

A בס"ד

Intro

Today we will learn בע"ה of בבא בתרא דף נ"ה
Some of the topics we will learn about include.

The three statements of שמואל regarding דינא דמלכותא דינא
The laws of the government that do not contravene the תורה are Halachically binding.

The Machlokes regarding הני זהרורי דזבין ארעא לטסקא
The wealthy people who pay the taxes of the poor who did not pay their taxes, and in return the government gives them the fields of the poor that were confiscated;

The Machlokes regarding המצר והחצב
Whether a raised border or a חצב plant whose roots go straight down into the earth and stay within its boundary are considered a separation between two fields regarding several Halachos.

The מחלוקת רבי אליעזר וחכמים regarding הנכנס לבקעה בימות הגשמים וטומאה בשדה פלונית ואמר הלכתי למקום הלז ואיני יודע אם נכנסתי לאותו מקום ואם לאו
One who enters a plain full of fields where one of the fields was טמא but the person does not know which field he had entered, and during the growing season a field is a רשות היחיד because people may not use it as a shortcut, since they might trample the produce.

B Although generally, ספק טומאה ברשות היחיד טמא

Any doubt about טומאה that arises in a רשות היחיד, a private area, we assume to be טמא.

However in this case רבי אליעזר מטהר
This person is טהור because he holds ספק ביאה טהור

The stringency of ספק טומאה ברשות היחיד does not apply when we are not certain if the person even entered the field. It applies only where he certainly entered the field, but we do not know whether he touched the טומאה.

וחכמים מטמאין
This person is טמא because they hold ספק ביאה טמא
The stringency of ספק טומאה ברשות היחיד applies even when we are not certain whether the person even entered the field.

A

דינא דמלכותא דינא

הני זהרורי
דזבין ארעא
לטסקא

המצר והחצב

הנכנס לבקעה בימות הגשמים
וטומאה בשדה פלונית
ואמר הלכתי למקום הלז
ואיני יודע אם נכנסתי לאותו
מקום ואם לאו

B

ספק טומאה ברשות היחיד

טמא

רבי אליעזר

מטהר

ספק ביאה טהור

וחכמים

מטמאין

1 So let's review ...

The Gemara cites three statements of שמואל:

1.

אמר שמואל

דינא דמלכותא דינא

The laws of the government that do not contravene the תורה are Halachically binding.

2.

And therefore

אריסותא דפרסאי

עד מ' שנין

In Persia the law was that if a person possessed a field for forty years, he is considered the true owner even though he has no שטר.

Now, the רשב"ם offers two explanations as to its Halachic relevance:

1. Therefore,

אם החזיק בה עכו"ם מ' שנה

ובא ישראל וקנה ממנו

הוי קנין גמור

If a Jew bought the field from non-Jew, he is considered the true owner, and another Jew cannot claim that the non-Jew stole the field from him. And even though generally

עכו"ם אין לו חזקה

A non-Jew cannot establish a חזקה, because they are assumed to steal; but in Persia a non-Jew can establish a חזקה, because

דינא דמלכותא דינא

OR

2. Therefore,

אם החזיק בה ישראל מ' שנה

הוי חזקה

If a Jew possessed a field for forty years only then is he considered the owner. And, even though generally

לישראל הוי חזקה

בג' שנים

A Jew can establish a חזקה even after three years; but in Persia a Jew can only establish a חזקה after forty years, because

דינא דמלכותא דינא

=====

1

1

אמר שמואל

דינא דמלכותא דינא

The laws of the government

that do not contravene the תורה are Halachically binding.

2

אריסותא דפרסאי

עד מ' שנין

In Persia the law was

that if a person possessed a field for forty years, he is considered the true owner even though he has no שטר.

The רשב"ם offers two explanations as to its Halachic relevance:

2

אם החזיק בה ישראל

מ' שנה

הוי חזקה

If a Jew possessed a field for forty years only then is he considered the owner.

And, even though generally

לישראל הוי חזקה

בג' שנים

but in Persia a Jew can only establish a חזקה after forty years, because

דינא דמלכותא דינא

1

אם החזיק בה עכו"ם מ' שנה

ובא ישראל וקנה ממנו

הוי קנין גמור

If a Jew bought the field from non-Jew, he is considered the true owner, and another Jew

cannot claim that the non-Jew stole the field from him.

And even though

עכו"ם אין לו חזקה

A non-Jew cannot establish a חזקה, in Persia a non-Jew can

establish a חזקה, because

דינא דמלכותא דינא

2

3.

שמואל says

הני זהרורי דזבין ארעא לטסקא
זביניהו זביני

The wealthy people who pay the taxes of the poor who did not pay their taxes, and in return the government gives them the fields of the poor that were confiscated; The sale of these fields is valid, and therefore even if a poor person then wishes to redeem his field from the wealthy, he cannot compel him to do so, because דינא דמלכותא דינא

רבה makes the following distinction

ה"מ לטסקא
אבל לכרגא
לא הוי זביני

Only if the officials confiscated and sold the field to collect property tax, the sale is valid, but if they confiscated and sold the field to collect head taxes, the sale is not valid, because

כרגא אקרקה דגברי מנח

The head tax is a personal obligation and there's no lien on one's property. Rather, the government imprisons him until he pays. Therefore, his property was unlawfully confiscated.

ר' הונא בריה דרב יהושע disagrees and holds

לא שניא זבין ארעא לטסקא או לכרגא
זביניהו זביני

Regardless of whether the officials sold the field for property tax or head tax, the sale is valid, because

אפילו שערי דכדא
משתעבדי לכרגא

The law allows them to confiscate anything even a jug of barley for the head tax, and they can certainly confiscate a field for the head tax.

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2

2

שמואל

הני זהרורי דזבין ארעא לטסקא
זביניהו זביני

The wealthy people who pay the taxes of the poor who did not pay their taxes, and in return the government gives them the fields of the poor that were confiscated;

The sale of these fields is valid, and therefore even if a poor person then wishes to redeem his field, he cannot compel him to do so, because

דינא דמלכותא דינא

רבה makes the following distinction

ה"מ לטסקא

אבל לכרגא לא הוי זביני

Only if the officials confiscated and sold the field to collect property tax, the sale is valid,

but if they confiscated and sold the field to collect head taxes, the sale is not valid, because

כרגא אקרקה דגברי מנח

The head tax is a personal obligation and there's no lien on one's property.

Rather, the government imprisons him until he pays. Therefore, his property was unlawfully confiscated.

ר' הונא בריה דרב יהושע

לא שניא זבין ארעא לטסקא או לכרגא
זביניהו זביני

Regardless of whether the officials sold the field for property tax or head tax, the sale is valid, because

אפילו שערי דכדא
משתעבדי לכרגא

The law allows them to confiscate anything even a jug of barley for the head tax, and they can certainly confiscate a field for the head tax.

3 The Gemara proceeds with a discussion regarding המצר והחצב
Whether a raised border, or a חצב plant whose roots go straight down into the earth and stay within its boundary, are considered a separation between two fields regarding the following Halachos

1.

נכסי הגר

As taught in דף נ"ג, all agree that if a person makes a חזקה in one field of a גר, his חזקה does not extend to the גר's adjacent field, and he does acquire the second field, because they are considered two fields.

However, there is a Machlokes regarding the next two Halachos

2.

פאה

If one set aside פאה in one field, does he become exempt from פאה in his adjacent field because the מצר וחצב are not considered a separation and they are considered like one field?

OR

Perhaps he must set aside פאה separately in the second field, because the מצר וחצב are considered a separation and they are considered two fields?

3

?

המצר והחצב

Whether a raised border, or a חצב plant whose roots go straight down into the earth and stay within its boundary, are considered a separation between two fields regarding the following Halachos

1

נכסי הגר

All agree that if a person makes a חזקה in one field of a גר, his חזקה does not extend to the גר's adjacent field, and he does NOT acquire the second field, because they are considered two fields.

2

פאה

If one set aside פאה in one field, does he become exempt from פאה in his adjacent field because the מצר וחצב are not considered a separation and they are considered like one field?

Perhaps he must set aside פאה separately in the second field, because the מצר וחצב are considered a separation and they are considered two fields?

4

3.

טומאה

Generally,

ספק טומאה ברשות היחיד
טמא

Any doubt about טומאה that arises in a רשות היחיד, a private area, we assume to be טמא.

However, there is a Machlokes in the case of

הנכנס לבקעה בימות הגשמים

וטומאה בשדה פלונית ואמר הלכתי למקום הלז
ואיני יודע אם נכנסתי לאותו מקום ואם לאו

One who enters a plain of many fields where one of the fields had a טומאה, but the person does not know which field he had entered;

And during the growing season a field is a רשות היחיד because people may not use it as a shortcut, since they might trample the produce.

רבי אליעזר מטהר

This person is טהור, because רבי אליעזר holds

ספק ביאה טהור

The stringency of ספק טומאה ברשות היחיד does not apply when we are not certain if the person even entered the field. It applies only where he certainly entered the field, but we do not know whether he touched the טומאה.

וחכמים מטמאין

This person is טמא because they hold

ספק ביאה טמא

The stringency of ספק טומאה ברשות היחיד applies even when we are not certain whether the person even entered the field.

Now, if there was מצר וחצב between a field that did have a טומאה and a field that did not have a טומאה;

Do we say that even according to רבי אליעזר a person who goes into the second field becomes טמא, because the מצר are not considered a separation and they are considered one field, and therefore it was not a ספק ביאה, but rather he certainly entered the field which had the טומאה? OR

Perhaps according to רבי אליעזר, a person who goes into the second field remains טהור because the מצר וחצב are considered a separation, and they are considered two fields, and therefore it was a ספק ביאה?

4

3

טומאה

Generally,

ספק טומאה ברשות היחיד – טמא

However, there is a Machlokes in the case of

הנכנס לבקעה בימות הגשמים

וטומאה בשדה פלונית

ואמר הלכתי למקום הלז

ואיני יודע אם נכנסתי לאותו מקום ואם לאו

One who enters a plain of many fields where one of the fields had a טומאה, but the person does not know which field he had entered;

And during the growing season a field is a רשות היחיד because people may not use it as a shortcut, since they might trample the produce.

וחכמים

מטמאין

Because they hold

ספק ביאה טמא

The stringency of ספק טומאה ברשות היחיד applies even when we are not certain whether the person even entered the field.

רבי אליעזר

מטהר

Because רבי אליעזר holds

ספק ביאה טהור

The stringency of ספק טומאה ברשות היחיד does not apply when we are not certain if the person even entered the field. It applies only where he certainly entered the field, but we do not know whether he touched the טומאה.

Now, if there was מצר וחצב between a field that had טומאה and a field that did not have a טומאה...

Do we say that even according to רבי אליעזר

a person who goes into the second field becomes טמא, because the מצר וחצב are not considered a separation, and therefore it was not a ספק ביאה, rather he certainly entered the field which had the טומאה?

Do we say perhaps according to רבי אליעזר,

a person who goes into the second field is טהור because the מצר וחצב are considered a separation, and they are considered two fields, and it was a ספק ביאה?



5 And the Gemara cites the Machlokes as follows:
 רב אסי א"ר יוחנן says
 המצר והחצב
 מפסיקין בנכסי הגר
 אבל לענין פאה וטומאה לא
 Only regarding חזקה in a גר's field,
 המצר והחצב are considered a separation;
 But regarding פיאה and טומאה, ספק
 המצר והחצב are not considered a separation;
 Because as the רשב"ם explains
 מן התורה אין מצר מפליג קרקע המחוברת
 Regarding טומאה and פיאה, such as איסורי דאורייתא
 there is no separation for two fields that are connected.
 Regarding חזקה however, there is a separation for two
 fields that are connected because
 דחזקה מעלייתא בעינן
 שיחזיק בכל השדות
 One must perform a superior חזקה in each and every field.

While רבין אמר רבי יוחנן disagrees and says
 המצר והחצב מפסיקין
 אפילו לפאה וטומאה
 Even regarding פיאה and טומאה, ספק
 המצר והחצב are considered a separation;
 Because they are no different than חזקה for which
 המצר והחצב are considered a separation.

5

רב אסי א"ר יוחנן
המצר והחצב
מפסיקין בנכסי הגר
אבל לענין פאה וטומאה לא
 Only regarding חזקה in a גר's field,
 המצר והחצב are considered a separation;
 But regarding פיאה and טומאה, ספק
 המצר והחצב are not considered a separation;
 Because as the רשב"ם explains
 מן התורה אין מוצר מפליג קרקע המחוברת
 Regarding טומאה and פיאה, such as איסורי דאורייתא
 there is no separation for two fields that are connected.
 Regarding חזקה however, there is a separation for two
 fields that are connected because
 דחזקה מעלייתא בעינן
 שיחזיק בכל השדות
 One must perform a superior חזקה
 in each and every field.

רבין אמר רבי יוחנן
המצר והחצב מפסיקין
אפילו לפאה וטומאה
 Even regarding פיאה and טומאה, ספק
 המצר והחצב are considered a separation;
 Because they are no different than חזקה for which
 המצר והחצב are considered a separation.

6 The Gemara then adds that there is another Machlokes regarding שבת:

It seems from רבין אמר רבי יוחנן that אבל לשבת לא Regarding שבת, מצר וחצב are not considered a separation;

While רבא disagrees and says המצר והחצב מפסיקין אפילו לענין שבת Even regarding שבת, מצר וחצב are considered a separation;

And the Gemara explains the Machlokes regarding שבת refers to the following Halachah in a Braisa:

הוציא חצי גרוגרת לרשות הרבים והניחה וחזר והוציא חצי גרוגרת אחרת If on Shabbos one took out a חצי שיעור from a רשות היחיד and put it down in a רשות הרבים, and then he took out another חצי שיעור, it depends;

בהעלם אחד חייב If in between the two times he carried, he did not become aware that it is Shabbos or that carrying is forbidden on שבת, the two acts combine and he's חייב חטאת

בשני העלמות פטור If he did realize in between that it's Shabbos or that it's forbidden, it is two periods of unawareness for which he is פטור, because they cannot combine, and each act by itself had no שיעור.

However, רבי יוסי adds: Even בהעלם אחד only ברשות אחת חייב If each time he carried, he put the חצי שיעור down in the same רשות הרבים, only then the two acts combine. But בשתי רשויות פטור If each time he carried, he put the חצי שיעור down in a different רשות הרבים, the two acts do not combine.

6

רבא
המצר והחצב מפסיקין אפילו לענין שבת
Even regarding שבת, מצר וחצב are considered a separation;

רבין אמר רבי יוחנן
אכל לשבת לא
Regarding שבת, מצר וחצב are not considered a separation;

הוציא חצי גרוגרת לרשות הרבים והניחה וחזר והוציא חצי גרוגרת אחרת

If on Shabbos one took out a חצי שיעור from a רשות היחיד and put it down in a רשות הרבים, and then he took out another חצי שיעור, it depends...

בשני העלמות פטור

If he did realize in between that it's Shabbos or that it's forbidden, it is two periods of unawareness for which he is פטור, because they cannot combine, and each act by itself had no שיעור.

בהעלם אחד חייב

If in between the two times he carried, he did not become aware that it is Shabbos or that carrying is forbidden on שבת, the two acts combine and he's חייב חטאת.

רבי יוסי
בהעלם אחד

בשתי רשויות פטור

If each time he carried, he put the חצי שיעור down in a different רשות הרבים, the two acts do not combine.

ברשות אחת חייב

If each time he carried, he put the חצי שיעור down in the same רשות הרבים, only then the two acts combine.

7 And the Gemara mentions several opinions as to what is considered a separation in a רשות הרבים to consider them שתי רשויות:

1.

רבה says

והוא שיש חיוב חטאת ביניהם

The separation must be the size of a רשות היחיד ten טפחים in height and four טפחים wide for which there would be an איסור דאורייתא to carry from it to the רשות הרבים.

2.

אביי says

אפילו כרמלית

Even if the separation was the size of a כרמלית between 3 to 9 טפחים in height, and four טפחים wide, for which there would only be an איסור דרבנן to carry from it to the רשות הרבים.

And according to these two opinions

המצר והחצב אין מפסיקין

לשבת

If there was מצר וחצב between the two רשויות he is חייב חטאת, because they are not considered a separation since they are not the size of a רשות היחיד, or even a כרמלית, and therefore the two acts do combine.

3.

However, רבא says

אפילו פיסלא

Any separation, even a piece of wood less than four טפחים wide, which is a מקום פטור for which there is no Issur at all to carry from it to the רשות הרבים.

And accordingly

המצר והחצב מפסיקין

לשבת

If there was מצר וחצב between the two רשויות he is פטור, because they are considered a separation and therefore the two acts do not combine.

7

What is considered a separation in a רשות הרבים to consider them שתי רשויות

2

אביי

אפילו כרמלית

Even if the separation was the size of a כרמלית between 3 to 9 טפחים in height, and four טפחים wide, for which there would only be an איסור דרבנן to carry from it to the רשות הרבים.

1

רבה

והוא שיש חיוב חטאת ביניהם

The separation must be the size of a ten טפחים in height and four טפחים wide for which there would be an איסור דאורייתא to carry from it to the רשות הרבים.

And according to these two opinions

המצר והחצב אין מפסיקין לשבת

If there was מצר וחצב between the two רשויות he is חייב חטאת, because they are not considered a separation since they are not the size of a רשות היחיד, or even a כרמלית, and therefore the two acts do combine.

3

רבא

אפילו פיסלא

Any separation, even a piece of wood less than four טפחים wide, which is a מקום פטור for which there is no Issur at all to carry from it to the רשות הרבים.

And accordingly

המצר והחצב מפסיקין לשבת

If there was מצר וחצב between the two רשויות he is פטור, because they are considered a separation and therefore the two acts do not combine.