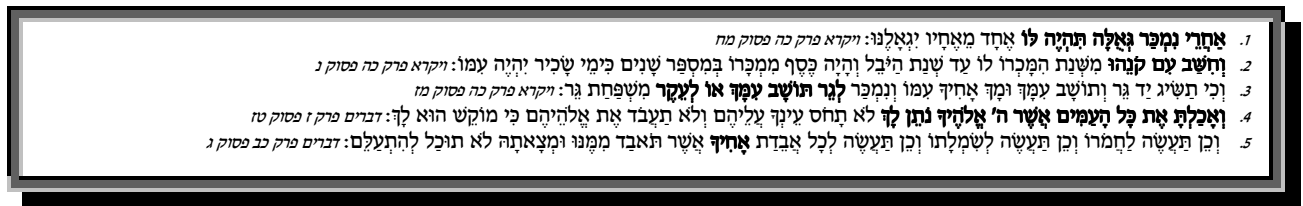


20.10.3

113a (משנה א2) → 114a (ממשתתנין ליה עד דקביל עליה כל אונסא דאתי מחמתיה)



- I 2a משנה 2a: financial interactions with tax-collectors and customs officials
- a Prohibited to take change from their collection boxes or to accept charity from them
- i Reason: the money is stolen
 - ii Challenge: שמואל's dictum that the law of the land is law (דינא דמלכותא דינא); i.e. levies have imprimatur of הלכה (הלכה)
 - 1 Answer1: our ruling is in re: a customs official who has no limits (to what he takes)
 - 2 Answer2: our ruling is in re: a "self-appointed" official (without government position)
 - iii Note: some read this challenge/answers as in re: dispute as to whether one may wear שעטנו to smuggle past מוכס
 - 1 Ruling: forbidden to wear lots of garments of שעטנו to sneak them past מוכס
 - (a) Contra: ר"ע who permits
 - (b) Suggestion: their dispute may be only in re: שעטנו, around issue of מתכוין
 - (c) However: why would ר"ע permit smuggling past מוכס? (answers as above)
 - iv Note: others read this is commentary on גז that permits taking נדרים to cheat מוכס (challenge/answers...)
 - 1 Additional answer (ר' אשי): customs official is כנעני, as per ruling:
 - (a) If: a כנעני and ישראלי come to דין, use our laws or their laws to help ישראל; if impossible:
 - (i) Then: use trickery to defeat him (ר' ישמעאל) – but ר"ע disallows only on account of השם קידוש השם
 - (b) Challenge: גזל כנעני is prohibited as per vv. 1-2
 - (i) Answer (אביי): that prohibition is only for גר תושב
 1. Block: v. 3 includes גר all the way to ע"ז
 - (ii) Rather (רבא): denying his debt is permitted (:הברחת מוכס); theft is prohibited
 - (iii) Challenge (אביי): but ע"ע (vv. 1-2) is "denying a debt" (answer: רבא holds ע"ע is owned by master)
 - v Ruling of ד"ש חסידא theft from a כנעני is prohibited as per v. 4; keeping his אבדה is permitted as per v. 5
 - 1 Note: פנחס בן יאיר – if there is a possibility of חילול השם, even his אבדה must be returned
 - 2 However: שמואל ruled that in any case, his error is permitted (need not be returned)
 - (a) Stories: of אמוראים who took advantage of such errors
 - vi Revisiting שמואל's dictum – דינא דמלכותא דינא
 - 1 רבא proof – they cut down trees and make bridges (which could be theft) and we use the bridges
 - (a) Challenge: perhaps that is due to יאוש of the owners?
 - (b) Answer: the יאוש is due to the fact that the king has such rights
 - (i) Note: they may act as they wish, taking trees from 1 field (contra king's orders)
 - 2 Related rules: paying taxes on behalf of others
 - (a) If: someone is a partner and they find him at גורן, he may be charged for all partners' taxes
 - (i) But: not a sharecropper, who only owes his portion
 - (b) The tax collector: may take from one townsman for others; but only this year's (head-tax and property tax)
 - b However: permitted to take money from them at their homes or in the market place (i.e. not from their gov. collections)
 - c And: permitted to give them large coins if smaller denominations owed and accept change
 - d Related rulings: forbidden to buy animals from non-Jews who hire out their animals for manure – may have mixed in animals owned by Jews; but, outside of town limits, permitted, unless owner is chasing after animals there
 - e רבא's pronouncement: anyone who tesfities for a כותי in a כותי court against a ישראל is liable for excommunication
 - i Caveat: only if it is a "village-court", where they force payment on the word of one witness, but in governmental court, they only administer an oath – permitted
 - ii רבא's question: if the ישראל is important and they'll extract funds on his word, may he testify?
 - 1 Do we say: since they'll act on his word, he shouldn't go, or since he's so important, he can't get out of it? תיקו
 - iii רבא's ruling: anyone who sells his land, abutting another ישראל's land, to a non-Jew, is liable for שמתא
 - 1 Reason: he has placed a "lion" on his border – is בשמתא until he accepts liability for any אונס