

## A man; excluding a minor

## איש פרט לקטן -

### Overview

Our איש אשר ינאף וגו' מות יומת הנואף<sup>1</sup> of פסוק which expounds the ברייתא גמרא cites, and the תוספות explains the need for this exclusion.

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anticipates a difficulty: תוספות

ואף על גב דקטן לאו בר עונשין הוא -

**And even though that a קטן, is not punishable,** so why is this exclusion even necessary?

replies: תוספות

מכל מקום איצטריך קרא למעוטי דקא סלקא דעתין שיהא נהרג<sup>2</sup> כיון שהאשה נהרגת<sup>3</sup> על ידו:  
**Nevertheless a פסוק is required to exclude him** in this particular case, **for it may have entered our minds that the קטן should be executed, since the woman is executed on account of him,** therefore the word איש excludes the קטן from punishment even in this case.

### Summary

The minor is not executed even though he caused the woman's death.

### Thinking it over

Should we require a פסוק to teach us that a קטן who killed someone is not executed even though someone was killed (not only on account of him [like by אשה], but actually) by him?<sup>4</sup>

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<sup>1</sup> ויקרא (קדושים) כ"י.

<sup>2</sup> It is similar to an animal which committed bestiality with a person where we kill the animal as well (even though she did not sin) because it caused a degradation for a person, or people should not point at her and say, 'she caused so and so to be stoned'; the same may apply here. See למעוטי ד"ה ערכין ג, א ד"ה למעוטי.

<sup>3</sup> The woman (if she is a גדולה) is executed provided that the minor was at least nine years old; otherwise it is not considered a ביאה.

<sup>4</sup> See בית לחם יהודה אות תסג בד"ה ולפי.