

20.9.2

94b (שויוה רבנן כדליתא) → 95a (תנו רבנן – הגזלנים ומלוי ברבית)

ז. אלהים לא תקלל ונשיא בעמך לא תאר: שמות פרק כב פסוק כז

- I Rule preventing גזלנים and usurers from returning illicit gains (!)
- a *Rule*: we aren't allowed to receive restitution from them (reason below)
- b *Consequence*: is someone (i.e. victim) accepts from him – חכמים disapprove
- c *Explanation*: ר' יוחנן – this was taught during ('תוס': and only for) רבי's generation:
- i *Story*: a גזלן experienced contrition and wanted to make restitution; wife convinced him not to, pointing out that he'd be left with nothing
- d *Challenge*: heirs aren't responsible to return interest that their father charged (even if they're aware of it)
- i → he would have had to return it
- ii *Defense*: even father wouldn't have to return it (as per ברייתא) – reason ruling mentions heirs is parallel with סיפא:
- 1 *If*: father left them (a גזלה) which was identifiable (e.g. a garment or animal), they must return
- (a) *Reason*: to maintain respect for their father
- (b) *Challenge*: v. 1 militates against showing כבוד גזלן to a גזלן
- (c) *Answer*: if father was contrite before his death, but died before he was able to return גזלה
- e *Parallel*: גזלנים and usurers, even if they "collected", must return it
- i *Question*: what sort of "collection" exists for גזלנים?
- ii *Answer*: גזלנים here is explained as מלוי ברבית –
- 1 *Challenge*: and they must return the interest
- 2 *Answer*: they must make the move to return but we don't accept it (as above)
- 3 *If so*: why must they try to return?
- 4 *Answer*: to fulfill moral obligation – לצאת ידי שמיים
- f *Parallel*: shepherds, head-tax collectors and customs officials have a difficult time with תשובה (hard to find all of victims of their financial doings) and they return the moneys to people who they know (מכירין)
- i *Answer*: they endeavor to return (לצאת ידי שמיים) but we don't accept it (as above)
- 1 *Challenge*: if so, why is their תשובה difficult
- 2 *In addition*: סיפא – re: the people they don't know, they use it for public funds (e.g. cisterns)
- (a) *Answer*: before תקנה (of not returning), it was hard, now it isn't hard
- (b) *Or*: following ר' נחמן's explanation that the תקנה only applied to a case where the original גזלה is no longer available for return, the contradiction can be resolved – in the "shepherd" ruling, the גזלה was still around and must be returned
- (i) *Challenge*: in story explaining the תקנה made in רבי's time, the wife told her husband (the former גזלן) that he would even lose his belt (i.e. a still-existent גזלה); according to ר"נ, the תקנה shouldn't attach
1. *Answer*: by "belt" she meant the value of the belt
- (ii) *Challenge (to ר"נ)*: classic case of תקנת מריש is תקנת שבים, where board is built into house as beam and he may return money instead – but it is still in existence as is
1. *Answer*: since there would be great loss involved in tearing down house, רבנן considered the beam as if it was no longer existent