

Α

בס"ד

Intro

Today we will בע"ה learn מסכת סנהדרין of דף ע"ז learn מסכת of the topics we will learn about include.

The Halachah of

מצמצם

If one holds someone down in a dangerous area, it depends: אינו יכול לעלות משם ומת

חייר

יכול לעלות משם ומת

פטור

If the victim could not come out, the מצמצם is liable, because he is considered like he actually killed him.

However, if the victim could have come out but he chose not to, the מצמצם, because he was merely a גורם.

The Machlokes in whether the חייב מצמצם applies to נזקין, damages.

The application of the חייב מצמצם in several cases, and the Gemara qualifies that מצמצם חייב only if the following conditions are met:

1.

הורג מזומו

At the time of the מצמצם of death already existed in that place, but if the cause of death only came later, he is פטור.

2.

דאי לא היה כפות

היה יכול להציל עצמו

The victim could have saved himself, if not for the מ'מצמצם's action, but if the victim could not save himself anyway, the פטור si מצמצם.

3.

The Machlokes regarding

כפה עליו גיגית

If a the חוצח covered his victim with a tub, and he died from the foul air:

Whether we do apply the חיוב מצמצם, because מתחיל הבלא בשעתיה

The הבל started to come immediately?

OR

We do not apply the חיוב מצמצם, because ההרוג בא לאחר זמן

The build-up of הבל only came afterward.

4

דחפו לבור וסולם בבור

ובא אחר וסילקו

ואפילו הוא קדם וסילקו

פטור

If the רוצח pushed his victim into a pit that had a ladder, and then the חוצח or another person removed the ladder and as a result the victim died, the רוצח is not liable for his death, because דבעידנא דשדייה יכול לעלות הוא

Since at the time of the רוצח sact, the victim was able to come out of the pit, the ווצח is not considered a מצמצם and the removal of the ladder was merely a גרמא.

The concept of

כחו

If the \mbox{rez} shot an arrow, or threw a stone at the victim, he is \mbox{rez} even though he did not hit the victim directly, because his force caused the arrow or rock to hit the victim.

מצמצם

אינו יכול לעלות משם ומת
חייב
יכול לעלות משם ומת
יכול לעלות משם ומת
פטור

Whether the מצמצם applies to , כזקין









So let's review ...

The Mishnah continues to discuss רוצח:

כבש עליו לתוך המים או לתוך האור ואינו יכול לעלות משם ומת חייר

If the victim was already underwater or in a fire, and the רוצח held him down, to the point that the victim could not come out and he died, the חייב si רוצח even though he did not actually throw the victim inside, because the Pasuk states

או באיבה הכהו בידו וימת רוצח היא מות יומת הרוצח

The superfluous word או teaches לרבות את המצמצם

One who holds someone down in a dangerous area so that he cannot come out is considered like he actually killed him.

However,

דחפו לתוך המים או לתוך האור ויכול לעלות משם ומת פטור

If the רוצח did throw the victim into the water or fire, but he was able to come out, and he remained inside and died, the אפור is רוצח because as Rashi explains דלא עביד שיעור מיתה

His act did not accomplish the מיתה, since the victim could come out.

מקלקדי

כבש עליו לתוך המים או לתוך האור ואינו יכול לעלות משם ומת חייב

If the victim was already underwater or in a fire, and the רוצח held him down, to the point that the victim could not come out and he died,

the חייב si חייב even though he did not actually throw the victim inside,

because the Pasuk states

או באיבה הכהו בידו וימת רוצוז היא מות יומת הרוצוז

לרבות את המצמצם

One who holds someone down in a dangerous area so that he cannot come out is considered like he actually killed him.

דחפו לתוך המים או לתוך האור ויכול לעלות משם ומת פמור

If the רוצח did throw the victim into the water or fire, but he was able to come out, and he remained inside and died, the פעור si רוצח,

because as Rashi explains

דלא עביד שיעור מיתה

His act did not accomplish the Jy, since the victim could come out.



Dedicated By: _





The Gemara proceeds with an incident

ההוא גברא

דמצמצמא לחיותה דחבריה בשימשא

ומתה

A person held down another person's animal in the sun and the animal died from the heat;

רבינא מחייב

רב אחא בר רב פטר

And the Gemara explains

רבינא holds that the מצמצם is liable to pay, based on a קל

ומה רוצח

שלא עשה בו שוגג כמזיד ואונס כרצון

חייב בו את המצמצם

If for רציחה that is קיל, lenient in that if it was not intentional, one is מצמצם, and nevertheless he is חייב for מצמצם;

שעשה בהן שוגג כמזיד ואונס כרצון אינו דין שחייב בהן את המצמצם

Then for נזקין that is חמור, stringent in that even if it was not intentional, one is מצמצם חייב, certainly he is מצמצם ממצח for מצמצם!

While רב אחא holds the מצמצם is not liable to pay, because the Pasuk of או באיבה concludes with

מות יומת המכה רוצח הוא

(ed note; bring down the complete Pasuk)

The exclusive word הוא comes to minimize;

ברוצח הוא דחייב לן מצמצם

בנזקין לא חייב לן מצמצם

Only regarding רוצח, he is מצמצם, but regarding מצמצם, he is מצמצם; because as Rashi explains גוקין, דשמשא קטליה

It's the sun that killed the animal, and a person is not liable for damage that he caused indirectly.

======

ההוא גברא דמצמצמא לחיותה דחבריה בשימשא ומתה

A person held down another person's animal in the sun and the animal died from the heat;

an na knk an

פטר

מחייב



מחייב

the מצמצם is liable to pay, based on a קל וחומר;

כזקין

שעשה בהן

שוגג כמזיד ואונס כרצון אינו דין שחייב בהן

את המצמצם

Then for נזקין that is תמור, stringent in that even if it was not intentional - one is תייב, certainly he is מצמצם for מצמצם. ומה רוצת

שלא עשה בו שוגג כמזיד ואונס כרצון

חייב בו

את המצמצם

If for רציתה that is קיל, in that if it was not intentional, one is פטור, and nevertheless he is מצמצם, for מייב.



an na knk an

פטר

the מצמצם is not liable to pay, because the Pasuk of או באיבה concludes

או באיבה הכהו בירו וימת רוצוז היא מות יומת הרוצוז מות יומת המכה רוצוז הוא

The exclusive word "LD" comes to minimize;

בנזקין לא חייב לן מצמצם

ברוצת הוא דתייב לן מצמצם

but regarding נזקין, he is מצמצם for מצמצם; Only regarding רוצח, he is מצמצם for מצמצם,

because as Rashi explains גרמא בעלמא הוא, דשמשא קטליה

It's the sun that killed the animal, and he is not liable for damage he caused indirectly







The Gemara proceeds with several applications of the Halachah of מצמצם חייב

1.

אמר רבא

כפתו ומת ברעב

פטור

If the רוצח tied up his victim who then died from hunger, he is not liable for his death, and this is not considered מצמצם, because as Rashi explains,

דבשעה שכפתו אין כאן דבר הריגה

והרעב בא מאליו לאחר זמן

At the time of his act of tying him up, the cause of death, the hunger, did not exist, and only came later. Therefore, he is considered merely a גורם.

However, regarding מצמצם במים ובאור

ההורג מזומן

At the time of his act, the cause of death, the water or fire, did exist. Therefore, he is considered an actual רוצח

Several applications of the Halachah of מצמצם חייב



KAI INK

כפתו ומת ברעב פטור

If the רוצת tied up his victim who then died from hunger, he is not liable for his death, and this is not considered מצמצם.

because as Rashi explains,

דבשעה שכפחו אין כאן דבר הריגה והרעב בא מאליו לאחר זמן

At the time of his act of tying him up, the cause of death, the hunger, did not exist, and only came later.

Therefore, he is considered merely a pole.

However, regarding

מצמצם במים ובאור ההורג מזומן

At the time of his act, the cause of death, the water or fire, did exist. Therefore, he is considered an actual רוצח.

2. Si

Similarly, כפתו בחמה ומת

בצינה ומת

חייב

If the רוצח tied up his victim in a place that was hot or cold and he died from the heat or cold, the רוצח is liable for his death, because this is considered like a מצמצם since ההורג מזומן

At the time of his act, the cause of death, the water and fire, did exist.

However,

סוף חמה לבא סוף צינה לבא

פטור

Dedicated By: _

If at the time he was tied, the place was not yet hot or cold, but eventually it would become hot or cold, the דוצח is not liable for his death, because

בשעה שכפתו אין כאן דבר הריגה

At the time of his act, the cause of death, the heat or cold, did not exist.

כפתו בחמה ומת בצינה ומת חייב

If the רוצח tied up his victim in a place that was hot or cold and he died from the heat or cold, the ווצח is liable for his death,

because this is considered like a מצמצם since

ההורג מזומן

At the time of his act, the cause of death, the water and fire, did exist.

However,

סוף חמה לבא – סוף צינה לבא פטור

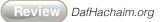
If at the time he was tied, the place was not yet hot or cold, but eventually it would become hot or cold, the יו רוצח is not liable for his death,

because

בשעה שכפתו אין כאן דבר הריגה

At the time of his act, the cause of death, the heat or cold, did not exist.







3.

ואמר רבא

כפתו לפני ארי פטור

If the רוצח tied up his victim before a lion and the lion killed him, he is not liable for his death, because as Rashi explains

דאי נמי לא היה כפות

לא היה יכול להציל עצמו מן הארי

Even if the victim had not been tied, he could not save himself from the lion. $\ensuremath{\mathbb{R}}$

However,

לפני יתושין חייב

If the רוצח tied up his victim before a swarm of insects and they attacked and killed him, he is liable for his death,

because

דאי לא היה כפות

היה יכול להציל עצמו

Had the person not been tied, he could have saved himself from the insects, and since it was

הורג מזומן

He is considered a מצמצם.

רב אשי disagrees and says אפילו לפני יתושין נמי פטור

Even if he was tied before insects he is not liable for this death, because

הני אזלי והני אתו

Perhaps the original insects did not kill him, but rather they left and others came and killed him. Therefore, it was not מצמצם and he is not a מצמצם.

3

KAI INKI

כפתו לפני ארי פטור

If the רוצח tied up his victim before a lion and the lion killed him, he is not liable for his death,

because as Rashi explains דאי נמי לא היה כפות לא היה יכול להציל עצמו מן הארי

Even if the victim had not been tied, he could not save himself from the lion.

However,

לפני יתושין חייב

If the רוצח tied up his victim before a swarm of insects and they attacked and killed him, he is liable for his death,

because

דאי לא היה כפות היה יכול להציל עלמו

Had the person not been tied, he could have saved himself from the insects, and since it was הוכג מזומן

He is considered a 2,13N.



ilt as

אפילו לפני יתושין נמי פטור

Even if he was tied before insects he is not liable for this death,

because הכי אזלי והכי אתו

Perhaps the original insects did not kill him, but rather they left and others came and killed him
Therefore, it was not purp 6713 and he is not a 2713p.



Dedicated By: _





איתמר כפה עליו גיגית

If a the רוצח covered his victim with a tub and he died from the foul air; OR

פרע עליו מעזיבה

He uncovered the roof, and the victim who was asleep died from the cold air:

There is a

מחלוקת רבא ורבי זירא

חד אמר חייב וחד אמר פטור

And the Gemara proves that רבא holds he is because this is like the case of כפתו ומת ברעב, in which ההורג בא לאחר זמן

The build-up of הבל only came afterward While הייב holds he is חייב because מתחיל הבלא בשעתיה

The הבל starts to build up immediately.

However, רבי זירא does agree in a case of האי מאן דעייליה לחבריה בביתא דשישא ואדליק ליה שרגא ומת

חייב

If the רוצח brought his victim into a sealed room, and he also lit a candle to increase the הבל, he is חייב. However הייב אדליק ליה שרגא

פטור

If the רוצח did not light a candle, he is פטור, even though a comes from his breathing, because בלא שרגא לא מתחיל הבלא בשעתיה

The הבל from breath does not begin to build up immediately.

=====



איתמר כפה עליו גיגית

If a the רוצח covered his victim with a tub and he died from the foul air - or

פרע עליו מע<u>זיבה</u>

He uncovered the roof, and the victim who was asleep died from the cold air;

מחלוקת ובא וובי זירא

חד אמר חייב – וחד אמר פטור

And the Gemara proves that ..

רבי זירא holds he is חייב because

מתחיל הבלא בשעתיה

The הבל starts to build up immediately.

רבא holds he is פעור because this is like the case of

כפתו ומת ברעב
in which

ההורג בא לאתר זמן

The build-up of הבל only came afterward

However, רבי זירא does agree in a case of

האי מאן דעייליה לחבריה בביתא דשישא

לא אדליק ליה שרגא ומת פטור

If the רוצח did not light a candle, he is פטור, even though הבל comes from his breathing because

בלא שרגא לא מתחיל הבלא בשעתיה

The הבל from breath does not begin to build up immediately.

ואדליק ליה שרגא ומת חייב

If the רוצח brought his victim into a sealed room, and he also lit a candle to increase the תבל, he is.



Dedicated By: _





The Gemara proceeds with four Halachos in the name of רבא that are alluded in

סימן סול"ם תרי"ס סמני"ן בכות"ל

סולם

אמר ררא

דחפו לבור וסולם בבור

ובא אחר וסילקו

ואפילו הוא קדם וסילקו פטור

If the רוצח pushed his victim into a pit that had a ladder. and then the רוצה or another person removed the ladder and as a result the victim died, the רוצח is not liable for his death, because

דבעידנא דשדייה, יכול לעלות הוא

Since at the time of the ירוצח's act, the victim could come out of the pit, the מצמצם is not considered a מצמצם and the removal of the ladder was merely a גרמא.

תריס

Similarly זרק חץ ותריס בידו ובא אחר ונטלו

ואפילו הוא קדם ונטלו

If a the רוצה shot an arrow toward his victim who held a shield, and in the interim the רוצח or another person took away the shield, and the arrow killed the victim, the רוצח is not liable, because

דבעידנא דשדייה ביה, מיפסק פיסקיה גיריה

Since at the time of the רוצח's act, the victim could protect himself from the arrow, the מצמצם is not considered a מצמצם and the removal of the shield was merely a גרמא.

סול"ם תרי"ס סמני"ן בכות"ל



סול"ם תרי"ס סמני"ן בכות"ל

KAT THE

דחפו לבור וסולם בבור ובא אחר וסילקו ואפילו הוא קדם וסילקו פטור

If the רוצת pushed his victim into a pit that had a ladder, and then the רוצח or another person removed the ladder and as a result the victim died, the מצח is not liable for his death,

because

דבעידנא דשדייה, יכול לעלות הוא

Since at the time of the רוצח's act, the victim could come out of the pit, the מצמצם is not considered a מצמצם and the removal of the ladder was merely a גרמא.



סול״ם **תרי״ס** סמני״ן בכות״ל

זרק חץ ותרים בידו ובא אחר ונטלו ואפילו הוא קדם ונטלו פטור

If a the רוצת shot an arrow at his victim who held a shield, and in the interim the מצח or another person took away the shield, and the arrow killed the victim, the רוצח is not liable.

because

דבעידנא דשדייה ביה מיפסק פיסקיה גיריה

Since at the time of the רוצח's act, the victim could protect himself from the arrow, the מצמצם is not considered a מצמצם and the removal of the shield was merely a גרמא.







סמנין

Similarly, זרק בו חץ וסמנין בידו ובא אחר ופיזרן ואפילו הוא קדם ופיזרן פטור

If the רוצה shot an arrow toward his victim who held medicine, and in the interim the רוצח or another person scattered the medicine, and the victim died from the wound, the רוצח is not liable, because דבעידנא דשדא ביה, יכול להתרפאות הוה Since at the time of the יכול אינו and the victim could heal himself, the רוצח is not considered a מצמצם and the

removal of the medicine was merely a גרמא.

רב אשי adds הלכך אפילו סמנין בשוק פטור

Even if the victim was not actually holding medicine but he was able to obtain medicine in the market, the דוצח is פטור, because

דבעידנא דשדא ביה, יכול להתרפאות הוה

רב אשי also rules that in a case of נזדמנו לו סמנין פטור

If at the time of זריקה the victim did not have medicine, but he later obtained medicine but he did not use it, and he died, the רוצח is still , because הרי יצא מבית דיו זכאי

Since the victim could save himself, Bais Din, theoretically, used this as a defense for the רוצה.

8



סול"ם תרי"ס סמני"ן בכות"ל

זרק בו חץ וסמנין בידו ובא אחר ופיזרן ואפילו הוא קדם ופיזרן פטור

If the רוצח shot an arrow at his victim who held medicine, and in the interim the רוצח or another person scattered the medicine, and the victim died from the wound, the רוצח is not liable,

because

דבעידנא דשדא ביה יכול להתרפאות הוה

Since at the time of the רוצח's act, the victim could heal himself, the מצמצם is not considered a מצמצם and the removal of the medicine was merely a גרמא.



הלכך אפילו סמנין בשוק פטור

Even if the victim was not actually holding medicine but he was able to obtain medicine in the market, the פטור is רוצח

because

דבעידנא דשדא ביה יכול להתרפאות הוה



NE DI

נזדמנו לו סמנין פטור

If at the time of זריקה the victim did not have medicine, but he later obtained medicine but he did not use it, and he died, the פטור is still פטור,

because

הרי יצא מבית דין זכאי

Since the victim could save himself, Bais Din, theoretically, used this as a defense for the רוצח



Dedicated By: __





4. בכותל

ואמר רבא זרק צרור בכותל וחזרה לאחוריה והרגה

חייב

If the דוצח intentionally threw a rock with force against the wall, so that it bounces back to kill someone, he is liable, because as Rashi explains,

הא נמי כחו הוא

It is considered his force that caused the rock to bounce back and hit the victim.

=====









אמר רב פפא האי מאן דכפתיה לחבריה

ואשקיל עליה בידקא דמיא גירי דידיה הוא ומיחייב

If the רוצח tied up his victim near a body of water that was being held back by a wall and he opened the gate so that the water came down upon the victim and he drowned, he is liable, because the water is considered as if he shot an arrow, as the Gemara explains

הני מילי בכח ראשון

חייב

He is חייב only if he put the victim close by, so that the water reaches him immediately;

אבל בכח שני גרמא בעלמא הוא

If he put the victim in the distance, and the water only reached him later, he is פטור, because the water is not considered גורם and he was merely a.

This is היש"י's Pshat. Other מפרשים explain: מרשים are the first waters that come immediately when he opened it up.

are the secondary waters which come later as the water continues to flow.

=====

ואמר רב פפא זרק צרור למעלה והלכה לצדדין והרגה סייר

If a person threw a rock up in the air, and it came down further to the side and killed someone, he is liable, משום דכחו הוא

His force caused the rock to go sideways and hit the victim.

10

KOO AT THE

האי מאן דכפתיה לחבריה ואשקיל עליה בידקא דמיא גירי דידיה הוא ומיחייב

If the רוצח tied up his victim near a body of water that was being held back by a wall and he opened the gate so that the water came down upon the victim and he drowned, he is liable, because the water is considered as if he shot an arrow,

as the Gemara explains

הני מילי בכח ראשון חייב

He is חייב only if he put the victim close by, so that the water reaches him immediately;

אבל בכח שני גרמא בעלמא הוא

If he put the victim in the distance, and the water only reached him later, he is פּטור because the water is not considered גירי דידיה and he was merely a גורם.

This is , "B's Pshat.



Other plan explain:

כח שני

The secondary waters which come later as the water continues to flow.

כח ראשון

The first waters that come immediately when he opened it up.

KOO AT THEI

זרק צרור למעלה והלכה לצדדין והרגה חייב

If a person threw a rock up in the air, and it came down further to the side and killed someone, he is liable,

משום דכחו הוא

His force caused the rock to go sideways and hit the victim.



Dedicated By: __

