

3.8.5

87a (משנה ז') → 88a (לא נחא לי)

Note: food is not susceptible to טומאה until it has become uprooted and had one of the 7 liquids (ל"ד שח"ט ד"ם) fall on it with the interest of the owner – not incidentally, unless that serves his purposes

I. ז' משנה: the channel running through the courtyard – both entering and exiting the חצר

a. ז"ק may only use with a ט"ט-high wall at both ingress and egress

b. ד' יהודה: the wall over the entrance and exit is sufficient

i. Support: story of channel in אבל (city in גליל) was used on שבת without a separate מחיצה

ii. Response: that channel was less than 10*4

1.Parallel ז"ק ברייתא requires wall at both points of entry/exit

a) ד' יהודה: supports his position with that story, with added detail that channel went from אבל to ציפורי

2.Related ז"ק ברייתא: a channel accessible via windows, may be drawn from if

a) ז"ק: it is less than ט"ט

b) ד"ט: if it is less than ט"ט

3.Analysis: measure of ט"ט/ד"ט

a) Possibility1: width of channel

i. Rejection: nothing less than ד"ט could conceivably be a כרמלית

b) Possibility2: banks of the channel, using it to go from window →bank→water

i. Challenge: ר' יוחנן (ר' דימי): place <(4*4) may be used by ר"ה but cannot transfer (מקום פטור)

ii. Answer: he was more stringent regarding דאורייתא

1.Challenge: רשויות דרבנן ר' יוחנן explicitly ruled this way regarding

a.Wall: between חצרות, less than ט"ט, each side may bring up/take down but not transfer

2.Answer: that was זעירי's tradition (that ר' יוחנן applied no-transfer rule to דרבנן)

3.זעירי: would have to explain our ברייתא as referring to the width of the channel itself

iii. Note: ר' דימי's report is subject to dispute (as to minimum size of כרמלית)

1.Challenge: why not consider the challenge as חורי כרמלית (like חורי ר"ה)

2.Answer1: there is no such category as חורי כרמלית

3.Answer2 (ר' אשי): חורי כרמלית would apply – if adjacent to full-size כרמלית (not applicable here)

c)Possibility3 (רבינא): ט"ט/ד"ט refers to distance between sluices at border; following dispute about לבוד

II. ח' משנה: balcony over the water – may not draw from channel/river without מחיצה of ט"ט, above or below

a.Similarly: 2 balconies, one above the other; if עירוב was made for upper but not lower, w/o עירוב both are forbidden

i. Note: משנה doesn't comport with רחביע, who allowed the hole in the balcony (of ד"א"ד"א)

1.But: per ר' יוחנן, he only permitted this in טבריה, due to banks of water and houses surrounding

2.אנשי טבריה: 3 things which רחביע permitted for טבריה

a) Balcony: they may draw water from balcony on שבת

b) ט"א: food collected early in morning may be buried in dross, in spite of dew, not טומאה (note)

c) אלונטית: they are allowed to use towels on שבת – no concern that they will squeeze out water

b. דבה בר ר' הונא: permission of use of balcony – only to draw water, not throwing refuse

i. Unlike: septic tank of ט, משנה, here it goes directly out of the מחיצה

ii. Alternate version: not only for drawing, even for refuse (better than עוקה, where preference is for it to move away)

III. Analysis of ח' משנה: 2 balconies

a. דב: lower only affects the higher if within ט"ט of it

i. Per: רב's own ruling – air-access is not access

b. Tangential epigram (ר' אושעיא and ר' חייא): "there is גזל on שבת and an uninhabited home returns to its owners"

i. Challenge: this is an inherent contradiction – if יש גזל בשבת, he has a קנין on common חצר

1.But: if "חורבה returns to owner" (cannot make a קנין on others' property) – no קנין

ii. Answer: it means that גזל must be returned, even if stolen חורבה – and חורבה effects to return to owners

1.Challenge: from our משנה – lower balcony affects the upper one (יש קנין)

a) Answer: they built the upper balcony's מחיצה together

i. If: the lower builds its own, indicates that it wants separation and no longer affects the upper