

3.8.2

83b (משנה ג) → 84b (בבומתא וסודרא)

- I. משנה ג: courtyard and 2nd story portico that didn't join together; identifying what is in each one's domain
- a. Structures: that are ל"ט high belong to portico
 - b. Structures: that are lower than ל"ט belong to חצר
 - c. Examples: cistern-wall or boulder – if they are ל"ט high – belong to מרפסת
 - i. Note: tall structures belong to מרפסת if they are adjacent (within ל"ט); else, belong to חצר, regardless of height
- II. Discussion: Equal and unequal access to a common and distinct area
- a. Equal access: if both sides have easy access, or access via throwing or leaning down – both אסור
 - i. Similar to: a window between חצרות (even); a wall between חצרות (throwing); a ditch btwn. חצרות (leaning over)
 - b. Unequal access: if one has easy access and the other only has access via throwing or leaning over
 - i. Then: access belongs to more convenient one, per rules of נחמן ר' above
 - ii. Throwing v. leaning over: if one has access via throwing, the other via leaning over
 1. ד.ב. both אסור (equally inaccessible)
 2. שמואל: goes to "leaning over" – easier access than throwing
 - a) Proof (for שמואל): from our משנה – מרפסת gets access to ל"ט -high structures – though they lean over
 - i. Block: "מרפסת" refers to those who live at מרפסת-level
 - ii. Challenge: if lower, goes to חצר – should be both, since both have easy access (within ל"ט high)
 1. Defense: משנה means also חצר – both are, therefore, אסורים
 2. Support: end of משנה indicates that ל"ט -high more than ד"ט away from מרפסת goes to חצר
 - a. And: how can חצר have (sole) access to something ל"ט high?
 - i. Rather: חצר must mean also חצר – and both are אסורים
 - b) Challenge (to שמואל): inclusion of the cistern in our משנה
 - i. Must be: filled with טבל (inedible) [בור]; otherwise, would require leaning over
 - ii. Justification: for mentioning both סלע and בור; בור is unusable b/c might be used with edible fruit
 - c) Challenge (to שמואל): ברייתא regarding a house and loft without עירוב between them
 - i. If: there is a ledge in the upper 10 – belongs to loft; if in lower 10 – belongs to בית
 1. Implication: anything in the middle is "equal" (→ אסור)
 2. Correction (ר"נ): wall here is 19; lower than 10 is accessible to בית; above 10 is accessible to עלייה
 - d) Challenge (to שמואל): משנה ח - 2 balconies over a river, one higher than the other
 - i. If: the upper one had a מחיצה but not the lower – both אסור (if no עירוב between them)
 1. Assumption: the upper one "leans over" and the lower one "throws"
 2. Therefore: "leaning over" and "throwing" are equally accessible, supporting רב
 3. Defense: different ways to contextualize the משנה
 - a. אהבה ד' אדא בר אהבה: the lower access the water via the upper (i.e. both lean over to get water)
 - b. אבני: the balconies are within ל"ט (vertical) of each other
 - i. And: the משנה is beginning with the more obvious –
 - ii. Not only: when מחיצה was made for lower are they אסור (proximity → symbiotic איסור)
 - iii. But even: when מחיצה was made for upper they're אסור
 - iv. Even though: א"א סד"א the upper has easier access than the lower
 - v. Rejection: support from ruling of ר"נ that מרפסת needs fixed ladder to roof
 - vi. ד"פ: perhaps it is because the רבים use roof and w/o full פתח (ladder) belongs to רבים