



Closest City

In the last *perek* of *masechet Sotah* we learn about laws of *eglah arufah* (some of which are similar to the laws of *Sotah*). It relates to the procedure that follows the discovery of a corpse in the country, when the murderer is not known. The *pasuk* teaches: “Your elders and judges shall go out and measure toward the cities that are around the corpse.” (*Devarim* 21: 2). The *Mishnah* (2:1) learns that three (or five) *dayanim* from the *Sanhedrin* in the *Beit HaMikdash* would come and measure to determine the closest city to the corpse, thereby establishing which city would carry out the procedure. What was the purpose for the measuring?

The *Mishnah* (9:2) further qualifies this by explaining that they would actually measure to the closest city that had a *Beit Din* of twenty-three judges. The *Gemara* explains that even if the corpse is found close to a city that does not have a *Beit Din*, the *dayanim* avoid that city and measure to the closest city that has one.

The *Gemara* (*Bava Batra* 23b) also discusses *eglah arufah* when discussing the principle that when trying to resolve a doubt and there is a conflict between *rov* (majority) and *karov* (close vicinity) we go according to *rov*. The directive of the *Torah* that “the city that is close to the corpse” carries out the procedure is raised as a difficulty. The *Gemara* answers that it is referring to the case where there is no other city with a larger population or where the city is isolated in the mountains. *Rashi* explains that it is unlikely then that the murderer had come from elsewhere.

The *Tosfot* (*Bava Batra* 23b, “*be’de’leika*”) finds it difficult to reconcile the *Gemara* in *Bava Batra* with our *Gemara*. The *Gemara* there seems to suggest that the reason the closest city is chosen is because close proximity strongly suggests that the murder originated from that city. Yet our *Gemara* rules that we overlook even a close city, in favour of one that has a *Beit Din*.

The *Chatam Sofer* answers that the *Gemara* is focused on the murdered not the murderer. As part of *eglah arufa* the *Beit Din* declare that “our hand did not spill the blood” meaning that we did not let him leave without an escort or without proper provisions. The last city that the victim left would have been responsible for this. It is this question that the *Gemara* in *Bava Batra* addresses – do we look to the city with the larger population or the closest one?

The *Chatam Sofer* explains that that discussion does not contradict our *Gemara*. A city without a *Beit Din* does not have the capability to set up the social infrastructure to support guests appropriately. The *Torah* therefore casts the responsibility on the *Beit Din* of the closest city to oversee the welfare of the surrounding area. Consequently it is the nearest *Beit Din* to that city that is required to make the declaration as part of *eglah arufa*.

The *Beer Sheva* cites the *Gemara* in *Makkot* that records the debate between *R’ Ami* and *R’ Assi* regarding whether a city that does not have a *Beit Din* brings the *eglah arufa*. The *Tosfot* there cite our *Gemara* that expressly states that we measure to the closest city that has a *Beit Din*. The *Tosfot* there answers that the *Gemara* in *Makkot* discusses a case where none of the nearby cities have a *Beit Din* so the closest city is selected. Our *Gemara* discusses a case where one of the nearby cities has a *Beit Din*.

The *Beer Sheva* raises a number of difficulties with the *Tosfot*’s answer and instead offers his own solution. He explains that everyone agrees that we measure to the closest city that has a *Beit Din* even if it is far away and that *Beit Din* performs the ceremony. The debate in *Makkot* is regarding whether the *eglah arufa* is brought (funded) from the true closest city even though it lacks a *Beit Din*?

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Revision Questions

סוטה ט' ב' ט"ו

- Would the *eglah arufah* be performed if the closest city did not have a *Beit Din*? (ט"ב: ב')
- If the head was severed from the body, where was the body buried? (ט"ג: ג')
- Explain the debate regarding from which part of the body the distance to the closest city was measured. (ט"ד: ד')
- Who would perform the *eglah arufah*? (ט"ה: ה')
- Where was the *eglah arufah* performed? (ט"ה: ה')
- What work could be performed on the site of the *eglah arufah*? (ט"ה: ה')
- Why would the *Beit Din* say: (ט"ו: ו')
"ידינו לא שפכה את הדם הזה ועינינו לא ראו"
- What would happen to the *egel* if the murderer were found prior to the *arufah*? (ט"ז: ז')
- Could the murderer be tried if he was found after the performance of the *eglah arufah*? (ט"ז: ז')
- If one person said they saw the murder and another dismissed his claim, would they still carry out the *eglah arufah*? (ט"ח: ח')
- From what point did they cease performing *eglah arufah*? (ט"ט: ט')
- What other process stopped as a result of societal changes? (ט"ט: ט')
- What ended with the deaths of *Yosi ben Yo'ezer* and *Yosi ben Yochanan*? (ט"ט: ט')
- What three things did *Yochanan kohen gadol* put an end to and what two things were different in his time? (ט"י: י')
- What stopped with the end of the *Sanhedrin*? (ט"י: י')
- What stopped with the end of the *Nevi'im Rishonim*? (ט"יב: ב')
- What three things ended with the *Churban Ha'Bait*? (ט"יב: ב')
- What does *R' Shimon ben Elazar* say was lost along with *taharah* and *ma'asrot*? (ט"יג: ג')
- What decrees were made as a result of the following events:
 - The war of *Aspasyanus*?
 - The war of *Titus*?
 - The war that resulted in the *churban*? (ט"יד: ד')
 - The death of *R' Meir*? *Ben Azai*? *R' Yehoshua*? *R' Elazar ben Azarya*? *R' Akiva*? *Rabban Gamliel HaZaken*? *Rebbi*? (ט"טו: ו')
- What are the signs of the end of *galut*? (ט"טו: ו')

Local Shiurim

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Sunday -Thursday

Rabbi Mordechai Scharf
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Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
16 th December ג' טבת	17 th December ד' טבת	18 th December ה' טבת	19 th December ו' טבת	20 th December ז' טבת	21 st December ח' טבת	22 nd December ט' טבת
Gittin 1:1-2	Gittin 1:3-4	Gittin 1:5-6	Gittin 2:1-2	Gittin 2:3-4	Gittin 2:5-6	Gittin 2:7-3:1

