

18.05.06; 53b (ורמי ד"מ אדר"מ) → 54b (חזקה אין אדם אוסר את כרמו בנטיעה אחת)

- I Identifying – and resolving – contradictions within ר"מ and ר' יהודה's approaches to קנס
- a (previous – ר"מ fined even an unintentional intangible damage; ר' יהודה only fined in case of intentional damage)
- b *contradiction #1: מלאכת שבת*
- i if someone cooks on שבת:
- 1 ר"מ – if it was בשוגג – it is permitted; if intentional – prohibited (*contradiction*)
 - 2 ר' יהודה – it it was בשוגג – it is only permitted after שבת; if intentional, he may never eat it (*contradiction*)
 - 3 ר' יוחנן הסנדלר – בשוגג – permitted to others after שבת, if במזיד – never permitted to anyone
- ii *Resolution:*
- 1 איסור דרבנן only fines in case of ר"מ
 - (a) *challenge:* מה"ת ניסוך – (and he fines there in case of שוגג)
 - (i) *answer:* due to the severity of ע"ז, he extends the decree there
 - 2 איסור דאורייתא only fines in case of ר' יהודה
 - (a) *challenge:* מה"ת ניסוך (and he doesn't fine there in case of שוגג)
 - (i) *answer:* since its so severe, people naturally avoid it and there's no need for גזרה
- c *contradiction #2: within ר"מ's approach to דאורייתא*
- i ר"מ:
- 1 if someone plants on שבת – בשוגג – he may leave it in the ground; במזיד – he must uproot it
 - 2 if someone plants during שמיטה – in either case, he must uproot it
- ii ר' יהודה;
- 1 if someone plants on שבת – in either case, he must uproot it
 - 2 if someone plants during שמיטה – בשוגג, he may leave it in the ground; במזיד – he must uproot it
- iii *note: internal contradiction within ר"מ's rulings – he allows הנטיעה בשבת, קיום הנטיעה בשבת, but not בשמיטה (both דאורייתא)*
- 1 *explanation (from ר"מ):* something planted during שמיטה is known (people can count the years), unlike שבת
 - (a) *if you argue:* sometimes, a שבת-planting is known (if day #30 falls out, such that it is considered a full year for purposes of ערלה, and, counting backwards, that could only have happened if planted on שבת)
 - (i) *nonetheless:* עם ישראל are not suspect of violating שבת, but they are suspected of violating שמיטה
- iv *note: no contradiction within ר' יהודה's rulings – in his locale, people were careful about שמיטה (as per story)*
- d *contradiction to ר"מ's willingness to be אטו מזיד in re: איסור דרבנן*
- i rule: if a זר eats תרומה טמאה, he must pay חולין טהורים; if he pays טמאין חולין טהורים:
- 1 ר"מ: if he paid בשוגג – valid payment (owes nothing); if במזיד, the payment is nothing
 - 2 חכמים: in either case, the payment is valid – but he must pay again from חולין טהורים (as a קנס)
 - 3 *challenge:* why should he be fined? He ate something that cannot be eaten during ימי טמאה and paid with something that can be eaten בימי טמאתו
 - (a) *rather:* the ברייתא is deficient: should read "if he ate תרומה טמאה – he pays any amount; if he eats תרומה טהורה – he must pay with חולין טהורים; if he pays with חולין טמאים
 - (b) *comment:* the dispute between ר"מ/חכמים is whether we are אטו מזיד
 - (c) *answer:* this fellow is coming to pay, why fine him further?
- e *Further contradiction to ר"מ's approach:* if טמא became דם and the כהן spilled it on the מזבח:
- i בשוגג: it's accepted
 - ii במזיד: it's not accepted (and we don't extend this to שוגג)
 - iii *answer:* the fellow is coming to perform כפרה, no reason to fine him further
- f *further contradiction:* if he tithes on שבת – בשוגג it may be eaten; במזיד it may not be eaten (we don't extend to שוגג)
- i *answer:* the fellow is coming to repair things – we shouldn't fine him
- g *again:* if someone puts כלים in a מקוה on שבת – בשוגג – he may use them; במזיד, he may not use them (no extension)
- i *answer:* the fellow is coming to repair – no reason to fine him
- h *contradiction within ר' יהודה's approach to extending to שוגג in an איסור דרבנן:*
- i ר' יהודה ור"מ: if significant fruits (אגוזי פד) fell and broke open – whether במזיד or בשוגג – they are nullified (1/200)
 - 1 *Answer:* ר' יהודה is concerned that someone will deliberately break them open and claim it was an accident
 - ii במזיד they may be nullified (1/200), but not בשוגג
 - 1 *Contradiction within ר' יוסי:* he claims (against רבנן) that if a single ערלה-tree or כלאים got mixed up with other (proper) trees and was picked – even if he picked intentionally, he may use 1/200 to nullify it
 - 2 *Answer:* no one would deliberately foul their field or vineyard for a single ערלה-tree (→so uncommon, no reason for a גזרה)