

Chullin – Simanim

פרק א – הכל שוחטין

דף יא – Daf 11

1. Source for רובא דאיתא קמן – אחרי רבים להטות

The Gemara asks for the source for the principle, "זיל בתר רובא" – *follow the majority*. It answers that the *passuk* says, "אחרי רבים להטות" – *tilt after the many*, which teaches to follow the majority opinion in Beis Din. The Gemara replies that there was never a question about the source for "רובא דאיתא קמן" – *a majority that is "in front of us,"* such as תשע חנויות – *nine stores* which sell kosher meat and one which sells nonkosher meat (where a piece of meat found in the street is assumed to be from one of the majority of stores, and permitted), or Sanhedrin (e.g., if twelve judges vote to acquit the defendant from capital punishment, and eleven vote to convict, we follow the majority and acquit). In such cases, where the majority is "in front of us," i.e., clearly defined, we know from the source given above to follow the majority. Rather, the Gemara seeks a source for רובא דליתא קמן – *a majority which is not in front of us*. For example, we permit the יבום of a קטן and קטנה, although one of them may be incapable of physically maturing and having children, and would be ineligible for יבום (and prohibited as an אשת אח – *brother's wife*). We rely on the undefined majority of boys and girls who become capable of having children.

2. Sources for רובא דליתא קמן – מכה אביו, דילמא לאו אביו הוא

Amoraim offer ten different sources for רובא דליתא קמן. After the first three (involving *korbanos* which might be a טריפה) are rejected, sources are brought from עגלה ערופה, פרה אדומה, and שעיר המשתלח, each of which might be a טריפה and invalid, and cannot be dissected to be examined. Rav Mari then presents a source from מכה אביו ואמו – *one who strikes his father or mother, who is executed*. *But let us be concerned that he is not actually his father!?* For it is impossible to know for certain who the father is, since the wife might have had relations and conceived from another man!?! Rather, it must be that we follow the majority, ורוב בעילות אחר הבעל – *and most relations are with her husband* (even if she was unfaithful). The Gemara objects that perhaps one is only executed for striking his father where his father and mother were חבושים בבית האסורין – *imprisoned together in jail*, where his paternity seems certain, but the Gemara counters: אין אפוטרופוס לעריות – *there is no guardian against immorality*, and paternity can never be absolutely certain without relying on רוב.

3. ודלמא היכא דאפשר אפשר

Three more sources are brought: (1) a murderer is executed, although the victim might have been a טריפה (whose murder does not incur the death penalty), and it is forbidden to perform an autopsy. Although one might argue to permit an autopsy to potentially save the murderer from capital punishment, but perhaps there was a fatal hole beforehand in the place where the victim was stabbed!?! (2) עדים זוממין are killed, although the person whom they plotted to kill might be a טריפה. (3) Meat is permitted after *shechitah*, although the animal might have had a fatal hole in the place of the *shechitah*.

However, the Gemara objects: ודלמא היכא דאפשר אפשר – *but perhaps where it is possible to avoid relying on רוב, it is possible and we do not rely on it, but היכא דלא אפשר לא אפשר – where it is not possible to avoid relying on רוב, it is not possible so we must rely on רוב!?* Meaning, although there are indeed cases which require relying on רוב, perhaps we do not rely on רוב when it can be avoided, such as examining all possible defects after *shechitah*, or a קטן and קטנה regarding יבום, where they can wait until becoming גדולים!?! This objection stands, and Rashi says relying on רוב must be derived from אחרי רבים להטות, or, הלכה למשה מסיני.

Siman – Stars (Eleven stars in Yosef's dream)

When the majority of the Sanhedrin held up stars that said "Guilty" on them sentencing the man who threw a star at his father to death, and the guilty party unsuccessfully tried to claim maybe it's not really his father, one of the Rabbis said that in a case where we can investigate we should because היכא דאפשר אפשר and we do not rely on the רוב.



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3 things to remember

1. Source for – רובא דאיתא קמן – אחרי רבים להטות
2. Sources for רובא דליתא קמן – ex. מכה אביו, דילמא לאו אביו הוא
3. ודלמא היכא דאפשר אפשר

