23.7.5

54a (משנה דב ששת) $\rightarrow 55b$ (משנה דב)

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ז. וְאֵישׁ אֲשֶׁר יִשְׁכֶּב אֶת זָכָר מִשְׁכְּבֵי אֵשֶׁה תּוֹעֲבָה עָשׂוֹ שְׁנֵיהֶם מוֹת יוּמָתוֹ דְּמֵיהֶם בָּם:ייקרא כ, יג
ג וְאֶת זָכָר לֹא תִשְׁכַב מִשְׁכְבֵי אִשְׁה תּוֹעֵבָה הָוֹא:ייקרא יח, כב
ג לֹא תָהְיֶה קְדָשׁה מִבְּנוֹת יִשְׂרָאֵל וְלֹא יִהְיֶה קְדַשׁ מִבְּנֵי יִשְׂרָאֵל: דברים כג, יח
ג וְמָב קַדְשׁ הָיָה בָאֶרְץ עֲשׁוֹ בְּלֹל הַתּוֹעֲבֹת הָגוֹיִם אֲשֶׁר הוֹרִשׁ ה' מִבְּנֵי יְשְׂרָאֵל: מל״א יד, כד
ב וְאִישׁ אֲשֶׁר יִמְן שְׁכָבְתוֹ בְּבָהמֶה מוֹת יוֹמֶת וְאָת הַבְּהמְה תְּהֹרֹגוּ: ייקרא כ, טו
ב י הָּרֹג תַּחַרְגָּנוֹ יִדְרָ תַּהְיֶה בּוֹ בְרִאשׁוֹנָה לָהֲמִיתוֹ וְיַדְ כָּל הָעֶם בְּאַחֲרֹנָה: דברים יִרְ, י
ב לְ שַׁכֶב עִם בְּהַמָּה מוֹת יוּמָת: שִּמוֹת כב, יח
נּבְל בְּהַמָּה לֹא תַמֵּן שְׁכָבְתְּךְּ לְטָמְאָה בָה וְאָשֶׁה לֹא תַעֲמֹד לְפְנֵי בְהֵמָה לְרְבָּעָה תֶּבֶל הּוֹא: ייִקרא יח, כג
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- I משנה further explication of זכור נסקלים and bestiality; why animal involved in bestiality is killed
 - a Reason1: it was the cause/vehicle for a person's death (תקלה)
 - b Reason2: it shouldn't be identified as "the animal for which 'פלון" shame)
- II Analysis and background for prohibitions and consequences for homosexuality and bestiality
 - a Homosexuality: v. 1 excludes a minor as perpetrator, not as object
 - i And: משכבי אשה teaches that both ביאה מדרכה as well as ביאה שלא כדרכה are classified as ביאה שלא כדרכה
 - ii Consequence: סקילה, as per דמיהם בם (learned from או"י)
 - iii Ban: v. 2 for perpetrator; for object (נשכב):
 - 1 ר' ישמעאל. vv. 3-4
 - 2 א"ז. vv. 3-4 unnecessary לא תשכב (v. 2) may be read לא תשכב implying לש
 - b Bestiality: v. 5 excludes minor as perpetrator (age of animal irrelevant)
 - i Consequence: סקילה, as per מסית (from v. 6 מסית)
 - ii Consequence for object (נשכב): v. 7 if unneeded for perpetrator, apply to ;
 - iii Ban: from v. 8 for perpetrator; for object:
 - 1 *ד' ישמעאל:* vv. 3-4
 - 2 א"ז. vv. 3-4 unnecessary לא תתן שכבתך (v. 8) may be read נשכב implying נשכב (v. 8) מעכב
 - c Analysis (ר' אבהו):
 - i if someone acted as both perpetrator and object in בהעלם א')
 - 1 . liable twice for v. 2 and v. 3; א"ז. liable once v. 2
 - ii If someone: acted as both perpetrator and object in בהעלם א')
 - 1 ד' ישמעאל. liable twice for v. 8 and v. 3; ד' ישמעאל. liable once for v. 8
 - iii Dissent (אביי): even ר' ישמעאל would allow for only 1 here; v. 3 applies to men
 - 1 If so: he finds איסור for (שנשכב(ת. 7, which describes all (incl שנשכב) as שוכב, who already has אזהרה and איסור
 - iv Therefore: if he acted as object with זכור and בהמה
 - 1 ר"י. ד' אבהו would find him liable only once (קדש) and ר"י twice
 - 2 ר"י אביי would agree with double liability (v. 1, v. 8) –
 - v Agreeent: if he acted as both with both זכור and בהמה : liable 3x; ר"ע; liable 2x
- III ברייתא contrasting זכור with בהמה: in re גדול= γ , גדול= γ ; in re גדול=קטן, גדול=קטן,
 - ורב: less than 9 years old (as an object) isn't נשכב::שוכב חייב
 - b שמואל: less than 3 years old (as an object) isn't חייב based on שמואל אשמיה ביאה (אשה < 3 yrs. לאו שמיה ביאה
 - i זכר at 9 yrs. old OR bestiality, whether חייב שלא כדרכה or כדרכה at 9 yrs. old OR bestiality, whether חייב
 - 1 Dissent (משכבות: not in re: המה; not in re: חייב is כדרכה): in re woman, there are 2
 - 2 Dissent (כדרכה): with a woman, it's the natural way only כדרכה; bestiality is unnatural, דרכה is insignificant
- IV Related discussions
 - a Question (רבינא לרבא): is העראה בבהמה (not זכור that's obvious) sufficient for liability?
 - i Answer: yes, mention of העראה in re אחות אשתו, which is unnecessary is applied to בהמה
 - 1 Question: why not write הערה in the context of מחוייבי מב"ד, instead of מחוייבי כריתות?
 - 2 Answer: entire passage is extra (see :דרשה), used for דרשה
 - b Question (asked of ר"ש): if someone does auto-נמ"ז....
 - i Only possible: with an אבר מת; in which case there is a dispute if there is any liability (if so, liable 2x)
 - c Question (asked of תקלה): if a non-Jew has משכב בהמה, is the animal killed? Is the emphasis on קלון (Y) or קלון (N)
 - i Answer: if trees used for "y" are torn down, certainly animals used for nefarious purposes
 - 1 Challenge: if so, if a non-Jew bows to an animal, it should be killed
 - 2 Rejoinder: nothing can be permitted to a Jew which is forbidden to non-Jew

- 3 Comeback: let such animal worshipped by a Jew be killed, just as is done with bestiality
 - (a) Answer1 (אביי): in the case of bestiality, it is greater קלון (he rejects ד"ש's answer)
 - (b) Challenge: in the case of trees, it is "light" yet they are destroyed
 - (i) Answer: in re animals, where God has compassion, we require קלון מרובה
 - (c) *Answer2 (אבא*): in case of bestiality, animal got pleasure → killed (not י"ע"ו)
 - (i) Challenge; in the case of trees, there is no benefit to tree, yet it is destroyed
 - (ii) Answer: in re animals, where God has compassion, we require הנאה
- ii Input: our משנה adds 2nd component קלון
 - 1 Implication: since תקלה מיפא introduces רישא ,תקלה וקלון must be תקלה alone
 - (a) Must be: our case
 - (b) Rejection: could be ישראל who violates משכב בהמה inadvertently (בשוגג) קלון alone
 - (c) As per: ר' המנונא's question (below)
- d Question (asked by משכב בהמה בשוגג has ישראל, is the animal killed?
 - i Proof1 (*דב יוסף*): from ביאה משנה נדה ה:ד and any עריות are killed on her account and she's פטורה
 - 1 Assumption:includes בהמה even though there's no קלון just קלון (like our case)
 - 2 Rejection: she may have been מזידה, but is spared due to her age- the animal isn't spared
 - ii Proof2 (משנה): from next משנה parallel ruling vis-à-vis a boy at age 9
 - 1 Rejection: he may have been מזיד, but is spared due to his age the animal isn't spared
 - iii Proof3: from our משנה if דישא ,תקלה וקלון must be קלון alone our case
 - 1 Rejection: משכב בהמה alone, such as non-Jew violating משכב בהמה as per מ"ל" a question
- e In sum: neither משנה 's question nor 'ר"מ's is settled from our משנה