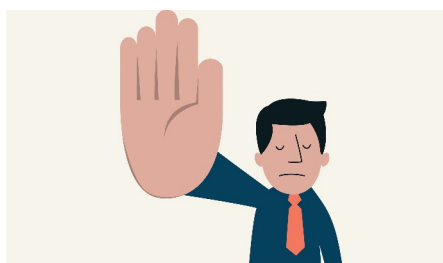


From the Rabbi's Desk
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Stories with a Twist [293]

Since a Ruling Issued from Rav's Mouth, I No Longer Agree to Take Them

(Insights into Babylonian Talmud Sanhedrin 72a)



Background to Our Story

Exodus 22:1-4

¹ "Whoever steals an ox or a sheep and slaughters it or sells it must pay back five head of cattle for the ox and four sheep for the sheep.

² "If a thief is caught breaking in at night and is struck a fatal blow, the defender is not guilty of bloodshed; ³ but if it happens after sunrise, the defender is guilty of bloodshed.

"Anyone who steals must certainly make restitution, but if they have nothing, they must be sold to pay for their theft. ⁴ If the stolen animal is found alive in their possession—whether ox or donkey or sheep—they must pay back double.

? What is the logic behind this Torah law?

Kam Lei B'deraba Minei



During the commission of a transgression, an individual may invoke more than one penalty. Should he have to be subject to more than one or not? In many situations, the gemara holds *Kam Lei B'deraba Minei* – the transgressor stays subject only to the worse/worst of the punishments. He is not required to be subject to two penalties if both came about by the exact same actions.

קָם לִיָּה בְּדֶרֶבָּה מִיָּנִיָּה גִיטִין נב, ב

עומד בגדול ממנו. מי שעשה מעשה אחד, שחייבים עליו שני עונשים, מטילים עליו את החמור שבהם, ופוטרים אותו מן הקל. למשל, מי שנתחייב מיתה ותשלומים, כגון מי שחבל באביו ובאמו – יומת ולא ישלם ממון. הכלל נלמד מדברי התורה "כדי רשעתו" (דברים כה, ב), שנדרשו: "משום רשעה אחת אתה מחייבו, ואי אתה מחייבו משום שתי רשעיות".

Rav



Koren Talmud Bavli, The Noe Edition. Berakhot. Koren publishers Jerusalem. Page 313.

Rav Abba ben Ivu was the greatest of the first generation of Babylonian *amora'im*. Rav was born in Babylonia to a distinguished family that produced many Sages and traced its lineage back to King David. Rav moved to Eretz Yisrael with his uncle, Rabbi Ḥiyya, studied Torah primarily with Rabbi Yehuda HaNasi and his uncle, and became a member of Rabbi Yehuda HaNasi's court. Rav remained in Eretz Yisrael for a period, but later returned to Babylonia and settled there. Although Torah centers existed in Babylonia, in Hutzal and Neharde'a, prior to Rav's return, Rav founded a large academy in Sura and raised the level of scholarship to rival that of Eretz Yisrael. After some time, he was recognized as the leading Torah Sage in Babylonia, and ultimately in Eretz Yisrael as well. Because Rav engaged in halakhic discourse with the last of the *tanna'im*, the Gemara established a principle: Rav is a *tanna* and disputes, i.e., Rav's status was akin to that of a *tanna* in the sense that his statements may not be challenged from a *baraita* because he too is considered a *tanna* in that sense. Therefore, according to a geonic tradition, if Rav or Rabbi Abba is mentioned in a *baraita*, it is understood to refer to Rav. On this *amud*, the *tanna* Rabbi Abba is mentioned three times. Rav and his students accomplished a great deal in various areas. Halakhic midrash, especially the *Sifra*, were edited in his school. Additionally, Rav instituted the Rosh HaShana liturgy, the *shofar* blasts of the school of Rav, and other prayers. Shmuel was his close friend and adversary in matters of *halakha*. Their arguments, the disputes of Rav and Shmuel, appear throughout the Talmud. The *halakha* is in accordance with the opinion of Rav in ritual matters and with the opinion of Shmuel in monetary matters.

Over the course of many years, Rav engaged in large-scale commerce together with the family of Rabbi Ḥiyya, and was wealthy throughout his life. Apparently, after he became head of the school in Sura, his son, Ivu, managed his affairs. Beyond his prominence as a Torah scholar, he was universally lauded for his great piety and humility, and was cited as a model for the ideal behavior of a great personage. After his death, the people continued to venerate him and dirt from his grave was used as a talisman to heal illnesses.

Rav lived a long life and had many disciples. Essentially, all of the Sages of the following generation were his students, and statements in his name constitute a significant portion of the Babylonian Talmud. His most prominent students were Rav Ḥisda and Rav Hamnuna.

Rav had at least two sons: Ivu and Ḥiyya. Ḥiyya bar Rav was also a Sage, and his son, Shimi bar Ḥiyya, who studied under his grandfather, was an important Sage as well. Rav married into the family of the Exilarch, and Ravna Neḥemya and Ravna Ukva were Sages descended from the Exilarch who were Rav's daughter's sons.

Rava

Rava, one of the most prominent fourth generation *amora'im* in Babylonia, was the son of the *amora* Rav Yosef bar Hama and the colleague of Abaye. Rava was born in the town of Mehoza, where he studied Torah under Rav Nahman bar Ya'akov and Rav Hisha. The Gemara relates that Rava and his study partner, Rami bar Hama, were visiting their teacher, Rav Hisha, while the latter's young daughter sat on his lap. Rav Hisha playfully asked her which of the scholars she would fancy marrying. The girl diplomatically answered that she would like to marry both of them, whereupon Rava responded that he would be last. The daughter ended up marrying Rami bar Hama. After he passed away, she married Rava (*Bava Batra* 12b). Rava considered Rav Yosef to be his primary teacher and would depart his company by walking backward, causing himself multiple injuries to his heels. Upon Rav Yosef's death, Abaye was chosen to succeed him as head of the yeshiva of Pumbedita and Rava subsequently opened a new yeshiva at Mehoza.

The Talmud records innumerable debates between Rava and Abaye, which were ruled in accordance with Rava in all but six instances. Rava did become head of the Pumbedita yeshiva when Abaye died, but he transferred his teacher's academy to his adopted locale of Mehoza. This resulted in Rava's yeshiva standing as the single Babylonian house of study during this period.

The Text: Babylonian Talmud Sanhedrin 72b

אמר רב: הבא במתנתך ונטל כלים ויצא, פטור. מאי טעמא? בדמים קנהו.
אמר רבא: מסתב ר'א מילתיה ד'רב בששיבר, דליתנהו. אבל נטל, לא.

מתיב רב ביבי בר אבוי: "הגונב פיס בשבת, חייב, שהרי נתחייב בגניבה קודם שיבא לידי איסור שבת.
היה מגרר ויצא, פטור, שהרי איסור גנבה ואיסור סקילה באין כאחד".
והלכתא: דשדנהו בנהרא.

רבא איגנבו ליה דיכרי במתנתא. אהדרנהו ניהליה ולא קבלינהו, אמר: הואיל ונפק מפומיה דרב.

Rav says: If a burglar broke into a house and took certain vessels, and he then left and was caught only afterward, he is exempt from the obligation to pay restitution for the vessels. What is the reason? He acquired the vessels with his blood. When he broke into the house, he risked his life, as the owner could have killed him. (This grave risk that he took exempts him from any other more lenient punishments that could otherwise have been imposed upon him, including the obligation to pay restitution.)

Rava says: Rav's statement is reasonable in a case where he broke the vessels in the course of robbing, so that they no longer exist, but if he took the vessels and they are still extant, Rav's ruling does NOT apply.

...

Rav Beivai bar Abaye raises an objection to the ruling of Rava from a *baraita*: One who steals a purse on Shabbat and takes it out into a public domain is liable to pay for what he stole even though he also desecrated Shabbat, which is a transgression for which one is executed by stoning. Ordinarily, one who is liable to receive two punishments for the same offense is administered only the more severe punishment and exempt from the other one. Here, however, he is liable to pay for the purse and is executed, because he was already liable to pay for the theft as soon as he lifted the purse, and this took place before he came to violate the prohibition of performing prohibited labor on Shabbat by carrying the purse into the public domain.

The *baraita* continues: If he did not lift the purse, but rather was dragging it on the ground and exiting the private domain, he is exempt from paying for what he stole, as in this case, since he did not lift the purse, he would become liable to pay for the stolen item only when he drags it out of its owner's property into the public domain. Accordingly, the prohibition of theft and the prohibition of performing prohibited labor on Shabbat, which is punishable with death by stoning, are violated simultaneously, and one who is liable to receive the death penalty is exempt from monetary liability that he incurred with the selfsame act. This poses a difficulty to Rava, who ruled that if the stolen item is extant the burglar must return it, whereas this *baraita* indicates that if one commits a transgression for which he is liable to receive the death penalty, he is exempt from all payments.

The Gemara answers: And the *halakha* is that the *baraita* must be understood as referring to a case where the burglar threw the purse into a river. Since the purse is no longer extant, he is exempt from having to pay for it even though he caused the damage intentionally. But if the purse is extant, he is in fact required to return it.

It is related that rams were stolen from Rava by burglars who broke into his house. The burglars came to return the animals to him, but Rava did not accept them. Rava said: Since a ruling issued from Rav's mouth that a burglar who may be killed acquires the items he stole; I no longer agree to take them.



Explaining the Story - What is going on in our story? (Explain the sequence of events)

Comprehension and Analysis Questions

? "Rav says: If a burglar broke into a house and took certain vessels, and he then left and was caught only afterward, he is exempt from the obligation to pay restitution for the vessels. What is the reason? He acquired the vessels with his blood. When he broke into the house, he risked his life, as the owner could have killed him. "

What do you think about Rav's ruling and the logic behind it?

? Rava says: Rav's statement is reasonable in a case where he broke the vessels in the course of robbing, so that they no longer exist, but if he took the vessels and they are still extant, Rav's ruling does not apply.

What do you think about Rava's ruling and the logic behind it?

Difficult ? After reading the complex legal exchange regarding the stealing of a purse on Shabbat, whom does the halakha follow?

Extra Bonus ? Why do you think the burglars returned the rams to Rava?

Answer 1 _____

Answer 2 _____

Extra Bonus ? If Rava doesn't agree with Rav's ruling, why didn't he accept back the rams stolen by the burglars?

Answer 1 _____

Answer 2 _____

Extra Bonus ? Assuming that Rava explained to the burglars that they had acquired the rams by risking their lives, and that that was the reason he wouldn't accept them back from them, what do you think went through the burglars' minds at that moment?

Answer 1 _____

Answer 2 _____

Answer 3 _____

Answer 4 _____

"The Twist" – Or the Lessons We Can Learn from These Texts

! Putting your "rams" where your mouth is: Rava's lesson to the burglars, to his students, and to all of us.

! Even when the law, the majority opinion, and the public opinion are on your side, you may wish to take a different course of action to uphold your values and make a point.



Our story consists of a dry legal discussion followed by a short story. The dry legal discussion finds two sages separated by 100 years, Rav (220 C.E. - 250 C.E.) and Rava (320 C.E. - 350 C.E.), on different sides of a particular argument. The legal discussion ends with Rava having the upper hand and the halakha following his opinion. Yet, when Rava encounters a real life situation in which he could benefit from his own "winning" ruling, he decides to be strict on himself, in order to express his reverence towards Rav, the teacher of all teachers. With his attitude of humility, we can assume that Rava positively influenced his students, perhaps the burglars, and hopefully all of us.