

22.2.5

21b (ובית הכסא דמו לי) → 23a (א"ר הונא האי בר מבואה)

1. זה אמר ה' על שלשה פשעי מואב ועל ארבעה לא אשיבנו על שרפנו עצמות מלך אדום לשיד: עמוס פרק ב פסוק א

- I הונא ר' – restricting commerce which interferes with another's livelihood
- a *If*: a resident of a **מבוי** sets up a mill, he can prevent another resident from setting up a competing mill
- i *Reason*: he can claim that the interloper is interfering with his right to make a living (קא פסק לחיותיה)
- b *Possible support*: ruling that a fishnet must be distanced from another
- i *Rejection*: in that case, the fish see the bait and are already "owned" by the first net → גזילה
- c *Suggestion*: ר"ה is following יהודה ר' who forbids a storekeeper from giving out nuts to children to attract business
- i *Correction*: even רבנן (who allow the nuts) would agree with ר"ה; the other storekeeper can give out almonds
- d *Challenge*: ruling that allows residents of one **מבוי** to set up competing businesses; each is operating in his own property
- i *Answer*: it is a dispute of **תנאים** –
- 1 *ד"ק*: residents may only prevent residents of other **מבואות** from setting up competing business
- 2 *דשב"ג*: residents may even prevent their own neighbors from setting up competing business
- e *Related ruling*: ר"ה **בריה דר"י** –
- i *Certainly*: residents of a town can prevent someone from another town from competing
- 1 *Unless*: he pays taxes with that town
- ii *And*: residents of one **מבוי** cannot prevent one of their neighbors from setting up competition
- iii *Question*: may residents of a **מבוי** prevent someone from another **מבוי**? – **תיקו**
- f *Caveat* (to **יוסף**): ר"ה allows a teacher to set up a competing **שיבה** – due to **קנאת סופרים**
- g *Caveat* (to **בריה דר"י**): ר"ה allows traveling spice sellers to come from another town
- i *Reason*: Jewish women should always have perfumes available
- ii *Limitation*: only as traveling salesmen, not to set up shop
- 1 *However*: if a scholar, he may set up shop, keep him from going door-to-door (undignified/time management)
- h *Stories*:
- i **דבא**: permitted a student to set up shop (as above)
- ii **דבינא**: allowed basket sellers from out of the country to come in and sell
- 1 *Limitation*: only on market day (both sellers and buyers are from many places), and only to sell in **שוק**
- iii **ד' כהנא**: wool sellers came to **נהרא** and the locals tried to prevent them; he held up their protest
- 1 *Response*: they had a debt to collect there
- 2 *Answer*: they may stay and do business – enough for daily food – until they collect their debt
- iv **ד' אהבה בר אהבה**: was sent to check out **ד' ר' דימי**, to see if he merited "special treatment" as **ת"ח**
- 1 *Tangent*: death of **בר אהבה** and the possible causes (curse of **ר' יוסף** [v. 1], of **ר' דימי**, of **ר' אבבי**, **ר' רבא**, **ר' רבנ"י**)
- II **משנה ד'**: building a wall next to another's wall – leave **ד"א** between them; must be **ד"א** above, below or away from windows
- a *Explanation* (**רבא**): if one's wall fell, he may not rebuild it closer – must be **ד"א** away
- i *Reason*: trampling in between helps solidify both walls
- b *Limitation* (**רב**): only applies to garden wall; but **כותל חצר** may be adjacent
- i *Dissent* (**ר' אושעיא**): all walls require **ד"א** separation \
- ii *Resolution*: in an old city, no need for separation (earth already strong); in new city, all walls require **ד"א**
- c *Challenge*: 2<sup>nd</sup> clause (windows) explained as preventing **היזק ראייה** or blocking light – but not for trampling
- i *Defense*: new wall is perpendicular to windowed wall – width of the window
- 1 *Challenge*: then he'll look in
- 2 *Answer*: if wall is sloped (**ד"א** mentioned is if there are two walls, one on each side of the window)
- d *Challenge*: wall must be separated from spout by **ד"א** – to leave room for ladder (but not for trampling)
- i *Answer*: it is a sloped roof and they walk (trample) below
- III **משנה ה'**: a ladder (of one) must be placed at least **ד"א** from a dove-cote (of another) to prevent a predator from killing birds
- a *And*: one's wall must be at least **ד"א** from a spout (of another) to leave room for a ladder
- b *Suggestion*: our **משנה** is *contra* **ר' יוסי**, who allows you to act in your own territory as you wish (cistern/tree)
- i *Rejection*: **ר"י** agrees if it is "your arrows" – and here, the predator may jump in as you place the wall
- 1 *Note*: this implies that **גרמא בנוקין** is forbidden (and the other can prevent him, even if there is no liability)
- 2 *Story*: bloodletters sat under **ר' יוסף**'s trees; attracting birds (to blood) who then ate his fruit (**גרמא**) - he wanted them moved away, relying on ruling that **גרמא בנוקין** and their presence there cannot be considered **חזקה**
- 3 *Note*: this ruling is only re: noxious smells (answer: to **ר' יוסף**, who was fastidious, the **אומן** is like a **בית הכסא**)