

26.5.8

70a (אבל אומר לו מלטני מן העוצר) 71a → (ההוא ביתא דהוה יתיב ביה חמרא דישאל)

- I Series of cases involving possible contact of עכ"ם with wine, rulings by רבא
- a Case 1: Storehouse of ישראלי wine, עכ"ם went in and shut the door, which had a crack/peephole in it; עכ"ם was found among the ישראלי's barrels
- i Ruling: any barrels that could be seen through peephole are מותר; rest is אסור
- b Case 2: home with ישראלי living upstairs, עכ"ם downstairs; tussel was heard outside and both ran outside; subsequently, עכ"ם ran in and shut the door
- i Ruling: permitted; עכ"ם figures that just as he ran it, ישראלי ran it and can see him from above
- c Case 3: boarding house where ישראלי kept wine; עכ"ם was found among barrels
- i Ruling: if the עכ"ם looks like he was "caught red-handed" – מותר; else, אסור
- d Case 4: house where they kept wine and עכ"ם was found among barrels
- i Ruling: if the עכ"ם has a reasonable excuse for being there – אסור – else, מותר
- ii Challenge: ruling that if the inn is locked (with wine and עכ"ם inside) or the ישראלי asked him to watch – אסור
- 1 Assumption: case is where he has a reasonable explanation for being with the wine
- 2 Rejection: this is a case where he would have no reasonable explanation (מירתת)
- e Case 5: ישראלי and עכ"ם were drinking together; ישראלי heard sound of תפילנה, got up and went to בית הכנסת
- i Ruling: wine is permitted; עכ"ם figures ישראלי will remember his wine and return
- f Case 6: ישראלי and עכ"ם were drinking together on a boat; ישראלי heard sound of ע"ש of שופר, got up and left
- i Ruling: wine is permitted; עכ"ם figures ישראלי will remember his wine and return
- ii Per: יצחק ר"י's leniency: שומרי שבת are not ישראליים believe עכ"ם are not יצחק ר"י's leniency:
- 1 If: one finds a money pouch in שוק on שבת, may walk it ד"א at a time
- g Case 7: lion was roaring outside of winepress, עכ"ם ran in to hide among barrels
- i Ruling: wine is מותר; עכ"ם figures that just as he is hiding, ישראלי is hiding nearby and watching him
- h Case 8: thieves פומבדיתא opened barrels of wine as part of theft
- i Ruling: מותר – most גנבים are ישראליים (!) – and we follow רוב
- ii Parallel: נהדעא ruled leniently in a similar case in שמואל
- 1 Challenge; is he ruling like ר"א (contra חכמים) in re: ספק ביאה?
- 2 Answer: since here, the thieves are looking for money (not wine), it is a ספק ספיקא:
- (a) ספק, if the גנב was ישראלי or עכ"ם – and even if he was עכ"ם, doubtful if he touched it
- i Case 9: young עכ"ם girl was found near barrel holding some foam (from top of wine)
- i Ruling: permitted; we can assume it was taken from the top of the barrel, even if there's no more there
- II Related cases – rulings by other חכמים:
- a Case 10: army unit entered נהרדעא and many barrels were opened
- i Ruling (ר"א דימי'): ר"א permitted a similar case,
- 1 But: unsure if it was because he holds like ר"א that ספק ביאה טהור or because a majority of the soldiers are ישראלי
- (a) Challenge: then it should be ספק מגע, not ספק ביאה
- (b) Answer: since they are generally looking for money, not wine, considered like ספק ביאה
- b Case 11: a bartendress (?) gave her key (to the wine cellar) to a גויה
- i Ruling: per ר"א - she only gave her the key to watch – not for access
- ii support (אב"י): if keys to storehouse of טהרות are given to ע"ה – he only gave him המפתח
- 1 Reasoning: if the טהרות are considered "safe", certainly the wine is
- 2 Support (that י"נ is less severe than טהרות): if a courtyard has a small reed fence (ע"ה lives on other side):
- (a) טהרות are no longer טהור, but wine (if neighbor is עכ"ם) is not י"נ
- (b) יוחנן ד' even טהרות are still "safe"
- (i) Challenge (to רב): if the internal courtyard is של חבר and outer – של ע"ה, the חבר can leave his פירות and כלים out – even though the ע"ה could touch them – they're still "safe"
1. Defense: in that case, he'd be "caught red-handed" (trespassing) if he touched the חבר's things
- (ii) Challenge (to יוחנן ד'): רשב"ג: if the roof of the חבר is higher than his neighbor, the ע"ה, he may leave his things on the roof as long as the ע"ה can't reach
1. Defense: in that case, the ע"ה has a ready excuse for touching חבר's things – he was "just stretching"
- (iii) Challenge (to רב): (in apposition to רשב"ג) - if the roof of the חבר is on a par with that of the ע"ה, the חבר may leave his things there – even if the ע"ה can reach it
1. Defesne (רב): רשב"ג disagrees – my position is that of רשב"ג

- III ר' משנה: status of wine when an army comes through town
- a *If*: it is peacetime, only open barrels are אסור
 - b *If*: wartime – all are מותר - as there is no opportunity to do ניסוך
 - i *Challwenge*: ruling that in such a case, all כהנות in town are פסולות (assume rape)
 - ii *Answer*: there is time for בעילה, but not for ניסוך
- IV ז' משנה: accepting י"נ in payment
- a *If*: ישראל artisans were paid in י"נ – they may request that they send money instead
 - i *But if*: the י"נ entered their premises – too late
 - b *Backdoor*: רב – a man may ask his עכו"ם friend, to try to convince the tax collector to give him a break - even though he knows he may pay him with י"נ
 - i *Challenge*: a man may not ask his עכו"ם friend to pay the wine-tax-collector for him (as he will pay with י"נ)
 - ii *Answer*: our case is more akin to asking him to help him get relief from the payment