

We do not decree a second decree upon the first - אין גוזרין גזירה על גזירה - Chullin 104a-b

The Gemara in Chullin 104a-b discusses that principle that the rabbis do not add a second decree on top of a first decree. What is the logic behind this? And is it always true?

רב שר שלום גאון שו"ת חמדה גנוזה סימן ע"ז

1. חולין קד.-:

ואסור להעלות [וכו']. אמר רב יוסף: שמע מינה בשר עוף בחלב דאורייתא, דאי סלקא דעתך דרבנן – אכילה גופה גזירה, ואנן נגזר העלאה אטו אכילה?

The mishna teaches further: And it is prohibited to place any meat with cheese on one table. Rav Yosef said: Conclude from this clause that eating the meat of birds cooked in milk is prohibited by Torah law. As, if it enters your mind that the prohibition against eating it applies merely by rabbinic law, this would be because the consumption of the meat of birds cooked in milk is itself a rabbinic decree, lest one come to eat the meat of an animal in milk. And would we decree against placing birds together with cheese on one table due to the possibility of consumption, which is itself a decree? The Sages do not enact one decree to prevent the violation of another decree.

ומנא תימרא דלא גזרינן גזירה לגזירה? דתנן: חלת חוצה לארץ

The Gemara asks: And from where do you say that we do not issue one rabbinic decree to prevent violation of another rabbinic decree? The source is as we learned in a mishna (*Halla* 4:8): *Halla* from outside of Eretz Yisrael, which must be eaten by a priest,

נאכלת עם הזר על השלחן, וניתנת לכל כהן שירצה.

may be eaten with a non-priest present at the same table. The Sages did not issue a decree prohibiting this lest the non-priest partake of the *halla*, as the separation of *halla* outside of Eretz Yisrael is itself a rabbinic decree. This proves that the Sages do not issue one decree to prevent violation of another decree. And similarly, *halla* from outside of Eretz Yisrael may be given to any priest that one wishes, even an uneducated priest who would not guard its state of ritual purity. This is in contrast to *halla* from Eretz Yisrael, which may be given only to priests who observe the *halakhot* of ritual purity.

אמר ליה אביי: בשלמא אי אשמועינן חלת חוצה לארץ בארץ, דאיכא למיגזר משום חלת הארץ דאורייתא, ולא גזרינן – איכא למשמע מינה.

Abaye said to Rav Yosef: Granted, your inference would be valid if the mishna in tractate *Halla* had taught us this with regard to *halla* from outside of Eretz Yisrael that had been brought into Eretz Yisrael. As in that case, there could be reason to decree against eating it while a non-priest is at the same table, despite the fact that the non-priest eating it is prohibited only by

rabbinic law, due to the concern that one might come to eat *ḥalla* from Eretz Yisrael, which is prohibited to the non-priest by Torah law, at the same table as a non-priest; and yet we do not decree against this practice. If so, there would be grounds to learn from this mishna that the Sages do not issue one decree to prevent violation of another decree.

אֵלָא חוּצָה לְאֶרֶץ, מְשוּם דְּלִיכָא לְמִיגְזֵר הוּא. אֲבָל הָכָא, אִי שְׂרִית לִיָּה לְאַסּוּקֵי עוֹף וּגְבִינָה, אֶתִּי לְאַסּוּקֵי בָּשָׂר וּגְבִינָה, וּמִיכָל בָּשָׂר בְּחֶלֶב דְּאוֹרֵייתָא.

But the mishna actually teaches this *halakha* with regard to *ḥalla* from outside of Eretz Yisrael that remains there. It therefore proves nothing about compound decrees, as it can be claimed that the practice is permitted only because there is no reason to decree. Since by Torah law the obligation of *ḥalla* does not apply outside of Eretz Yisrael, there is no chance that such behavior will lead to transgression of Torah law. But here, if you permit one to place the meat of birds and cheese on the same table, some might come to place the meat of domesticated animals and cheese on a single table and to eat this meat cooked in milk, thereby transgressing a prohibition by Torah law.

2. הגהות יעב"ץ חולין קד: R. Yaakov Emden, 18th c. Germany

שם משום דליכא למגזר. נ"ב דאין מוציאין תרומה מארץ לחו"ל ופירות הארץ שיצאו משם לכאן פטורים כר"ע רפ"ב דחלה:

There because there is no reason to decree: note that we do not remove *terumah* from Eretz Yisrael to other countries, and produce from Eretz Yisrael that exit from there are exempt, like R. Akiva at the beginning of the second chapter of Tractate Challah.

3. ויקרא יח:ל

וּשְׁמֶרְתֶּם אֶת־מִשְׁמַרְתִּי לְבִלְתִּי עֲשׂוֹת מַחֲקוֹת הַתּוֹעֵבֹת אֲשֶׁר נַעֲשׂוּ לִפְנֵיכֶם וְלֹא תִטְמְאוּ בָהֶם אֲנִי יְיָ הֵנָּה אֲנִי לֵהֱיִיכֶם: {פ}

You shall keep My charge not to engage in any of the abhorrent practices that were carried on before you, and you shall not defile yourselves through them: I the ETERNAL am your God.

4. יבמות כא.

רב כהנא אמר מהכא: "וּשְׁמֶרְתֶּם אֶת מִשְׁמַרְתִּי" — עֲשׂוּ מִשְׁמֶרֶת לְמִשְׁמַרְתִּי.

Rav Kahana said that the prohibition of secondary forbidden relationships (which are rabbinically prohibited) is alluded to from here, in the verse stated at the conclusion of the verses discussing the *halakhot* of forbidden relationships: "Therefore shall you protect [ushmartem] My prized possession [mishmarti], that you do not any of these abominable customs" (Leviticus 18:30). This means: Establish a safeguard [mishmereṭ] for My prized possession.

5. מועד קטן ה.

מר זוטרָא אָמַר: "וְהִזְרַתֶּם אֶת בְּנֵי יִשְׂרָאֵל מִטּוּמְאָתָם". רַב אָשִׁי אָמַר: "וַיִּשְׁמְרֶתֶם אֶת מִשְׁמְרֹתַי" — עָשׂוּ מִשְׁמְרֹת לְמִשְׁמְרֹתַי.

Mar Zutra said (that an allusion to the obligation to mark graves so that people can avoid impurity is found in the verse) "Thus you shall separate the children of Israel from their impurity" (Leviticus 15:31), which indicates that people must be warned to stay away from that which could cause them to become ritually impure. Rav Ashi said it is derived from the verse: "And you shall keep My charge" (Leviticus 18:30), which means that you must establish a safeguard for My charge, i.e., protective measures must be enacted to prevent people from transgressing *halakha*, a task that includes distancing people from ritual impurity by marking off graves, so that they not come to convey ritual impurity to *teruma* or other consecrated items.

6. תוספות חולין קד., ד"ה ומנא תימרא דלא גזרינן גזירה לגזירה

בכמה מקומות אמר היא גופה גזירה ואנן ניקום ונגזור גזירה לגזירה? בפ"ק דשבת (יא:) ובפ' במה מדליקין (כא.) ובריש ביצה (ג.) והכא בעינן לאתויי ראייה לענין גזירה דהעלאה אטו אכילה ויש מקומות נמי דגזרינן גזירה לגזירה ולא חיישינן אין לדמות גזירות חכמים זו לזו אלא במקומות שהש"ס מדמה.

In a few places it says: It itself is a decree, and we will come and establish a decree upon a decree? In the first chapter of Tractate Shabbat and the second chapter and the beginning of Beitzah. And here we need to bring proof regarding the decree of placement because of a concern for eating. And there are also places where we actually do place a decree upon another decree, and we are unconcerned. One should not compare rabbinic decrees to one another unless the Talmud itself does so.

7. ביצה ב.

משנה: בִּיצָה שְׁנוּלָדָה בְּיוֹם טוֹב, בֵּית שְׁמַאי אוֹמְרִים: תֹּאכֵל, וּבֵית הֵלֵל אוֹמְרִים: לֹא תֹאכֵל...

Mishnah: With regard to an egg that was laid on a Festival (*Eduyyot* 4:1), Beit Shammai say: It may be eaten even on that day, and Beit Hillel say: It may not be eaten...

8. ביצה ב:

רַב יוֹסֵף אָמַר: גְּזֵרָה מְשוּם פְּרוֹת הַנוֹשְׁרִין.

The Gemara proceeds to explain other interpretations of the mishna. Rav Yosef said: An egg laid by a chicken designated for food is prohibited for a different reason: It is a decree due to fruits that fall from a tree (*Eiruv* 39b). Fruits that fall from a tree on Shabbat or a Festival may not be eaten, and the same applies to eggs that emerge from a chicken.

אָמַר לִיה אַבְי: פְּרוֹת הַנוֹשְׁרִין טַעְמָא מַאי —

Abaye said to Rav Yosef: With regard to fruits that fall, what in fact is the reason that the Sages prohibited them?

גְּזֵרָה שְׁמָא יַעֲלֶה וַיִּתְּלוּשׁ. הִיא גּוֹפָה גְּזֵרָה, וְאַנְן נִיקוּם וְנִגְזֹר גְּזֵרָה לְגְזֵרָה? כּוֹלָה חֲדָא גְּזֵרָה הִיא.

It is a decree lest one climb the tree and pick the fruit, as this would constitute the prohibited labor of harvesting. If so, the prohibition against eating fruit is itself due to a decree. And will we arise and issue a decree to prevent violation of another decree? Rav Yosef responded: That is not so; rather, when the Sages issued the initial decree, they enacted the prohibitions against

both fruit that fall and a laid egg, as all the prohibitions are components of one decree. In other words, the similar cases of the fruit and the egg were both included in the original decree.

רבי יצחק אמר: גזירה משום משקין שזבו.

Rabbi Yitzhak said a different reason: An egg that was laid on a Festival is prohibited as a decree due to liquids that seeped from the fruit (*Eiruv* 39b), which is prohibited on that day. The legal status of an egg that was laid on a Festival is like that of liquids that seeped from a fruit on a Festival.

אמר ליה אביי: משקין שזבו טעמא מאי — גזירה שמה יסחוט, היא גופה גזירה, ואנן ניקום ונגזור גזירה לגזירה? כולה חדא גזירה היא.

Abaye said to him: With regard to liquid that seeped from fruit, what is the reason that the Sages prohibited it? It is a decree lest one purposely squeeze the fruit, and thereby perform the prohibited labor of threshing. However, the prohibition against consuming this juice is itself a rabbinic decree. And will we arise and issue a decree to prevent violation of another decree? Rabbi Yitzhak replied: All the prohibitions are components of one decree. When the Sages prohibited this juice, they banned the eating of an egg laid on a Festival for the same reason, as the actions are similar.

9. משנה שבת ד:א

במה טומנין ובמה אין טומנין. אין טומנין לא בגפת ולא בזבל, לא במלח ולא בסיד ולא בחל, בין לחים בין יבשים. לא בתבן ולא בזגים ולא במוכים ולא בעשבים בזמן שהן לחים, אבל טומנין בהן קשהו יבשין. טומנין בקסות ובפרות, בכנפי יונה ובנסרות של חרשים ובנערות של פשתן דקה. רבי יהודה אוסר בדקה ומתיר בגסה:

When a pot is removed from the fire on Shabbat eve it may be insulated in materials that preserve its heat, but not in materials that increase its heat. Raising the temperature of a pot is tantamount to cooking. The *mishnayot* that follow list those materials in which such a pot may be insulated on Shabbat eve and those materials in which it may not be insulated.

10. רמב"ם פירוש המשנה שבת ד:א

...ודע כי זאת ההטמנה שהוא מדבר בה שאסרוה בדברים והתירוה בדברים כמו שהזכיר היא ערב שבת אבל ביום השבת לא התירו הטמנת דבר חם אבל יטמין בשבת התבשיל הקר בלבד כאשר יתבאר בזה הפרק והדעת היה מחייב שתהיה ההטמנה בשבת בדבר שאינו מוסיף מותרת והם הדברים שאמרה המשנה טומנין בהם מותר אבל אסרה גזירה שמה יטמין ברמץ והוא האפר החם לפי שהוא אינו מוסיף ואסרנו ההטמנה באפר החם מפחדנו שתהיה בה גחלת האש קטנה ובעת שמניעים האפר יחתה בגחלים ולפיכך לא התירו ההטמנה בשבת ואפילו בדבר שאינו מוסיף משום גזירת רמץ ורמץ גזירה שמה יחתה בגחלים

...And know that the insulation that it discusses, where some materials of forbidden and others are permitted, refers to erev Shabbat (=Friday before Shabbat), but on Shabbat, they did not permit insulation of anything hot, but only of something cold, as will be explained in this chapter. And one would have thought that insulation in materials that do not increase heat would be permitted even on Shabbat, but they forbade them as a decree, lest one insulate with embers

which is hot ashes, and insulating with hot ashes is a decree out of our fear that it may have a small coal within it, and when one moves the ashes, one will stir the coals. And therefore they did not permit any insulation on Shabt even in material that merely preserves heat out of decree regarding embers, which itself is out of a decree lest one stir coals.

ואולי תקשה בעקר שהוא אצלנו אין גזרין גזירה לגזירה והוא שיגזרו ב"ד דבר בשעה מן השעות ואחר כך ישוב ויגזור גזירה לאותה גזירה זה הדבר אינם עושים אבל אם יהיו שתי הגזירות בשעה אחת הרשות בידם והוא דבר נעשה תמיד והוא ענין אמרם כולו חדא גזירה היא ר"ל כי מי שגזר זאת הגזירה ראה שלא תתקיים זאת הגזירה אלא בגזירה אחרת תחזק אותה ותסמוך אותה ולפיכך גזר שתי הגזירות יחד...

And you may question based on the principle that we have that we do not add one decree to another: but that refers to one the *beit din* (=court) made one decree and then later they wish to make another decree to safeguard the first one. This is something that we do not do. If, however, the two decrees emerged at the same time, they may do so. And this is something that is often done, and this is what is meant by what they say, "It is all one decree," i.e., whoever made this decree saw that this decree would not stand without another decree that would strengthen it and support it. Therefore, they decreed both together.

For practical halacha concerning *hatmanah* (insulating food), see here:
<https://www.koltorah.org/halachah/hatmanah-and-crockpots-by-rabbi-chaim-jachter>

11. שולחן ערוך יורה דעה צז:א

אין לשין עיסה בחלב שמא יבוא לאכלה עם בשר, ואם לש כל הפת אסור אפי' לאכלה לבדה ואם היה דבר מועט כדי אכילה בבת אחת או ששינה צורת הפת שתהא ניכרת שלא יאכל בה בשר מותר...

We do not knead dough with dairy products, lest one come to eat it with meat. And if one did so, the entire bread is forbidden even to eat on its own. But if it was a small dough that could be eaten in one bite, or one changed the shape of the bread so that it would be recognizable so that one would not eat meat with it, it is permissible...

12. פרי מגדים שם R. Yosef Teomim, 18th c. Galicia

אפילו לאכלה לבדה - גזירה שמא יבוא לאכלה עם בשר...אף דהוה רק דרבנן מכל מקום לא הוי גזירה לגזירה דקרוב לטעות שעל הלחם יחיה האדם ודרכו לאכול עם בשר וחלב ובשמים...

Even to eat it on its own - a decree lest one come to eat it with meat...And even though it is only a rabbinic prohibition, at any rate, this is not a decree on a decree because it is so easy to make this mistake, because bread is such a staple, and people eat it with meat, milk and spices...