

A ט"ד

Intro

Today we will learn בע"ה of בבא קמא דף קי"ז
Some of the topics we will learn about include.

The Halachos of a מוסר

An informer who caused someone's property to be confiscated by the authorities;

הראה ממון חבירו

פטור

If the authorities threatened to confiscate a person's assets, and he directed them to confiscate someone else's assets, he is not liable to pay

ואם נטל ונתן ביד

חייב

But if he actually handed them the person's assets, he is liable to pay because he caused the היזק directly, and it was not גרמי, indirectly.

The incident of a מוסר whom רב כהנא killed, because as the פני יהושע explains, one is permitted to kill a מוסר because he is considered a רודף, endangering people's lives;

The incident of רב כהנא and רבי יוחנן

A

מוסר of a Halachos
ישראל שאנסוהו עכו"ם
והראה ממון חבירו
פטור

ואם נטל ונתן ביד
חייב

The incident of
רבי יוחנן and רב כהנא

B The Mishnah's Halachah

שטפה נהר

אומר לו הרי שלך לפניך

If a person stole someone's field, and then a river overflowed and flooded the field, the גולן does not have to pay the owner for the field, because

קרקע אינה נגזלת

Land cannot be stolen, and there is no חיוב השבה.

רבי אלעזר disagrees and holds

חייב להעמיד לו שדה אחר

The גולן must pay the owner for the field, because he holds

קרקע נגזלת

Land can be stolen, and the גולן has a חיוב השבה, he must either return the land in its original form, or pays its value.

Their Machlokes is based in the general Machlokes רבי אלעזר and the Chachamim regarding a Pasuk that states a כלל, a general word, and a פרט, a detail of that word.

רבי אלעזר דריש ריבוי ומיעוטי

רבנן דרשי כללי ופרטי

B

שטפה נהר
אומר לו הרי שלך לפניך

קרקע אינה נגזלת

רבי אלעזר דריש
ריבוי ומיעוטי

רבנן דרשי
כללי ופרטי

1 So let's review ...

The previous Mishnah taught

הגזול שדה מחבירו ונטלוה מסיקין

If a person stole someone's field, and the government then confiscated the field from the גזלן;

It depends;

אם מוכת מדינה היא

אומר לו הרי שלך לפניך

If other fields in this province were also taken and this was not because of the גזלן, the גזלן does not have to pay the owner for the field.

אם מחמת הגזלן

חייב להעמיד לו שדה אחר

If they took the field because of the גזלן, he does pay the owner for the field.

And as the Gemara explains;

Even if the גזלן did not actually steal the field, but rather דאחוי אחוויי

He indicated to the officials to take this field;

He is חייב, because, as Tosfos explains, the Mishnah holds דאין דינא דגרמי

One is liable for damages that were caused indirectly.

1

משנה

הגזול שדה מחבירו ונטלוה מסיקין

If a person stole someone's field,
and the government then confiscated the field
from the גזלן;

אם מחמת הגזלן
חייב להעמיד לו
שדה אחר

If they took the field
because of the גזלן,
he does pay the owner
for the field.

אם מוכת מדינה היא
אומר לו הרי שלך
לפניך

If other fields in this province
were also taken and this was
not because of the גזלן,
the גזלן does not have to pay
the owner for the field.

As the Gemara explains,
even if the גזלן did not actually steal the field,
but rather

דאחוי אחוויי

He indicated to the officials to take this field.

And he is חייב, because, as Tosfos explains,
the Mishnah holds
דאין דינא דגרמי

One is liable for damages
that were caused indirectly.

- 2 The Gemara proceeds with a Braisa that discusses the Halachos of a מוסר
 מוסר
 An informer who caused someone's property to be confiscated by the authorities;
 ישראל שאנסוהו עכו"ם
 והראה ממון חברו
 פטור
 If the authorities coerced someone to show them someone else's assets, he is not liable to pay, because
 לא דאין דינא דגרמי
 באונס
 One is not liable for damages that were caused indirectly if it was by coercion.
 However,
 ואם נטל ונתן ביד
 חייב
 If he actually handed them the person's assets, he is liable to pay, because he caused the היזק directly, and it was not גרמי, indirectly.
- אם רבה adds
 אם הראה מעצמו
 כנשא ונתן ביד דמי
 If he showed the authorities someone else's assets, without them compelling him to do so, he is חייב because it is considered as if he actually handed them the assets.

2

Halachos of a מוסר

**ישראל שאנסוהו עכו"ם
 והראה ממון חברו
 פטור**

If the authorities coerced someone to show them someone else's assets, he is not liable to pay, because

לא דאין דינא דגרמי באונס

One is not liable for damages that were caused indirectly if it was by coercion.

**ואם נטל ונתן ביד
 חייב**

If he actually handed them the person's assets, he is liable to pay, because he caused the היזק directly, and it was not גרמי, indirectly.

רק

**אם הראה מעצמו
 כנשא ונתן ביד דמי**

If he showed the authorities someone else's assets, without them compelling him to do so, he is חייב because it is considered as if he actually handed them the assets.

2 The Gemara continues with an incident in which
 אנסוהו עכו"ם
 והראה ממון חבירו
 The authorities compelled a person to direct them to
 someone's barrels of wine.
 And afterward
 דרא ואמטי בהדייהו
 The authorities compelled that person to assist them in
 carrying the wine, and he did so.
 פטור he is נטל ונתן ביד רב אשי
 because
 דאוקמיה עילויה מעיקרא
 מיקלי קלייה
 When the authorities originally confiscated the wine, it is
 considered as if they burned it already, for which he was
 פטור because it was גרמי, and now he was merely carrying
 their wine.

However, in the Braisa's case
 אמר לו אנס הושיט לי פקיע עמיר זה
 או אשכול ענבים זה והושיט לו
 חייב
 If the authorities compelled him to hand them someone's
 bundle, and he did so, he is חייב; and it is not considered
 מיקלי קלייה because the Braisa is a case of
 כגון דקאי בתרי עברי נהרא
 The authorities were on the other side of a river, and
 without him they were not able to confiscate it.
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2

**אנסוהו עכו"ם
 והראה ממון חבירו**
*The authorities compelled a person to direct them to
 someone's barrels of wine.*

And afterward
דרא ואמטי בהדייהו
*The authorities compelled that person to assist them
 in carrying the wine, and he did so.*

רב אשי
Even though he was
נטל ונתן ביד
he is פטור because

**דאוקמיה עילויה מעיקרא
 מיקלי קלייה**
*When the authorities originally confiscated the wine,
 it is considered as if they burned it already
 for which he was פטור because it was גרמי,
 and now he was merely carrying their wine.*

However, in the Braisa's case
**אמר לו אנס הושיט לי פקיע עמיר זה
 או אשכול ענבים זה והושיט לו
 חייב**
*If the authorities compelled him
 to hand them someone's bundle, and he did so, he is חייב;
 and it is not considered מיקלי קלייה
 because the Braisa is a case of*

כגון דקאי בתרי עברי נהרא
*The authorities were on the other side of a river,
 and without him they were not able to confiscate it.*

3 The Gemara proceeds with an incident of a person who was a מוסר and רב כהנא killed him, because as the פני יהושע explains, one is permitted to kill a מוסר, because he is considered a רודף, endangering people's lives.

רב instructed רב כהנא to escape to Eretz Yisroel, and join the Yeshiva of רבי יוחנן
 וקביל עלך דלא תקשי לרבי יוחנן שבע שנים
 And he told him that he should not argue with רבי יוחנן for seven years.

When רב כהנא arrived at the Yeshiva, ריש לקיש perceived his greatness and told רבי יוחנן;
 ארי עלה מבבל לעיני מר במתיבתא דלמחר
 A lion has arrived from Bavel, and you should prepare your Shiur carefully.

למחר אנתבוה בדרא קמא קמיה דר' יוחנן
 On the next day רב כהנא was seated in the first row, but he did not argue with רבי יוחנן.
 אנחתיה אחורי שבע דרי עד דאותביה בדרא בתרא
 As רב כהנא continued, רב כהנא was slowly demoted to the seventh row.

ריש לקיש then told רבי יוחנן
 ארי שאמרת נעשה שועל
 Your lion has become a fox.

רב כהנא then said
 יהא רעוא דהני שבע דרי להו חילוף שבע שנין דאמר לי רב
 The seven rows that I was put back should be considered as the seven years that I was told to wait.
 אמר שמעתתא ואקשי אוקמיה בדרא קמא
 רבי then repeated the Shiur and רב כהנא argued with רבי יוחנן until he was promoted to the first row.

3 מוסר killed a רב כהנא

The פני יהושע explains one is permitted to kill a מוסר, because he is considered a רודף, endangering people's lives.

רב instructed רב כהנא to escape to Eretz Yisroel, and join the Yeshiva of רבי יוחנן

וקביל עלך דלא תקשי לרבי יוחנן שבע שנים

And he told him not argue with רבי יוחנן for seven years.

When רב כהנא arrived at the Yeshiva, רבי יוחנן perceived his greatness and told ריש לקיש

ארי עלה מבבל

למחר במתיבתא דלמחר

A lion has arrived from Bavel, prepare tomorrow's shiur carefully.

On the next day רב כהנא was seated in the first row, but he did not argue with רבי יוחנן.

אנתביה אחורי רב כהנא רב כהנא continued, רב כהנא was slowly demoted to the seventh row.

ריש לקיש then told רבי יוחנן
 ארי שאמרת נעשה שועל
 Your lion has become a fox.

רב כהנא then said

יהא רעוא דהני שבע דרי

להו חילוף שבע שנין דאמר לי רב

The seven rows that I was put back should be considered as the seven years that I was told to wait.

אמר שמעתתא ואקשי

אוקמיה בדרא קמא

רב כהנא then repeated the shiur and רב כהנא argued with רבי יוחנן until he was promoted to the first row.

4

ואקשי ליה
 עד דשלפי ליה כולהו בסתרי מתותיה
 עד דיתיב על ארעא
 continued to argue and רבי יוחנן removed the
 cushions he was seated on one by one, until he was sitting
 on the ground.
 חזא דפרטיה שפוותיה סבר אחוך קמוחיך ביה
 and noticed that his lips were
 split, because of an injury, and it appeared as if he was
 laughing at רבי יוחנן's defeat.
 חלש דעתיה ונח נפשיה
 רבי יוחנן was offended, and as a result רב כהנא died.
 Afterward
 בעא רחמי ואוקמיה
 רבי יוחנן Davened and רב כהנא was revived.
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The Gemara continues with an incident of
 ההוא גברא דהוה מפקיד ליה כסא דכספא
 סליקו גנבי עילויה
 שקלה יהבה להו
 A person was given a silver cup to safe-guard, and when
 robbers entered his home, he gave it to them;
 רב אשי said it depends
 אי איניש אמיד הוא
 אדעתא דידיה אתו
 If the person was wealthy, he is חייב, because the robbers
 came to steal from him, and he appeased them with
 someone else's item, and he is considered a מוסר.
 ואי לא
 אדעתא דכספא אתו
 But if he was not wealthy, he is פטור, because the robbers
 only came to steal the silver cup, and as Tosfos explains
 לדעת כן הפקידוהו שיציל עצמו בו
 The owner's intent was for him to give away the cup, if
 robbers were to come and steal it.
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4

ואקלי איה
 עד דלפוי איה כאלו בסתרי מתותיה
 עד דיתיב על ארעא
 רבי יוחנן continued to argue and רב כהנא removed
 the cushions he was seated on one by one,
 until he was sitting on the ground.
 חזא דפרטיה שפוותיה סבר אחוך קמוחיך ביה
 רבי יוחנן stared at רב כהנא and noticed that his lips were split,
 because of an injury, and it appeared as if
 he was laughing at רבי יוחנן's defeat.
 חלש דעתיה ונח נפשיה
 רבי יוחנן was offended, and as a result רב כהנא died.
 Afterward
 בעא רחמי ואוקמיה
 רבי יוחנן Davened and רב כהנא was revived.

**ההוא גברא
 דהוה מפקיד ליה כסא דכספא
 סליקו גנבי עילויה
 שקלה יהבה להו**

A person was given a silver cup to safe-guard,
 and when robbers entered his home, he gave it to them;

רב אשי
ואי לא אדעתא דכספא אתו
 But if he was not wealthy,
 he is פטור, because the
 robbers only came to steal
 the silver cup, and as Tosfos
 explains - the owner's intent
 was for him to give away
 the cup, if robbers were to
 come and steal it.
אי איניש אמיד הוא אדעתא דידיה אתו
 If the person was wealthy,
 he is חייב, because
 the robbers came to steal
 from him,
 and he appeased them
 with someone else's item,
 and he is considered
 a מוסר.

5 Zugt Di Mishnah

שטפה נהר

אומר לו הרי שלך לפניך

If a person stole someone's field, and then a river overflowed and flooded the field, the גזלן does not have to pay the owner for the field, because

קרקע אינה נגזלת

Land cannot be stolen, and there is no חייב השבה.

The Gemara cites a Braisa in which this is actually a Machlokes:

רבי אלעזר holds

חייב להעמיד לו שדה אחר

The גזלן must pay the owner for the field, because he holds קרקע נגזלת

Land can be stolen, and the גזלן has a חייב השבה, he must either return the land in its original form, or pay its value.

While the חכמים hold

אומר לו הרי שלך לפניך

The גזלן does not have to pay for the field, because they hold

קרקע אינה נגזלת

Land cannot be stolen, and there is no חייב השבה.

5

משנה

שטפה נהר
אומר לו הרי שלך לפניך

If a person stole someone's field,
and then a river overflowed and flooded the field,
the גזלן does not have to pay the owner for the field,
because

קרקע אינה נגזלת

Land cannot be stolen, and there is no חייב השבה.

חכמים
אומר לו
הרי שלך לפניך
The גזלן does not
have to pay for the field,
because they hold
קרקע אינה נגזלת
Land cannot be stolen,
and there is no חייב השבה.

רבי אלעזר
חייב להעמיד לו
שדה אחר
The גזלן must pay the owner
for the field,
because he holds
קרקע נגזלת
Land can be stolen, and the
גזלן has a חייב השבה, he must
either return the land in its
original form, or pay up.

6 The Gemara explains that this Machlokes is based on the general Machlokes regarding how to interpret a Pasuk that includes a כלל, a general word, and a פרט, a detail of that word, and then another כלל.

When the Torah uses both general and specific terms to describe the necessary items for a Halachah, there is a מחלוקת which of the following two approaches to take:

1. ריבוי ומיעוט וריבוי

A series of inclusionary and exclusionary terms, which ultimately includes everything except specific items, because it is interpreted in the following manner; ריבוי, the first exclusionary term would include everything; therefore, מיעוט, the exclusionary terms LIMIT the כלל, and serves to exclude anything that is not similar to the specific examples; therefore, ריבוי, the final inclusionary term reaffirms the earlier כלל, and teaches that everything IS included, and the מיעוט only excludes specific items which are the least similar to the פרט.

7 2. כלל ופרט וכלל
A series of general and specific terms, which ultimately includes anything similar to the specified items, because it is interpreted in the following manner: כלל, the first general term would include everything; therefore, פרט, the specific terms EXPLAIN the כלל as including only the פרט, excluding everything else; and therefore, כלל, the final general term serves to include only items that are reasonably similar to the פרט.

6 This Machlokes is based on how to interpret a Pasuk that includes a כלל, then a פרט, and then another כלל.

When the Torah uses general and specific terms to describe the necessary items for a Halachah, there is a מחלוקת which of the following two approaches to take:

ריבוי ומיעוט וריבוי

A series of inclusionary and exclusionary terms, which ultimately includes everything except specific items, because it is interpreted in the following manner;

1

ריבוי

the first exclusionary term would include everything;

מיעוט

the exclusionary terms limit the כלל, and serves to exclude anything that is not similar to the specific examples;

ריבוי

the final inclusionary term reaffirms the earlier כלל, and teaches that everything is included, and the מיעוט only excludes specific items which are the least similar to the פרט.

7 2
כלל ופרט וכלל

A series of general and specific terms, which includes anything similar to the specified items, because it is interpreted in the following manner:

כלל

the first general term would include everything;

פרט

the specific terms explain the כלל as including only the פרט, excluding everything else;

כלל

the final general term serves to include only items that are reasonably similar to the פרט.

8 In our case, we first have a כלל in the Pasuk

וכחש בעמיתו
 And then a פרט in the same Pasuk
 בפקדון או בתשומת יד
 And then a כלל in the next Pasuk
 או מכל אשר ישבע עליו לשקר

רבי אלעזר דריש ריבוי ומיעוטי
 רבנן דרשי כללי ופרטי

רבינו ומיעוטי expounds the Pasuk as רבי אלעזר

Therefore, the first ריבוי

ריבה כל מילי

The כלל includes all פרטים in the גזל

The מיעוט

מיעט שטרות

The פרט excludes only a loan document from the גזל, because it has no inherent value.

We do not exclude קרקע, because the second ריבוי teaches us to be more inclusive in that the מיעוט excludes only that which is the least similar to the פרט; which is שטרות.

Therefore,

קרקע נגזלת

However, the חכמים expound the Pasuk as כללי ופרטי:

Therefore, the first כלל

ריבה כל מילי

The כלל includes all פרטים in the גזל

The פרט exclude more items like

קרקעות, עבדים, ושטרות

Because the second כלל teaches us to be less inclusive in that the פרט excludes all that which is not similar to the פרט, and קרקע as well, as follows;

אי אתה דן אלא כעין הפרט

מה הפרט דבר המיטלטל וגופו ממון

אף כל דבר המיטלטל וגופו ממון

The גזל applies only to moveable objects, which also have inherent value;

יצאו קרקעות

שאין מטלטלין

This excludes, land which is not moveable, and

עבדים

שהוקשו לקרקעות

Servants who are compared to land, and

שטרות

שאע"פ שמטלטלין אין גופן ממון

Loan Documents because they have no inherent value;

Therefore,

קרקע אינה נגזלת

8

