to the analysis in the גמרא – on p. 15

1. ומן המקדש לא יצא ולא יחלל את מקדש אלהיו כי גזר שמון משחת אלהיו עליו אני ה' ויקרא כא, יב
2. התקוששו וקושו הגוי לא נכסף: צמניה ב, א
3. והצילו העדה את הרצח מיד גאל הדם והשיבו אתו העדה אל עיר מקלטו אשר נס שמה וישב בה עד מות ההן הגדל אשר משח אתו בשמון הקדש: במדבר לה, כה
4. תכין לך הדרך ושלשת את גבול ארצך אשר ינחילך ה' אלהיך והיה לנוס שמה כל רצח: דברים יט, ג
5. ושפטו את העם בכל עת והיה כל הדבר הנזיל וכל הדבר הקטן ישפטו הם והקל מעליך ונשאו אתך: שמות יח, כב
6. לא תראה את שור אחיך או את שיו נדחים והתעלמת מהם השב תשיבם לאחיק: דברים כב, א
7. לא תהיה אחרי רבים לרעה ולא תענה על רב לנטת אחרי רבים להטת: שמות כג, ב

- I כה"ג: parameters of judging כה"ג and related laws and practices of כה"ג
- a In ד"ד: he may serve as a judge and be judged
- i Challenge: this is obvious; if he may judge, he must be able to be judged as per v. 2
 - 1 Answer1: set up in contrast to 'ב משנה – king isn't judged
 - 2 Answer2: needed to teach that כה"ג goes to גלות for accidental killing
 - (a) As per ברייתא כה"ג is executed for killing, goes to עיר מקלט, is judged as הדיוט for לעשה
 - (i) Note: in spite of v. 5 – since only הגדול goes to 71
 - (ii) Justification: v. 3 may have indicated that since he can't go free with death of כה"ג, he can't go to גלות – גלות, due to v. 4, which allows any killer to flee there
 - (iii) Support: ruling that someone who kills כה"ג, or a כה"ג who kills - can never leave עיר מקלט
 - ii He may testify and others may testify against him
 - 1 Challenge: v. 6 implies that for certain מצוות, e.g. השבת אבדה, if it is beneath his dignity, he is exempt
 - (a) Answer (ר' יוסף): he testifies in a case involving a king
 - (i) Challenge: 'ב משנה – king isn't judged
 - (ii) Answer: he testifies in the presence of a king
 1. Challenge: king cannot be a member of the סנהדרין
 2. Answer: king comes for his honor and then leaves (then ד"ד deliberates based on the עדות of כה"ג)
 - (iii) Tangent: rule that king cannot be seated on סנהדרין: as per v. 7 – you may not contradict the רב
 1. Nor: כה"ג or מלך עיבור שנה (neither wants additional months; king – pays army per month, כה"ג doesn't want יוה"כ to be too cold)
 - a. Inference (ר"פ): warmth/cold follows the months (i.e. solar calendar)
 - b. Challenge: from report of 3 herdsmen
 - c. Defense: rabbis calculated on their own; the report merely substantiated their decision
 - iii He performs חליצה and חליצה is performed for his widow
 - 1 Note: איסור אלמנה) ייבום may be done to his widow; he may not perform ייבום
 - (a) Note: even if she is מן האירוסין (only a ל"ת) – but shouldn't עשה of ייבום trump it?
 - (i) Answer: no - as a precaution against ביאה שניה (as we do with all לאוין)
- b Mourning practices:
- i If: one of his 7 close relatives die
 - 1 ר"מ: " he doesn't follow the bier, but "ducks and weaves" until gate of city
 - 2 ד' יהודה he doesn't leave מקדש at all as per v. 1
 - (a) Defense (ר"מ): if so, he should never leave his house- rather, v. 1 means לא יצא – which he won't do because he's walking in such an unusual fashion
 - (i) ד' יהודה because of his sadness, he may forget and touch the body anyway
 - ii Consolation:
 - 1 If: he is consoling others, the mourners pass and an officer stands between him and עם (& says מן השמים
 - 2 If: he is being consoled, they say "אנו כפרתך" and he answers "תתברכו מן השמים"
 - (a) When: he is given הבראה, the people sit on the ground and he sits on a bench
 - 3 ברייתא: when he consoles others, the סגן and שועב are on his right, אב"ד and people on his left
 - (a) But: when he is being consoled, סגן to his right and אב"ד to his left – but שועב isn't there (dignity)
 - (i) ד"פ 3 inferences: סגן, אבילים, stand and people pass them by (not inverse, as per story with families who quarreled) and mourners stand to the left of the consolers
 1. Tangents: made in ציפורי to prevent ייחוד, related tragedies;
 2. Note: ruling that the שורה must include at least 10 people, אבילים don't count towards the 10