

From the Rabbi's Desk
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Stories with a Twist [315]

But We Will Not Inform This Matter to the Kingdom Insights into Babylonian Talmud Bava Kamma 38a



Background to Our Story

Bava Kamma

Bava Kamma is the first of a series of three Talmudic tractates in the order Nezikin that deal with civil matters such as damages and torts. The other two of these tractates are Bava Metzia and Bava Batra: originally all three formed a single tractate called Nezikin, each "Bava" meaning "part" or "subdivision."

Mishna Bava Kamma Chapter 4: 3 & 4

שׁוֹר שֶׁל יִשְׂרָאֵל שָׁנְגַת שׁוֹר שֶׁל הַקֹּדֶשׁ, וְשׁוֹר שֶׁל הַקֹּדֶשׁ שָׁנְגַת לְשׁוֹר שֶׁל הַדְּיוֹט – פְּטוֹר, שְׁנַאֲמַר: "שׁוֹר רֵעֵהוּ" – וְלֹא שׁוֹר שֶׁל הַקֹּדֶשׁ.

שׁוֹר שֶׁל יִשְׂרָאֵל שָׁנְגַת לְשׁוֹר שֶׁל גּוֹי – פְּטוֹר. וְשׁוֹר גּוֹי שָׁנְגַת לְשׁוֹר שֶׁל יִשְׂרָאֵל – בֵּין תָּם בֵּין מוּעָד, מְשַׁלֵּם נֹזֶק שָׁלֵם.

With regard to an ox of a Jew that gored a consecrated ox, and conversely, a consecrated ox that gored a non-sacred ox, i.e., an ox owned by a Jew, the owner of the ox is exempt from paying compensation, as it is stated: "And if one man's ox hurts the ox of another" (Exodus 21:35). It is derived from the phrase "the ox of another" that one is liable only if it is a non-sacred ox, but not if it is a consecrated ox, which belongs to the Temple treasury, regardless of whether the latter was the ox that gored or the ox that was gored.

With regard to an ox of a Jew that gored the ox of a gentile, the owner of the belligerent ox is exempt from liability. But with regard to an ox of a gentile that gored the ox of a Jew, regardless of whether the goring ox was innocuous or forewarned, the owner of the ox pays the full cost of the damage.

? Do you see anything problematic with the above halacha (law)? If yes, why do you think the Sages taught it?

Answer 1 _____

Answer 2 _____

An ox of a Jew that gored the ox of a gentile – Are you troubled? You are not the first one.



Koren Talmud Bavli, The Noe Edition. Bava Kamma. Koren publishers Jerusalem. Page

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Post-talmudic rabbis have found this distinction troubling. There are various explanations offered concerning this issue.

The Meiri maintains that the talmudic Sages were referring to pagans in their locale, who were themselves without moral and ethical restrictions, and who subjected the Jews to merciless persecution. He further asserts that by his time, when much of humanity had been exposed to the moral and ethical teachings of the major religions and were disciplined by those norms, such prescriptions are not applicable to contemporary gentiles.

The Meiri's opinion has been endorsed by a number of later rabbinic authorities including Rabbi Avraham Yitzhak Kook, Rabbi Yehiel Yaakov Weinberg, and Rabbi Eliezer Waldenberg.

The Text: Babylonian Talmud Bava Kamma 38a

תָּנּוּ רַבָּנָן, וּבְבֵר שְׁלֵחָה מַלְכוּת רומי שְׁנֵי סַרְדֵּיּוֹטוֹת אֶצֶל חֲכָמֵי יִשְׂרָאֵל: לְמַדּוּנּוּ תוֹרַתְכֶם. קָרְאוּ וְשָׁנוּ וְשָׁלוּ. בְּשִׁעַת פְּטִירְתָן אָמְרוּ לָהֶם: דְּקִדְקֵנוּ בְּכָל תּוֹרַתְכֶם – וְאַמַּת הוּא; חוּץ מִדְּבַר זֶה שְׂאֵתֶם אוֹמְרִים: שׁוֹר שֶׁל יִשְׂרָאֵל שֶׁנִּגְחַח שׁוֹר שֶׁל גּוֹי – פְּטוּר. שֶׁל גּוֹי שֶׁנִּגְחַח שׁוֹר שֶׁל יִשְׂרָאֵל – בֵּין תָּם בֵּין מוֹעֵד, מִשְׁלָם גְּזַק שְׁלָם.

מִמָּה נִפְשָׁד, אִי "רַעְהוּ" דְּזִקָּא – אֶפִּילוּ דְּגוֹי כִּי נִגַּח דִּישְׂרָאֵל לִיפְטַר; וְאִי "רַעְהוּ" לְאוּ דְּזִקָּא – אֶפִּילוּ דִּישְׂרָאֵל כִּי נִגַּח דְּגוֹי לְחֵיב! וְדָבַר זֶה אֵין אֲנּוּ מוֹדִיעִים אוֹתוֹ לְמַלְכוּת.

The Sages taught: And the Roman kingdom once sent two military officials [sardeyotot] to the Sages of Israel and ordered them in the name of the king: Teach us your Torah. The officials read the Torah, and repeated it, and repeated it again, reading it for the third time. At the time of their departure, they said to the Sages: We have examined your entire Torah and it is true, except for this one matter that you state, i.e., that with regard to an ox of a Jew that gored the ox of a gentile, the owner is exempt from liability, whereas with regard to the ox of a gentile that gored the ox of a Jew, whether it was innocuous or forewarned, the owner pays the full cost of the damage.

The officials' reasoning was that this halakha is difficult whichever way you look at it. If the phrase "of another" is meant in a precise manner, that the owners of both oxen must both be Jewish, then even when the ox of a gentile gores the ox of a Jew the owner of the ox should be exempt from liability. And if the phrase "of another" is not meant in a precise manner, and the oxen of all are included, then even when the ox of a Jew gores the ox of a gentile the owner should be liable.

They added: But we will not inform this matter to the kingdom.



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

Comprehension and Analysis Questions

? Why did the Roman kingdom send two military officials to the Sages of Israel and order them in the name of the king: Teach us your Torah?

Answer 1 _____

Answer 2 _____

Answer 3 _____

Extra Bonus ? How do we know that the Roman kingdom had a disparaging view of the Torah?

Bonus ? What do you find peculiar in the way the military officials learned the Torah?

Answer 1 _____

Answer 2 _____

? Both the written and oral Torah include many controversial laws and statements. Why do you think the military officials singled out this one?

Extra Bonus ? Why did the military officials decide not to inform the kingdom about their "troubling finding"?

Extra Bonus ? Why did the military officials tell the Sages that they won't inform the kingdom about their "troubling finding"?

? If you needed to write a postscript to our story, what would it be?

“The Twist” – Or the Lessons We Can Learn from This Text.

- ! Are you loyal to the Jewish people? – The ultimate test of the Torah!



Our story is one about intellectual pursuit, but also about loyalty to the Jewish people.

The Roman military officials understood what many Jews, both then and now, fail to grasp; meaning, that it is not enough to study Torah; you must fall in love with it.

As parents, as children, as spouses, and as friends; many times, we knowingly choose to overlook the faults of those we love. Intellectually we know they are not perfect, but we don't let our mind "shape" our heart.

The attitude of the Roman military officials serves as a model to the Sages and to all of us on how to shape our relationship with God, with our loved ones, with the Jewish people, and with the State of Israel.