

30.8.11

115b (אבל מעמידין בקבת נבלה ובקבת שחיטת עובד כוכבים) → 116b (תניא איסי בן יהודה אומר מנין לבשר בחלב שאסור)

1. לא תאכלו כל נבלה לגר אשר בשעריך תתננה ואכלה או מנר לנכרי כי עם קדוש אתה לה' אלהיך לא תבשל גדי בחלב אמו: דברים יז, כא
 2. ואנשי קדש תהיו לי ובשר בשדה טרפה לא תאכלו לקלב תשלכנו אתו: שמות כב, ל
 3. לא תזרע פרמך כלאים פן תקדש המלאה הזרע אשר תזרע ותבואת הכרם: דברים כב, ט

I בב"ח איסור אכילה והנאה of איסי בן יהודה

a איסור אכילה → (קודש) v. 2 :: (קדוש) v. 1: גזירה שווה

i ערלה from ק"ו via איסור הנאה

1 if: ערלה, which wasn't the result of a prohibited act, is אסור בהנאה

2 then certainly: בב"ח, which was the result of a prohibited act, is אסור בהנאה

(a) challenge: ערלה was never permitted unlike בב"ח

(b) save: חמץ בפסח, which had a moment of fitness (before יד), yet is אסור בהנאה

(i) challenge: חמץ is severe as evidenced by the punishment of כרת

(ii) save: כלאי הכרם, which has no כרת attached and had a שעת הכושר - yet is אסור בהנאה

ii analysis: analyzing the ברייתא

1 question: why employ the גז"ש; could have all been inferred via ק"ו from ערלה (as it evolved)?

(a) answer: ק"ו alone could have been broken – mixed plowing and plowing with muzzled ox disprove it

2 question: why respond to the חמץ-challenge with כלאים; why not ricochet to ערלה and employ הצד (HCD)

(a) answer (ר' אשי): נבלה breaks that "HCD" (highest common denominator); אסור yet אסור באכילה

(b) challenge (לר' אשי): ר"ל taught that הצד במה may only be challenged internally (from ranged sources)

(i) therefore: we should have been able to infer from ערלה and חמץ alone

(ii) answer: HCD could have been challenged – both חמץ and ערלה are from the ground (unlike בב"ח)

1. challenge: כלאים (the 3rd source) is also גידולי קרקע – what did we gain by adding it in?

2. clarification (in ר"ל's name): even an insignificant difference can be used to break a הצד, but when we infer via ק"ו (1-to-1) the "breaker" must be significant

a. therefore: why not challenge the הצד במה - all 3 ranged sources are גידולי קרקע

3. clarification: (ר' מרדכי בשם ר"ל) – here are the rules of challenging an inference:

a. when: it is ק"ו, one from one – the challenge must be significant

b. when: it is one from two – even an insignificant challenge is valid

c. when: it is 1-from-3 (as in our case);

i. if: we employ HCD, any challenge is valid (but must be internal)

ii. but if: we maintain ק"ו, challenge must be significant (but may be external)

3 question: why not challenge HCD by noting that כלאי הכרם never had שעת הכושר?

(a) answer (ר' אדא בר אהבה): this proves that the roots of כלאי הכרם are אסור (but were "fit" before taking root)

(i) challenge: if someone passes a perforated planter in a vineyard, if it increased by 1/200 – אסור

(ii) answer (אב"י): v. 3 uses both המלאה זרע and זרע

1. resolution: that which was planted ab initio is אסור at roots; if newly "mixed", only if it added שיעור

II Attribution: our משנה does not conform to ר"ש who permits הנאה from בב"ח, per vv. 1-2

III revisiting ר"ע and ריה"ג:

a שמואל (above) as per 3 already used – בהמה טמאה and חיה, עוף (x3) גדי to eliminate ד"ע

i answer: he holds איסור חל על איסור (→ no need for חלב or מתה); the embryo is a full animal → all 3 are "available"

b (ר"ע) מד"ס or (ר"י) מה"ת – whether it is חיה – ר"ע disagrees with ר"ע about דיה"ג

i or: they disagree about עוף, whether it is even אסור מד"ס or not at all (ריה"ג)

ii supporting ברייתא: in ר"א's town, they would cut wood (to heat up knife for מילה – see שבת יט:א) and in ריה"ג's town they would eat fowl with milk

1 story: לוי came to town, was served pheasant with milk and said nothing (presumably, he didn't partake); when he came to רבי and related the story, רבי asked why לוי didn't excommunicate his hosts for violating law

(a) answer: it had been the town of בתירה בן בתירה; ר' יהודה בן בתירה; he assumed that they were following his teachings

- IV ה משנה: milk in animal's stomach and curdling cheese
- a if: milk is found in stomach of animal owned by non-Jew or a נבלה, it is אסור
 - b if: he uses the stomach to curdle cheese - if there is ג'ט, it is אסור
 - c בהמה כשרה: that nurses from a טריפה – the milk in the כשרה's stomach is prohibited
 - d but בהמה טריפה: that nursed from a כשרה – the milk in the טריפה's stomach is permitted
- V Analysis: explanation of two clauses – קבת נבלה and קבת גוי – isn't an animal slaughtered by a non-Jew a נבלה?
- a דב הונא: reference is to a kid bought (live) from a non-Jew; concern is that it nursed from a טריפה
 - i challenge: we don't generate such concerns, per תוספתא חולין ג:כד – may buy eggs from anyone without concern that they come from נבלה or טריפה
 - 1 repair: concern is that it nursed from a טמאה בהמה
 - 2 question: why is that concern legitimate, whereas מן הטריפה isn't?
 - (a) answer: טריפה is far rarer than טמאה בהמה
 - (b) challenge: if so, why aren't we concerned that one of our animals may have nursed from a טמאה?
 - (i) answer: since we avoid טמאות and we push our animals away when they come close – no גזרה
 - b שמואל: read the two phrases as one – קבת גוי נבלה, meaning the stomach of an animal slaughtered by a גוי (=נבלה)
 - i challenge: שמואל explained the prohibition of גויים as due to their curdling the cheese in the stomach of the נבלה
 - 1 implication: the milk in the stomach itself is not prohibited
 - 2 defense: our משנה represents יהושע ר' first approach (ע"ז ב:ה) – what שמואל is explaining here); שמואל's final determination as to the reason for איסור גבינת גויים is per יהושע ר' final answer (ibid - ע"ז ז' - מעמידין אותה בקיבת עגלי ע"ז)
- VI Analysis of 3rd clause – the milk follows the identity of the source, not the “host” stomach
- a challenge (to permission to drink חלב כשרה in the stomach of a טריפה): 1st clause of משנה prohibits milk in stomach of נבלה
 - i answer (ר' חסדא): in 1st clause, he looks to be eating נבילה, here, there is שחיטה
 - ii challenge (רבא): if so, ק"ו it should be prohibited:
 - 1 if: a נבלה is repulsive; even if we allowed the milk, no one would eat its meat, yet we prohibit the milk
 - 2 then certainly: a טריפה which is slaughtered, if we allow the milk one may eat from it – should be אסור
 - iii rather (per יוחנן ר' יוסף בשם ר' יוחנן): our רישא represents יהושע ר' first explanation (above); this clause follows his conclusive explanation –
 - 1 and: once a משנה is committed to memory, we don't modify it
- VII יוחנן ר' dictum (quoted by ר' חייא בר אבא): we may curdle cheese in a נבלה-stomach, but not in one slaughtered by a non-Jew
- a response (ר' שמעון בר אבא): this seems to follow ר"א, who holds that סתם מחשבת עכ"ם is for ע"ז (→ קבת גוי due to אסור)
 - b version (ר' שמואל בר ר' יצחק quoted by ר' יוחנן): we may use either נבלה or גוי for curdling cheese – no concern for ר"א
 - c final ruling: we do not curdle with the skin of a נבלה-stomach, but may curdle in a נבלה-stomach or the stomach of a כשרה that nursed from a טריפה – all the more so in the stomach of a טריפה that nursed from a כשרה
 - i reason: the milk which is inside is פירשא בעלמא, not real food