

26.1.12

14b (משנה ו') → 16a (בר תורה משהינן ליה ועביד על חד תריין) → 16a

1. ולא תביא תועבה אל ביתך והיית חרם כמהו שקץ תשקצנו ותעב תתעבנו כי חרם הוא: דברים ז:כו

I 'מסנה ו': selling animals to pagans

- a *בהמה דקה* (flock): depends on locale; מנהג to sell or not to sell are both valid and binding
- i *Challenge*: we have a ruling that we do not stand our animals near an inn of עכו"ם
- 1 *Reason*: they are suspected of bestiality (and we enable it – לפני עוור)
- (a) *Resolution1* (רב): the מנהג is based on which locales they engage in bestiality
- (b) *Resolution2* (ר"א): in any case, they won't commit this act with their own animals – they are afraid of spaying them; even where they do engage in it, if the מנהג is to sell, that is a valid מנהג
- b *בהמה גסה*: prohibited in all cases
- i *חכמים*: whether calves or foals, broken or fully able
- ii *Dissent* (ר' יהודה): if they are disabled, permissible
- 1 *Reason*: it can't heal; they'll destroy it right away
- 2 *Challenge*: they use such animals for breeding (→ the "broken" female will accept a male)
- (a) *Response*: disagrees – it won't accept a male and therefore they destroy it right away
- iii *Alternate exception* (בן בתירה): permits selling a horse to them
- 1 *Reason*: it isn't used for מלאכה for which we are liable on שבת (see below)
- 2 *Dissent* (רבני): it is banned for 2 reasons; weapon of war (see below) and it is used for work (mill)
- (a) *Ruling* (ר' יוחנן): accords with בן בתירה

II *Analysis of the prohibition against selling בהמה גסה*

- a *Reason*: they will work them on שבת
- i *Challenge*: why does this matter; once they buy it, the animal is their property
- ii *Answer*: it is a גזירה against renting out/lending
- 1 *Challenge*: even when renting, the renter becomes owner
- (a) *Answer* (ר' ימר): גזירה a case where he sells it just before שבת and, to demonstrate the animal's obeisance, calls him and he comes (and it's already שבת) and the ישראל violates מחמר
- 2 *Challenge*: a renter is *not* an owner, as per ruling later that even in those places where we are allowed to rent to pagans (e.g. סוריא), we may not rent residences, as they will bring ע"ז in –
- (a) *And*: if the renter owns, this is not our concern
- (b) *Answer*: per v. 1, ע"ז is more grave than other איסורים and extends to renting
- 3 *Challenge* (ר' יצחק בריה דר' משרשיא): a renter is *not* an owner, per ruling about a כהן who rents from a ישראל may not feed תרומה to animals (and the inverse) (accepted)
- b *Conclusion*: all three reasons apply – שכירות (once we've established לא קונה), borrowing and "demonstrations"
- c *Exceptions to the ban*:
- i *ד' אדא*: permitted selling through a middle-man
- 1 "demonstrating": doesn't apply, as the animal won't respond to his voice
- 2 *Lending/renting*: doesn't apply, as he doesn't have the right to do so
- (a) *In addition*: he may hurt the sale, if the borrower/renter discovers a מום
- ii *ד' הונא*: sold a cow to a pagan
- 1 *Challenge* (ר' חסדא): how could he do so?
- 2 *Answer*: it is reasonably possible that the pagan just wanted to slaughter it
- (a) *support*: ב"ה (contra ב"ש) allow a sale of a plow-cow during שמיטה
- (i) *Challenge* (רבה): disanalogous – there is no ban against having your animal work during שמיטה
- (b) *Clarification* (אב"י): just because he is commanded not to let it work, is it banned
- (i) *support*: ב"ה (contra ב"ש) allow sale of plowed field on שמיטה, as the buyer may leave it fallow
- (c) *Further* (ר' אשי): even if he isn't מצווה, he may not be allowed to provide – as per כלים בשביעית
- (d) *Resolution* (ר' אשי): anywhere that we have a plausible permitted use (e.g. a field to lie fallow), even if מצווה בשבתו – אסור, even if not מצווה – מותר; if there is no plausible alternate use (e.g. a plow) – אסור, even if not מצווה בשבתו

- iii **דבה**: sold an animal to a **ישראל** who was suspected of selling to pagans
- 1 **Challenge (אבני)**: this is prohibited based on his explanation of the ban to sell weapons (etc.) to **כותים**, even though, as evidenced by the ruling that permits **יחוד** with a **כותי**, they aren't personally suspected of wanton murder, they must be suspected of selling to **עכרים**
 - (a) **Possible answer**: the **כותי** won't reform; but the **ישראל** may do **תשובה**
 - (b) **Rejection**: **ר"נ** ruled that just as we may not sell to **עכרים**, we may not sell to **ישראל** who's thus suspect
 - 2 **דבה**: ran after the buyer a great distance (to nullify sale) but failed to reach him
- III Further on ban to sell them weapons
- a Extension of ban (**ר' דימי בר אבא**)
 - i **Just as**: we may not sell weapons to **עכרים**, similarly we may not sell to **ישראל** thieves
 - 1 **Question**: are they violent or not?
 - 2 **If**: they are violent – why would they be any different (obvious)
 - 3 **If not**: why not sell to them
 - (a) **Answer**: case where they would only use violence as a last resort to escape capture
 - b **contradictory ברייתות**: whether we may sell shields
 - i **question**: if it is just because they protect themselves, we should even ban selling them food
 - 1 **answer (רב)**: if we could, we would ban that as well
 - 2 **Alternate answer**: disagree about what the warriors do when they run out of ammunition
 - (a) **Prohibiting opinion**: they use their shields (as edges akin to swords)
 - (b) **Permitting opinion**: they flee – **הלכה**
 - c **Metals (ר' אדא בר אהבה)**: we may not sell them thick slabs of metal, as they use it to forge weapons
 - i **Challenge**: then we can't sell them farm tools either
 - ii **Answer**: the referent is special Indian metal (used for weapons)
 - iii **Note (ר' אשי)**: in our day, we sell it to the Parthians, as they protect us

IV Question: is a fatted cow permitted?

 - a **Note**: question may be asked according to **רבנן** and to **יהודה**
 - i **ד' יהודה**: possibly only permits a "broken" animal, as it will never be fit for work
 - 1 **But**: a fatted cow could be "slimmed down" for work → **אסור**
 - ii **דבנן**: possibly prohibit **שבורה** as it may heal,
 - 1 **But**: a fatted cow is certainly slated for **שחיטה** → **מותר**
 - b **Resolution (שמואל)**: **בית רבי** used to bring a fatted cow to the Romans on their festival,
 - i **Then**: they would bribe them to bring it the next day, then to offer it already **שחוט**, then not to bring it at all
 - 1 **Inference**: it is prohibited, as they may hold on to it, slim it down and use for **מלאכה**
 - (a) **Challenge**: why then pay them to delay?
 - (b) **Answer**: **בית רבי** wanted to avoid participation at all and thought that by lowering involvement in stages they would be more receptive (to the bribes)
 - c **Challenge**: do they really keep it, slim it down and use for work
 - i **Answer (from a "cow fattener")**: indeed they do, and the animal can work twice as well as another