

## Developments in the Syntax and Logic of the Talmudic Hermeneutic *Kelal Uferat Ukelal*

*Michael Chernick*

Professor Emeritus of Rabbinic Literature,  
Hebrew Union College-Jewish Institute of Religion in New York,  
the United States of America

*e-mail:* [michaelchernick41@gmail.com](mailto:michaelchernick41@gmail.com)

*Abstract:* The purpose of this study is to show that the logical content of a *Tann'ayitic* hermeneutic changed and developed as it passed into the hands of the *'Amor'ayim*, the *Tann'ayim's* successors, and then into the anonymous stratum of the *Babylonian Talmud*. This hermeneutic was based on a very specific syntactical order in a biblical verse, which was formed by an initial inclusive clause, followed by a list of specifics, and then followed by a second inclusive clause. This hermeneutic is called in Hebrew *kelal uferat ukelal*. In the *Tann'ayitic* period the hermeneutic required that the second inclusive clause had to be more extensive than the first one. It appears that this new degree of extensiveness suggested that the list of specifics was not definitive of the initial inclusive clause and that other things might be implied by the second one. The way that the rabbinic interpreter determined what these things might be was by seeking the common characteristics that the items in the specifics clause shared. By the time of the late *Tann'ayim* and early *'Amor'ayim* the requirement for the two inclusive clauses had changed. The formal syntax of the hermeneutic remained, but inclusive clauses had to be equal in their degree of inclusivity. The change in logic seems to be the result of viewing a second, more inclusive clause as a distinct element that could be disconnected from the first inclusive clause and the specifics that follow it. If the two inclusive clauses were, however, the same or similar, the rabbinic interpreter could argue that they belonged to the same categories and thus formed a legitimate *kelal uferat ukelal*. In the final period of the Talmud's creation neither the syntactic nor logical requirements were any longer needed to form a *kelal uferat ukelal*. Two artificially constructed inclusive clauses and some specifics could appear in almost any order within a biblical verse and be considered a *kelal uferat ukelal*. It appears that the desire of the rabbinic interpreters of each era to connect their *halakot* to the Torah was the force behind the changes we have described.

*Keywords:* Talmud, rabbinic hermeneutic, *midraš*, *halakhah*, *kelal uferat ukelal*

## 1. Introduction

In a book and article on the development of the hermeneutic called *kelal uferat ukelal* I have shown that that hermeneutic used in *Tann'ayitic halakhic midrašim* and later in the *Talmud* changed in form from era to era [2], [3]. The changes take place in two main areas: in the syntactical format of the hermeneutic and in its logic.

*Kelal uferat ukelal* uses phrases in a biblical verse that include an inclusive clause at the beginning of the phrase, a series of specifics that represent subsets of the inclusive clause in the phrase's middle clause, followed by a second inclusive clause at the phrase's end. An example of this kind of structure within a verse appears in *Exodus 22:8*,<sup>1</sup>

על כל דבר פשע על שור על חמור על שה על שלמה על כל אבדה אשר יאמר כי הוא זה

The first clause *על כל דבר פשע*, “Regarding all charges of misappropriation,” includes all claims against an unsalaried bailee who avers that an item or items left with him for safekeeping were stolen. The middle clause provides information about the specific items that are typically left with a bailee which might have been stolen due to his negligence. These include oxen, donkeys, sheep, and clothing. The verse concludes with another inclusive clause, “about any loss regarding which (the bailor) will say, ‘This (object) is it (i.e., one stolen by the bailee).’”

Those who interpret *Exodus 22:8* applying the *kelal uferat ukelal* hermeneutic in order to take judicial action in a case where a bailor accuses a bailee of negligence or theft hold that the specifics in the verse do not represent the full range of items the law covers. Rather, items with the shared characteristic of all the specifics mentioned between the two inclusive clauses are those for which an unsalaried bailee who is negligent or a thief must pay. These include any things that are movable property not subject to the possibility of lien, not just animals.<sup>2</sup> Had clothing not been one of the specifics, the law would have been that the bailor could make a claim against the bailee only for lost or stolen animals.

One might rightly ask, “What logic explains why the bailee who stole or lost the item entrusted to him must pay for anything that has the shared features of all the specifics sandwiched between the inclusive clauses?” For example, why would a bailee who stole a chair have to repay double its worth if he was guilty? A chair is neither a sheep nor a garment. What extended the range of these specific items to “any movable property not subject to lien”? According to the rabbinic interpreters it seems that the superfluity of the second inclusive clause extends the range of items for which the bailor may sue the bailee. In a sense, the second inclusive clause seems to say, “Include even more than the mentioned specifics.”

Proof of this logic is the case where the initial inclusive clause is followed only by specifics but lacks a second inclusive clause. In Hebrew, such a syntactical arrangement in a biblical verse is called *kelal uferat*. *Leviticus 1:2* provides an example of this form of hermeneutic and its result. The verse states,<sup>3</sup>

דבר אל בני ישראל ואמרת אליהם אדם כי יקריב מכם קרבן לה' מן הבהמה מן הבקר ומן הצאן תקריבו קרבנכם

The inclusive section of this verse is *מן הבהמה*, “from among class of ungulates.” The specifics clause states, “from the herd and from the flock.” According to the rabbinic interpreters this syntax produces the result *אין בכלל אלא מה שבפרט*, “the inclusive clause comprises only the specifics.” Therefore, the animals fit for sacrificial purposes are not all cattle, but only bulls, cows, sheep, and goats. Despite the

opening clause's inclusiveness, the specifics define the inclusive clause. This is because the second inclusive clause is not present to suggest that more than the stated specifics are implied by the verse. Had a second inclusive been present perhaps the shared features of the animals described would have allowed deer or ibex to be used as sacrificial animals since they too chew their cud and have split hooves and share other characteristics. That second inclusive clause, however, is not available in *Leviticus* 1:2 and animals other than the ones listed are therefore excluded from serving as sacrifices.

## 2. The Second Inclusive Clause Must Be of Greater Scope Than the First

The form of the *kelal uferat ukelal* that appears in collections of interpretations of the Torah called *Tann'ayitic halakhic midrašim* requires that the second inclusive clause be wider in scope than the first one. Each case of *kelal uferat ukelal* in these collections includes the formula, כלל בכלל הראשון אמרת, or כלל ככלל הראשון אמרת, “perhaps you are stating a (second) inclusive clause already included in the first inclusive clause,” or “perhaps you are stating a (second) inclusive clause like the first inclusive clause.” The implication is that if the second inclusive clause only repeats the first, it may not qualify as a second *kelal*. In that case, we may have only a *kelal uferat* interpretation. If so, then the exact items listed in the specifics clause would define what is included in the inclusive clause.

A good example of this phenomenon appears in the following interpretation of *Exodus* 20:14, one of the so-called Ten Commandments. The verse states<sup>4</sup>

לא תחמד בית רעך לא תחמד אשת רעך ועבדו ואמתו ושורו וחמרו וכל אשר לרעך

The first part of the verse is an inclusive clause, “You shall not covet your fellow's house.” The clause is inclusive because the term “house” in the Hebrew Bible implies the people, animals, and objects that are part of family's home [1, p. 111]. Indeed, the specifics clause lists some of these: one's neighbor's wife, his male or female slave, his ox and his ass. Had there been no second clause or had that clause been no more inclusive than the first clause, rabbinic interpretation would have prohibited coveting just what was specified in the specifics list: one's neighbor's wife, male or female slaves, or his ox or ass. Here, however, the second clause is indeed greater in scope than the first inclusive clause. It includes beyond the things that make up a man's domicile, “everything that belongs to your neighbor.” It is hard to imagine what these might be beyond what is needed for his home, so the rabbinic interpreter provides a definition. As is the case with all *kelal uferat ukelal* interpretations, this definition is based on the shared characteristics of all the listed specifics. These shared characteristics include things that one can sell or buy, movable property, and items that can only enter one's possession willingly.<sup>5</sup> The interpreter derived these characteristics from the commonalities between male and female slaves and oxen and asses all of which can be bought and sold. They also are all examples of movable property. A wife adds the characteristic of something that can enter one's possession willingly since according to Jewish law a woman cannot be forced into marriage against her will.<sup>6</sup> Hence, “you shall not covet” is defined by the rabbis as any attempt to pressure an individual to sell or give anything with the properties listed above against his will [4, p. 449].

## 3. Early Talmudic *kelal uferat ukelal* Interpretations: The *kelal uferat ukelal* with Equivalent Inclusive Clauses

While the classical *Tann'ayitic halakhic midrašim* contain only examples of *kelal uferat ukelal* in which the second inclusive clause is wider in scope than the first, the *Talmudim* preserve several

examples of *kelal uferat ukelal* with equivalent inclusive clauses. The Talmudic *kelal uferat ukelal* may be the product of a school different from the one that required a difference in scope between the inclusive clauses. It is, however, more likely that these *kelal uferat ukelal* interpretations emanate from a single school. That school accepted *kelal uferat ukelal* with two equivalent inclusive clauses when the verses it interpreted allowed no other choice. In that case syntax was more determinative for applying the *kelal uferat ukelal* hermeneutic than the fact that the inclusive clauses were the same in scope. The argument that two equivalent inclusive clauses meant there was actually only one doubled *kelal* could be easily countered by appealing to the theology that underlies rabbinic *midraš*, namely, that every word of the Torah is significant because it is the perfect word of God [5, p. 8], [6, p. 120]. Therefore, it might be argued that if God, the *Torah*'s writer, had meant a verse with a *kelal uferat ukelal* sequence to be regarded as a *kelal uferat* interpretation in which the specifics completely define the inclusive clause, He would have formulated the verse's syntax accordingly.

Let us now examine the two examples of *kelal uferat ukelal* with equivalent inclusive clauses that appear in both the *Babylonian* and *Palestinian Talmudim*.

### 3.1. The *kelal uferat ukelal* Interpretation of Leviticus 14:9

A *kelal uferat ukelal* interpretation that appears in both the *Palestinian* and *Babylonian Talmudim* interprets this phrase in *Leviticus* 14:9:<sup>7</sup>

והיה ביום השביעי יגלח את כל שערו את ראשו ואת זקנו ואת גבת עיניו ואת כל שערו יגלח

The two equivalent inclusive clauses, “all his hair,” parenthesize the specifics: the hair of his head, beard, and eyebrows. The following is the formulation of the *kelal uferat ukelal* in the *Babylonian Talmud*:

והיה ביום השביעי יגלח את כל שערו - כלל, את ראשו ואת זקנו ואת גבות עיניו - פרט, ואת כל שערו יגלח - חזר וכלל, כלל ופרט וכלל אי אתה דן אלא כעין הפרט, מה פרט מפורש מקום כינוס שער ונראה, אף כל מקום כינוס שער ונראה (סוטה טז ע"א)

“And it shall be that on the seventh day he shall shave all his hair” – this is an inclusive clause (*kelal*); “his head, his beard, and his eyebrows” – this is a specifics clause“ (*perat*); “and all his hair he shall shave” – the *Torah* repeats an inclusive clause (*kelal*). When we have a *kelal uferat ukelal* arrangement, we apply the law to the anything with the shared characteristics of the specifics. Just as the specifics indicate a place where hair is thick and visible, so all places on the body where hair is thick and visible (must be shaved) (*Soṭah* 16a).

The *Babylonian Talmud* explains that this definition would excuse the leper undergoing his purification rites from shaving his underarms, which are generally not visible, and the majority of his body since arm and leg hair is scattered and not thick. The recovered leper would, however, have to shave pubic hair because it is thick, and when the recovered leper is nude, it is visible. The *Talmudim* note, however, that this is one of the places where R. Ishmael held that the actual law overrides the hermeneutic interpretation. Therefore, he requires that the leper's entire body must be shaved in order for him to complete his purification rites.<sup>8</sup>

### 3.2. The *kelal uferat ukelal* Interpretation of Deuteronomy 14:26

The *kelal uferat ukelal* interpretation that emerges from Deuteronomy 14:26 also contains two equivalent inclusive clauses. It deals with the law pertaining to money used to redeem what is called the second tithe. The first tithe of produce was given to the Levites, but the second tithe belonged to the owner of the produce. In terms of its use, the farmer had two choices. He could bring the actual produce to Jerusalem and consume it there. If, however, it was too abundant for the owner to transport to Jerusalem, he could redeem it with money and spend the redemption money in Jerusalem. The *kelal uferat ukelal* defines what kind of goods the farmer could purchase with second tithe redemption money. The section of the verse that forms the basis for the *kelal uferat ukelal* interpretation reads as follows:<sup>9</sup>

ונתתה הכסף בכל אשר תאוה נפשך בבקר ובצאן וביין ובשכר ובכל אשר תשאלך נפשך

The *kelal uferat ukelal* interpretation makes it clear what constitutes the inclusive clauses and specifics clause:<sup>10</sup>

ונתתה הכסף בכל אשר תאוה נפשך - כלל, בבקר ובצאן וביין ובשכר - פרט, ובכל אשר תשאלך נפשך - חזר וכלל. כלל ופרט וכלל - אי אתה דן אלא כעין הפרט; מה הפרט מפורש - פרי מפרי וגידולי קרקע, אף כל - פרי מפרי וגידולי קרקע (תלמוד בבלי מסכת עירובין דף כז עמוד ב)

“You shall apply the money to anything you desire” – this is an inclusive clause (*kelal*); “cattle, sheep, wine, or other intoxicant” – this is a specifics clause (*perat*); “or anything you may desire” – the *Torah* repeats the inclusive clause (*kelal*). When we have a *kelal uferat ukelal*, one decides the law according to the shared characteristics of the specifics clause: Just as the specifics’ shared characteristics are that they are fruits that come from fruits and are the produce of the earth, so too one may purchase foodstuffs that are fruits from fruits and the produce of the earth (*Babylonian Talmud*, ‘*Eruvin* 27b).<sup>11</sup>

It is obvious that there is no significant difference between the biblical clause “and apply the money to anything you want” and “or on anything you may desire.” There is some doubt whether this interpretation is a product of the *Tann’ayitic* period. This is due to how the *Talmud* introduces the interpretation as part of the *Talmud*’s discussion. The *Talmud* usually introduces extra-*mišnahic* *Tann’ayitic* sources (*barayt’ot*) with the terms תניא (“it was taught”) or תנו רבנן (“our Rabbis taught”). In the case of our *kelal uferat ukelal*, תניא introduces the interpretation indicating that our source is *Tann’ayitic*. However, Rashi, the eleventh century commentator par excellence, comments on our source thus: “Our version is this: ‘as it is taught (דתניא): “and spend the money on anything you want.”” This implies that there were other versions of this source’s introduction; and, in fact, this is the case.

Our *kelal uferat kelal* appears in four different places in the *Talmud*: in ‘*Eruvin* 27b, *Nazir* 35b, and *Bab’a Qam’a* 54b, and 66a. In several manuscripts and incunabula the *kelal uferat ukelal* under discussion either has no introduction or is introduced with דכתיב (“as it is written”). This latter is only an introduction to the biblical verse which serves as the basis for the *kelal uferat ukelal*. As such, it says nothing about when this interpretation was created. Nevertheless, the overwhelming evidence of the Babylonian Talmudic versions is that this *kelal uferat ukelal* is a *Tann’ayitic* source. The *Jerusalem Talmud*, which cites this *kelal uferat ukelal* twice, also suggests that this is the case.<sup>12</sup>

#### 4. The Talmudic Departure From the Syntactical Requirements and Logic of the Classical *kelal uferat ukelal*: The Implied “Any” or “Anything”

As we move into the third 'Amor'aic generation and beyond, the requirements for a verse to serve as the basis for a *kelal uferat ukelal* interpretation fall away and with them the logic of *kelal uferat ukelal* changes radically. What follows are examples of these changes all of which are departures from the classical *Tann'ayitic* formats of *kelal uferat ukelal*.

##### 4.1. *Palestinian Talmud, Sanhedrin 7:9*

*Mišnah Sanhedrin 7:9* distinguishes between idolatrous actions that are capital crimes and those which are prohibited but do not carry capital punishment. The Palestinian 'Amor'ayim, R. Bun Bar Kahana (the 3<sup>rd</sup> – 4<sup>th</sup> generation) asked R. Hila (Palestinian 'Amor'a, the 3<sup>rd</sup> generation) why the *Mišnah* exempts the actions it does from capital punishment. The source of his question is a *kelal uferat ukelal* interpretation he formulates.

... רבי בון בר כהנא בעא קומי רבי הילא לא תעשון כן כלל זובח לאלהים יחרם פרט בלתי ליי' לבדו חזר וכלל כלל ופרט וכלל והכל בכלל וריבה את המגפף והמגשק (תלמוד ירושלמי מסכת סנהדרין ז, ט [כה ע"ב])

R. Bun bar Kahana asked in the presence of R. Hila: “Do not do thus”<sup>13</sup> – this is an inclusive clause (*kelal*); “one who slaughters sacrifices to gods shall be destroyed”<sup>14</sup> – this is a specifics clause (*perat*); “save only unto the Lord” – this is the repetition of an inclusive clause (*kelal*). This produces a *kelal uferat ukelal*, and everything is included in the *kelal*. This encompasses kissing and embracing (an idol, which should be treated like sacrificing to other gods).”

It is clear that this version of *kelal uferat ukelal* is unlike any interpretation using this hermeneutic that we have seen until now. Indeed, one wonders what makes the various components of this interpretation inclusive or specifics clauses. How is “Do not do thus” an inclusive clause? How is “one who slaughters sacrifices to gods shall be destroyed” a specifics clause? And how does “save only unto the Lord” repeat an inclusive clause?

While R. Hila responds to this question, his response is not germane to our issue. What is significant is that in the third-fourth 'Amor'aic generation in Palestine this form of *kelal uferat ukelal* presented a significant enough challenge to the *Mišnah* to elicit a response from R. Hila. Given the uniqueness of this form of *kelal uferat ukelal* compared to anything we have seen heretofore it is important to analyze this interpretation and its understanding of its verse's syntax, its definition of inclusive and specific clauses, and its logic.

First, this *kelal uferat ukelal* derives its inclusive clauses from phrases in different books of the Torah, *Exodus* and *Deuteronomy*. This in itself is not unknown since the *Mekilt'a d'R. Yišma'el* and *Sifre Numbers*, which are clearly older, do the same in one case.<sup>15</sup> This is because the subject matter of the verses in the interpretation is the same, namely, redemption of firstborn sons. There are however no examples of *Tann'ayitic kelal uferat ukelal* interpretations lacking a clear subject in the form of a noun or using the Hebrew word כל (“all”) with a noun. “You shall not do thus” or even the fuller version of the verse, “you shall not do thus to the Lord your God” do not provide an inclusive noun. How then is this an inclusive clause? The answer is: the interpreter, R. Bun bar Kahana, understood this biblical

clause to mean “you shall not do for idols anything done for the worship of God.” This could be understood as any aspect of the sacrificial service, which understood this way would serve as a *kelal*. The phrase from the *Exodus*, “one who slaughters a sacrifice to other gods shall be destroyed” refers to only one aspect of the sacrificial service, namely, slaughter. As such, it can be viewed as a specific clause. Finally, “save only unto the Lord” as understood by R. Bun bar Kahana means “all those forms of worship reserved for the Lord.” Thus, he produces a second *kelal*. The shared characteristic of sacrificial slaughter is that it honors God and is forbidden on pain of death if directed to other gods. The conclusion that R. Bun bar Kahana reaches is anything done to honor a god should receive the death penalty, which would include such activities as kissing or embracing an idol. This conclusion contravenes the *Mišnah* which prohibits these activities, but not on pain of death.

It is clear that this *'Amor'aic kelal uferat ukelal* leaves much information to be filled in by the reader. It seems that R. Bun bar Kahana used the various biblical phrases in his *kelal uferat ukelal* as signals pointing to subjects not specifically mentioned in his interpretation. In this case, the verb “do” refers to all activities that are directly part of the sacrificial service like slaughtering the sacrificial animal, receiving its blood, and the like. “Unto the Lord alone” refers to every action related to the worship of God such as prostrating oneself. This, too, is an innovation we have not seen before.

In sum, unlike earlier examples of *kelal uferat ukelal* interpretations this Palestinian Talmudic *kelal uferat ukelal* is anything but straightforward. The role of the verses' syntax in this interpretation, what constitutes an inclusive or specific clause in it, and its logic are hard, indeed almost impossible, to define without a considerable overlay of inference applied to what is present in the *Palestinian Talmud's* text. As we shall see, this may be the first case of its kind, but this form of *kelal uferat ukelal* is a commonplace in the *Babylonian Talmud*.

## **5. Post-Tann'ayitic Babylonian Talmud kelal uferat ukelal Interpretations: “The Second kelal is Not Similar to the First kelal”**

There are two examples in the *Talmud* where the validity of a *kelal uferat ukelal* interpretation is challenged by sages of the latest generations of the Babylonian *'Amor'ayim*. Both examples appear in tractate *Zebaḥim*, one on page 4b and the other on 8b. In the first case R. Aḥa of Difti, a sage of the final generation of Babylonian *'Amor'ayim*, challenges the validity of a *kelal uferat ukelal* and receives a defense of it from Ravina, another seventh generation Babylonian *'Amor'a*. On 8b R. Ya'aqov of Nehar Peqod, a sixth generation Babylonian *'Amor'a*, strongly objects to the legitimacy of an anonymous *kelal uferat ukelal*. The fact that there are named *'Amor'ayim* relating to these interpretations helps us date them.

### **Zebaḥim 4b**

In *Zebaḥim* 4b there is a search for a source for the rule that the priest who receives sacrificial blood in a sanctified vessel must intend to receive it with the sacrifice's donor in mind. After rejecting several suggestions, the discussants propose that the application of the *kelal uferat ukelal* hermeneutic to *Numbers* 6:17 might produce part of the needed proof-text.<sup>16</sup> R. Aḥa of Difti, a seventh generation *'Amor'a* (c. 455 – 485 CE), objects to this because the first inclusive clause is not similar to the last one. Ravina, a major figure of the sixth *'Amor'aic* generation and a teacher of R. Aḥa, responds to this challenge and allows the formation of a *kelal uferat ukelal*.

As we will see, this late form of *kelal uferat ukelal* is similar in many ways to the one in the *Palestinian Talmud*, *Sanhedrin* 7:9. The Talmudic discussion in which this *kelal uferat ukelal* appears

is extremely complex. Therefore, I will limit my discussion of it only to what is pertinent to our issue, namely, the interpretation's form and logic.

רבינא אמר: לעולם דנין, ולה' - חזר וכלל. אמר ליה רב אחא מדיפתי לרבינא: והא לא דמי כללא קמא לכללא בתרא, כללא קמא מרבה עשיות ותו לא, כללא בתרא כל לה', ואפילו שפיכת שיריים והקטרת אימורין! הא תנא דבי רבי ישמעאל בכללי ופרטי דריש כי האי גוונא, כלל ופרט וכלל אי אתה דן אלא כעין הפרט, מה הפרט מפורש עבודה ובעינן לשמן, אף כל עבודה ובעינן לשמן.

Ravina said (accepting a *kelal uferat* that other sages considered illegitimate):<sup>17</sup> We accept “he shall offer” as an inclusive clause; “a slaughtered sacrifice” as a specifics clause, then the phrase “to the Lord” as another inclusive clause.

R. Aḥa of Difti said to Ravina: But the first inclusive clause is not similar to the second one! The first clause includes only the rites directly related to sacrificing the offering. The last clause includes even those activities carried out on the sacrificed animals after the basic sacrificial rites have been performed. For example, disposing of excess sacrificial blood and burning those organs not required to be placed on the altar.

(Ravina replied): Behold! The representative of the interpretive method of the School of R. Ishmael use this form of *kelal uferat ukelal*, and when we have a *kelal uferat ukelal* the law is determined according to the shared characteristics of the specifics clause. (In our case this means) just as the shared characteristics of the specifics refer to all aspects of the sacrificial rites performed with proper intention (for the sacrifice to be valid), so too (for the sacrifice to be in fulfillment of the donor's vow) all the sacrificial rite must be with proper intention (i.e., with the donor in mind)...

An analysis of the form of this *kelal uferat ukelal* shows that Ravina, its creator, did not use the entire phrase *וְאֵת הָאֵיל יַעֲשֶׂה זֶבַח שְׁלָמִים לַיהוָה*, “and he shall offer the ram as a *šlamim*-sacrifice to the Lord”, in *Numbers* 6:17. Rather he used just these words from it: *וְאֵת הָאֵיל יַעֲשֶׂה זֶבַח לַיהוָה*, “he shall offer,” “a slaughtered sacrifice,” “to the Lord.” As was the case in the *Palestinian Talmud's kelal uferat ukelal* it is difficult to see how any of these words would qualify as an inclusive clause, though “a slaughtered sacrifice” refers to a specific item. Therefore we are required to fill in the blank spaces as follows: *וְאֵת הָאֵיל יַעֲשֶׂה זֶבַח לַיהוָה*, “he shall offer,” we should understand to mean that he should perform all the *עשיות*. This term based on the same Hebrew root as *יעשה* in rabbinic parlance means all the basic rites the priest performs on a sacrifice: slaughter, receiving the sacrificial blood, bringing it to the altar, and sprinkling the blood on the altar. Hence, it is inclusive of all those rites.

The second inclusive clause is *לַיהוָה*, “to the Lord.” Initially this does not appear to be an inclusive clause. As Ravina understood it, however, its meaning is “all those activities done to a sacrifice offered to the Lord.” These would include the basic sacrificial rites and further actions carried out on the offering. Some examples of these actions are disposing of sacrificial blood in excess of what was needed for sprinkling and burning those parts of the sacrificial animal not needed for the altar. Understood thus, *לַיהוָה* is an inclusive clause and together the terms *וְאֵת הָאֵיל יַעֲשֶׂה זֶבַח לַיהוָה* form a *kelal uferat ukelal*.

Like the *kelal uferat ukelal* in the *Palestinian Talmud*, a verb without a noun as a subject can function as a *kelal*. There the Hebrew word *לַיהוָה*, “to the Lord” was also understood as including all forms of rites used to worship God, though not strictly sacrificial ones. Nevertheless, it is possible to see how *Palestinian Talmud's* use of this word could be a precedent for Ravina. Regarding the specifics clause in *Zebaḥim* 4b, it is a noun, as is the case in almost every *kelal uferat ukelal* we have

seen. Once one accepts the thinking guiding the formation of the inclusive clauses, the logic of this *kelal uferat ukelal* is the same as any other interpretation of this kind. The one issue related to the logic of this *kelal uferat ukelal* is R. Aḥa of Difti's concern is that the first and last inclusive clauses are not similar. The meaning of "similar" here is not related to the use of the same word or phrase as the first and last inclusive clause of a *kelal uferat ukelal*. Rather "similarity" means quantitative similarity. That is, in this example of *kelal uferat ukelal*, the first inclusive clause includes less than the final one. For R. Aḥa of Difti this raises the question of whether the two inclusive clauses are speaking about the same subject. If they are not, then how can an interpreter form a *kelal uferat ukelal* out of two totally unrelated though inclusive phrases? Ravina's response to this query is that there is authoritative precedent for doing this emerging from the School of R. Ishmael's application of the *kelal uferat ukelal* hermeneutic to the biblical text.

### Zebaḥim 8b

In *Zebaḥim* 8b there is a *kelal uferat ukelal* interpretation. Like the one in *Zebaḥim* 4b it appears in the midst of a complicated Talmudic passage. Also like the *kelal uferat ukelal* in 4b it appears to be a product of the sixth 'Amor'aic generation because R. Ya'aqov of Nehar Peqod forcefully attacks it.

The issue at hand is what happens when one slaughters the animal he initially designated as a Passover offering with the intention for that animal to be another kind of offering. A *barayt'a* distinguishes between improper intention regarding the Passover offering when this occurs in its proper time on *Nisan* 14 toward the evening, in which case the sacrifice is invalid. If, however, one slaughters an animal with the intention of it being a Passover offering at any other time of the year, it is acceptable, but only as a *šelamim*-sacrifice. The passage in *Zebaḥim* 8b investigates why this is so.

As part of its investigation an anonymous interpreter proposes that sacrifices of one sort slaughtered with intention for another sort automatically become *šelamim*-sacrifices because of the following *kelal uferat* interpretation based on *Leviticus* 3:6,<sup>18</sup>

ואם מן הצאן קרבנו לזבח שלמים לה' זכר או נקבה תמים יקריבנו

The interpreter uses the phrase לזבח שלמים, "as a *šelamim*-sacrifice," as follows:

לזבח - כלל, שלמים - פרט, כלל ופרט אין בכלל אלא מה שבפרט, שלמים אין, מידי אחרונא לא! (זבחים ה ע"ב)

"as a slaughtered sacrifice" – this is an inclusive clause (*kelal*); "*šelamim*" – this is a specification (*perat*). When we have an inclusive clause followed by specification, the specification defines the content of the inclusive clause. (Therefore, a sacrifice designated as one kind of offering slaughtered with intention for another kind) becomes a *šelamim*-sacrifice and nothing else.

The anonymous interpreter continues and shows that if one uses *kelal uferat ukelal*, an offering that the donor or priest slaughters with incorrect intention may become an offering other than a *šelamim*-sacrifice. The following is the interpreter's *kelal uferat ukelal* with a rejoinder by R. Ya'aqov of Nehar Peqod. The Talmud rejects the rejoinder and the *kelal uferat ukelal* and its result stand, but only temporarily. I will include in the citation of the passage only what is germane to the *kelal uferat ukelal*.

לה' - הדר וכלל. מתקיף לה ר' יעקב מנהר פקוד: הא לא דמי כללא בתרא לכללא קמא, כללא קמא מרבי זבחים ותו לא, כללא בתרא לה' - כל דלה', ואפ' לעופות ואפ' למנחות! הא תנא דבי רבי ישמעאל: בכללי ופרטי דריש כי האי גוונא, כלל ופרט וכלל אי אתה דן אלא כעין הפרט, מה הפרט מפורש שהוא שלא לשמו וכשר, אף כל שהוא שלא לשמו וכשר.

“To the Lord” is, however, another inclusive clause. R. Ya‘aqov of Nehar Peqod vigorously attacked this *kelal uferat ukelal*: “But the last inclusive clause is not similar to the first inclusive clause! The first inclusive clause (“as a sacrifice”) includes only sacrifices that are slaughtered. ‘To the Lord’ includes all that is (offered) to the Lord, even offerings of birds and meal-offerings.”<sup>19</sup>

(Anonymous response): But the representative of the interpretive method of the School of R. Ishmael interprets using this form of *kelal uferat ukelal*. Hence, we have a *kelal uferat ukelal*. Therefore, the shared characteristics of the specifics clause determine the law. Just as the specifics clause’s shared characteristics imply an offering brought with the wrong intention which is nevertheless valid, so too all offerings brought with the wrong intention are nevertheless valid.

This passage is almost a replay of *Zebaḥim* 4b. True, the verses that the interpreters use come from different books of the *Torah* – the *Numbers* in the case of *Zebaḥim* 4b, and the *Leviticus* here in *Zebaḥim* 8b – but that is due to the difference in subject matter with which the passages deal. In *Zebaḥim* 4b the topic is failure to have the donor of the sacrifice in mind when the priest slaughters his offering. In *Zebaḥim* 8b the issue is what happens when one designates an offering for one sort of sacrifice but at the moment of slaughter intends it to be another variety of sacrifice.

The words that form the components of the inclusive clauses at first glance would not seem to be inclusive at all. In *Leviticus* 3:6 the words שלמים, “a *šelamim*-sacrifice” refer to specific kind of sacrifice. Only when the interpreter sunders the connection between “sacrifice” (זבח) and *šelamim* can he form a *kelal* out of “sacrifice.” Even then, the word “sacrifice” basically refers to something specific. Therefore, we are again called upon to read “sacrifice” as “any form of sacrifice,” which then means all slaughtered sacrifices since the Hebrew root ז-ב-ח means “to slaughter.” We are also expected to understand לה' as “everything that is offered to the Lord,” which would include offerings that were not slaughtered. This is what calls forth R. Ya‘aqov of Nehar Peqod’s attack: the first and last inclusive clauses are not talking about the same thing if we understand them in this way. As was the case in *Zebaḥim* 4b the logic behind R. Ya‘aqov of Nehar Peqod’s objection is if the two inclusive clauses speak of entirely different things, how can they connect with each other to form a *kelal uferat ukelal*? The response here is the same one that appears in the *Zebaḥim* 4b passage: Those who followed the interpretive method of the School of R. Ishmael accepted this form of *kelal uferat ukelal* as perfectly legitimate.

In sum, this *kelal uferat ukelal* brings us close to full circle with the early *Tann’ayitic* form of *kelal uferat ukelal*. Those required that the second inclusive clause had to be different from the first for the interpretation to be acceptable. In the case of the *Tann’ayitic kelal uferat ukelal*, however, the difference between the two inclusive clauses was usually quantitative. In Talmudic *kelal uferat ukelal* interpretations the second inclusive clause is different from the first in subject matter, and the subject matter of the second inclusive clause is wider in scope in terms of the issues it includes than that of the first inclusive clause.

## 6. The Victory of the Post-*Tann'ayitic* Form of *kelal uferat ukelal* in the “Anonymous Talmud”

Interspersed within most Talmudic passages is an anonymous stratum which creates the give and take that typifies Talmudic discussions. The academic consensus holds this stratum to be at least late or post-*'Amor'aic*.<sup>20</sup> We have seen that we may date some of these anonymous passages to the sixth and seventh *'Amor'aic* generations since *'Amor'ayim* like R. Aḥa of Difti and R. Ya'aqov of Nehar Peqod respond to them. This brings us close to the end of the *'Amor'aic* period which lasted one more generation. The seventh generation's teachings appear with the names of their authors included, though there are more queries, challenges, and comments, usually formulated in Aramaic, than straightforward legal opinions or teachings. On one hand, the “anonymous Talmud” may be the product of the sixth and seventh *'Amor'aic* generations since its contents consist overwhelmingly of the elements I described above. On the other hand, once the process of connecting *'Amor'aic* traditions one to another by means of anonymous comments started, it likely continued beyond the last *'Amor'aic* generations into what we might call the post-*'Amor'aic* period.

One element in the anonymous Talmudic give and take is the use of *kelal uferat ukelal* interpretations. As in the sixth and seventh generation examples we have analyzed, these usually function as support for some proposition in a Talmudic discussion. That support is usually undermined as the discussion proceeds. Our concern is less with the fate of a *kelal uferat ukelal* interpretation in a Talmudic passage than with the form and logic of the late *kelal uferat ukelal* interpretations. As we shall see they follow the syntactic pattern with which we are already familiar.

In completely anonymous Talmudic passages in which *kelal uferat ukelal* interpretations appear there is no longer any concern expressed about the first and second inclusive clauses being dissimilar. In that sense, the post-*Tann'ayitic* Talmudic *kelal uferat ukelal* is the victor in the battle over what constitutes a legitimate application of this form of the hermeneutic to a biblical source. That being said, let us turn now to some examples of the unchallenged post-*Tanna'yitic* Talmudic *kelal uferat ukelal*.

### Qiddušin 21b

Torah law demands that a Hebrew slave who refuses manumission after seven years of slavery must have his ear pierced with an awl.<sup>21</sup> In a Talmudic passage discussing this law R. Yosi, a 4<sup>th</sup> generation *Tann'a*, and Rabbi Judah Hanasi (from here forward, just “Rabbi”), compiler of the *Mišnah*, both deny that what one uses to pierce the slave's ear can only be an awl. R. Yosi argues that any sharp pointed object may be used. Rabbi requires that any pointed instrument made of metal like an awl may be used. The “anonymous Talmud” presents a *kelal uferat ukelal* interpretation to explain how Rabbi arrived at his view. The interpretation is not preceded by any introduction that would indicate that it is a *Tann'ayitic* source.

ולקחת - כלל, מרצע - פרט, באזנו ובדלת - חזר וכלל, כלל ופרט וכלל אי אתה דן אלא כעין הפרט, מה הפרט מפורש של מתכת, אף כל של מתכת (תלמוד בבלי, מסכת קידושין כא ע"ב).

“And you shall take” – this is a general clause (*kelal*); “an awl” – this is a particulars clause; “in his ear and in the door” – this is another general clause (*kelal*). When we have a *kelal uferat ukelal* arrangement the application of the law is based on the shared characteristics of the items in the specifics clause. Just as the specifics clause indicates a

thing made of metal, so anything (used to pierce the Hebrew slave's ear) must be made of metal.

Like the *Palestinian Talmud's kelal uferat ukelal*, the differences in formulation between this Babylonian Talmudic *kelal uferat ukelal* and the *Tann'ayitic kelal uferat ukelal* are quite noticeable. The so-called *kelal* consists only of a verb, וּלְקַחַת, “and you shall take.” It seems that the creator of this interpretation understood this to mean “and you shall take anything.” As such, this would be an inclusive clause. The specifics clause follows a more normal pattern insofar as it is a noun, מַרְצֵעַ, “awl.” According to the interpreter it would define the implied “anything” in the first inclusive clause.

The last phrase that the interpreter used to create a second inclusive clause is בְּאָזְנוֹ וּבַדְלֵת, “in his ear and into the door,” which describes the place on the Hebrew slave's body that the piercing takes place and the locale at which the piercing is done. In its present form, it is impossible to understand how this phrase could generate an inclusive clause. This, however, is not the only formulation of this *kelal*. In ms. *Vatican 111* and an early Spanish imprint (c. 1480) the *kelal* is based on the phrase in *Deuteronomy 15:17*, וּנְתַתָּהּ בְּאָזְנוֹ וּבַדְלֵת, “and you shall put it through his ear into the door.” This formulation would allow the verb וּנְתַתָּהּ, “you shall put” to mean “you shall put anything” in the same way as the interpreter understood the verb וּלְקַחַת, “you shall take,” to mean “you shall take anything.”<sup>22</sup> It should be noted here that the interpreter did not need to apply the *kelal uferat ukelal* hermeneutic to arrive at his conclusion. Had he applied *kelal uferat* the *halakhic* outcome would have been the same since that hermeneutic's result is that the specific clause fully defines what the inclusive clause encompasses.<sup>23</sup> Hence it is clear that the form of his *kelal uferat ukelal* is influenced by some other factor than hermeneutical necessity. That factor is the *midraš* the anonymous interpreter supplies to explain R. Yosi's position using what I will translate as the “extension-limitation-extension” hermeneutic which produces a more inclusive result than *kelal uferat ukelal*.<sup>24</sup>

As is the case with most *Tann'ayitic* examples of *kelal uferat ukelal* we analyzed, the interpreter in this case uses phrases from a single verse dealing with one *Torah* law. This, however, is where the comparison ends. First, we must accept that the implied word “anything” forms the first and second inclusive clause. In the *Tann'ayitic* interpretations the inclusive clauses are stated rather than implied. If the implied word “anything” forms the two inclusive clauses, then they are equivalent as is the case with some *Tann'ayitic kelal uferat ukelal* interpretations. One cannot, however, be certain that the interpreter consciously sought to make the two inclusive clauses equivalent since the words that would form them are not actually present in the interpretation. Whatever the case, it is obvious that the form of the post-*Tann'ayitic* Talmudic *kelal uferat ukelal* changed radically from that of its *Tann'ayitic* predecessors. Let us examine a few more examples of this kind of *kelal uferat ukelal* in order to draw some conclusions about their construction and logic. We will also hypothesize about why their authors created them.

### **Sukkah 50b**

We find a similar phenomenon to the one we just analyzed in *Sukkah 50b*. In that passage, Rabbi and R. Yosi ben Yehudah, both fifth generation *Tann'ayim* (c. 180 – 210 C.E.), debate whether a sanctified object used in the Temple may be made of wood. Rabbi says “no,” and R. Yosi ben Yehudah says “yes.” Neither of them give a reason for their opinions. In an attempt to explain the basis for their views, the “anonymous Talmud” constructs a *kelal uferat ukelal* to explain Rabbi's view and another form of *halakhic midraš* to explain R. Yosi ben Yehudah's opinion. For our purposes an analysis of the *kelal uferat ukelal* interpretation suffices.

The anonymous commentator fashioned his *kelal uferat ukelal* from the following part of *Exodus 25:31*: מנרת זהב טהור מקשה תיעשה “The menorah of pure gold: the menorah shall be made of hammered work....”<sup>25</sup> The following is the form his *kelal uferat ukelal* takes:

רבי דריש כללי ופרטי: ועשית מנורת - כלל, זהב טהור - פרט, מקשה תעשה המנורה חזר וכלל. כלל ופרט וכלל אי אתה דן אלא כעין הפרט, מה הפרט מפורש - של מתכת, אף כל של מתכת.

(According to the opinion of the anonymous Talmud) Rabbi interpreted using the *kelal uferat ukelal* hermeneutic: “And you shall make a menorah of” – this is an inclusive clause (*kelal*); “pure gold” – this is a specifics clause (*perat*); “the menorah shall be made of hammered work” – this is a second inclusive clause. When we have a *kelal uferat ukelal* arrangement the application of the law is based on the shared characteristics of the items in the specifics clause.

Here, too, the *kelal* is mystifying. The word used, מנורת, literally “a menorah of” in the construct state but without a connection to any noun must be understood as “a menorah of any material” to function as a *kelal*. This is basically the use of the implied “anything” we have seen in the *kelal uferat ukelal* in *Qiddušin 21b*. “Pure gold” insofar as it is a specific material works similarly to the specifics clause in the classical *kelal uferat ukelal* interpretations.

But what makes “the menorah shall be made of hammered work” a second *kelal*? It seems that the interpreter reuses the word “*menorah*” as a second inclusive clause because he already established that the first use of “*menorah*” suggested inclusiveness. If so, the verse containing the second clause would be rendered, “the *menorah* (made of any material) shall be made of hammered work.” Since “pure gold” was the item making up the specifics clause in this interpretation, the law is that the Temple’s menorah could be made of anything that had something in common with gold, namely, it was a form of metal. The possibility that the interpreter was consciously creating a *kelal uferat ukelal* with equivalent inclusive clauses is greater here than in the case of *Qiddušin 21*. It is, however, just as likely that the syntax of the phrase from *Exodus 25:31* forced him to use the word “*menorah*” as his two inclusive clauses.

Here, too, the interpreter could have arrived at the same *halakhic* conclusion he derived by using the *kelal uferat* hermeneutic. As was the case in *Qiddušin 21b* the format of an “extension-limitation-extension” interpretation supporting R. Yosi ben Yehudah’s view forced the interpreter to counter with an interpretation that included three elements. Hence, the use of *kelal uferat ukelal*.

### **Bab’a Mezi’a’ 57b**

The following example of a *kelal uferat ukelal* interpretation in *Bab’a Mezi’a’ 57b* provides no new information about the use of elements as inclusive clauses that actually are not. Its logic, or better lack of it, in the *halakhic* conclusion the interpreter draws from the interpretation is a key to why the post-*Tann’ayitic* Babylonian Talmudic *kelal uferat ukelal* developed as it did. Namely, the *kelal uferat ukelal* no longer derives *halakah* from a biblical verse but rather supports *halakah* that already exists. The post-*Tann’ayitic* Babylonian Talmudic *kelal uferat ukelal* we will analyze uses as its source *Exodus 22:9*:<sup>26</sup>

כי יתן איש אל רעהו חמור או שור או שיה וכל בהמה לשמר ומת או נשבר או נשבה אין ראה

The following is the text of the Talmudic discussion in which the *kelal uferat ukelal* in question appears:

נושא שכר אינו משלם (וכו'). מנהני מילי? - דתנו רבנן: כי יתן איש אל רעהו כלל, - חמור או שור או שה - פרט, וכל בהמה לשמור - חזר וכלל. כלל ופרט וכלל אי אתה דן אלא כעין הפרט; מה הפרט מפורש - דבר המטלטל וגופו ממון, אף כל דבר המטלטל וגופו ממון. יצאו קרקעות שאינן מטלטלין, יצאו עבדים שהוקשו לקרקעות, יצאו שטרות שאף על פי שמטלטלין אין גופן ממון. הקדשות, אמר קרא רעהו - רעהו ולא של הקדש. (בבא מציעא נו ע"ב)

*Mišnah*: One who is a salaried bailee need not pay (in the case of theft or loss of the deposit left with him for safekeeping) if the deposit consists of slaves, or promissory notes, or land, or sanctified items:

*Talmudic comment*: Whence do we know this? As it is taught by our Rabbis (in a *barayt'a*): “If a man deliver” – this is an inclusive clause (*kelal*); “an ass, or an ox, or a sheep” – this is a specifics clause (*perat*); “or any beast to keep” – this is a second inclusive clause (*kelal*). When we have a *kelal uferat ukelal* arrangement the application of the law is based on the shared characteristics of the items in the specifics clause....

Just as the specifics’ shared characteristics are that they are movable objects with monetary worth, so too (the salaried bailee only pays for items) that are movable objects with monetary worth. This excludes slaves who are analogized to land<sup>27</sup> and promissory notes (which are movable but have no intrinsic monetary value). Sanctified items are excluded because the Torah says “he (i.e., the bailee who stole what was deposited with him must pay twice its value) to his fellow” (*Exodus 22:8*) – to his fellow, but not to the realm of the sacred (which is God’s).

This *kelal uferat ukelal* supposedly functions as the proof-text for the *halakhah* that exempts a salaried bailee, who is normally responsible to pay for the loss or theft of the deposit left with him, from having to remunerate the bailor if he stolen the property is land, slaves, promissory notes, or sanctified items. This interpretation is presented as a product of the *Tann’ayim* since it has the marker רבנן תנו, “our Rabbis taught,” which indicates the source is a *barayt'a*. However, the format of this *kelal uferat ukelal* does not match the format of any *Tann’ayitic kelal uferat ukelal* interpretation we have seen. I would reject the view that this is just a different form of *Tann’ayitic kelal uferat ukelal* despite the fact that all the major manuscripts and incunabula presently at our disposal mark this *kelal uferat ukelal* interpretation as a *barayt'a*.

What clinches this position for me is the *halakhic* result this *kelal uferat ukelal* produces. Recall that the result of a *kelal uferat ukelal* interpretation is that the shared characteristics of the specifics defines the situations to which the Torah’s law applies. In the case of this *kelal uferat ukelal* the specifics clause is חמור או שור או שה, “an ass, or ox, or sheep.” One would therefore have assumed that the shared characteristics of the specifics would be “they are all animals.” In that case, the salaried bailee would not have to pay for the theft or loss of an animal. According to the *Talmud*, however, the specific clause’s shared characteristics are “they are movable and have monetary worth.” While at a certain level this is true, these are not the primary characteristics of the items listed in the specifics clause of the *kelal uferat ukelal*. Therefore, the activity the interpreter engages in is not hermeneutical in the sense that a hermeneutic’s application is what generates a *Torah* law. Rather, in this case the existent *halakah* drives the interpretation and the hermeneutic called *kelal uferat ukelal* is, in a sense, a ploy to make the interpretation seem to be the source of the law.<sup>28</sup>

We are left with question: If this *kelal uferat ukelal* is not a true *Tann'ayitic kelal uferat ukelal*, why is it introduced as one in every early manuscript and imprint we possess?

I would suggest that the *kelal uferat ukelal* interpretations in this Talmudic passage are “recyclings” of another form of hermeneutic using a series of inclusive and specifics clauses. For example, the first *kelal uferat ukelal* that appears in *Bab'a Mezi'a* 57b is parallel to a *kelal uferat ukelal* in the *Mekilt'a*, but the result it generates is completely different. This is the Talmudic form of the interpretation:

על כל דבר פשע - כלל. על שור על חמור על שה על שלמה - פרט, על כל אבדה אשר יאמר - חזר וכלל,  
כלל ופרט וכלל אי אתה דן אלא כעין הפרט; מה הפרט מפורש - דבר המטלטל וגופו ממון - אף כל דבר  
המטלטל וגופו ממון.

“Regarding every manner of negligence” – this is an inclusive clause (*kelal*); “regarding an ox or ass or sheep or garment” – this is a specifics clause (*perat*); “regarding every sort of loss about which one says” – this is another inclusive clause (*kelal*). When we have a *kelal uferat ukelal*, the law is decided in accordance with the shared characteristics of the items in the specifics clause. Just as the specifics have in common that they are all movable property with intrinsic monetary value, so the law covers only those things that are movable property with intrinsic monetary worth.

Compare this with its parallel in the *Mekilt'a*:<sup>29</sup>

על כל דבר פשע. כלל, על שור ועל חמור על שה ועל שלמה, פרט, או כלל ופרט, אין בכלל אלא מה שבפרט,  
וכשהוא אומר על כל אבדה אשר יאמר, חזר וכלל, או כלל ככלל הראשון, אמרת לאו, אלא כלל ופרט וכלל,  
אי אתה דן אלא כעין הפרט, מה הפרט מפורש בנכסים מטלטלין שאין להם אחריות אף אין לי אלא נכסים  
מטלטלין שאין להם אחריות.

“Regarding every manner of negligence” – this is an inclusive clause (*kelal*); “regarding an ox or ass or sheep or garment” – this is a specifics clause (*perat*); when we have an inclusive clause followed by a specifics clause the law follows exactly what is in the specifics clause. When however, the Torah says, “regarding every sort of loss about which one says” – this is another inclusive clause (*kelal*). Or is the last inclusive clause’s content already included in the first one? You should say “No.” Rather, we have a *kelal uferat ukelal*. When we have a *kelal uferat ukelal*, the law is decided in accordance with the shared characteristics of the items in the specifics clause. Just as the specifics have in common that they are all items that are movable and not subject to lien, so the law applies to any item that is movable and not subject to being liened.

It seems clear that the creator of the *Talmud's kelal uferat ukelal* reformulated an original *Tann'ayitic kelal uferat ukelal* from the *Mekilt'a*. He did so in order for the new “*barayt'a*” to function as proof that an unpaid bailee need not take an oath to the bailor when land, or slaves, or promissory notes have gone missing. Because the anonymous *Talmud* made use of original *Tann'ayitic barayt'a* material he introduced the reformulated source with an introduction to a *barayt'a*.<sup>30</sup>

The same applies to the *kelal uferat ukelal* that is the center of our interest. Despite having all the characteristics of a post-*Tann'ayitic Talmudic kelal uferat ukelal*, the *Talmud* introduces this interpretation as a *barayt'a*. This is because it reconstructs a true *barayt'a* that appears in the *Barayt'a*

of R. Ishmael. That *Barayt'a* contains examples for each of the thirteen hermeneutics it lists, one of which is *perat ukelal*, which is applied to a verse whose syntax presents an inclusive clause that follows a specifics clause. *Exodus 22:9* is such a verse. Consequently, the *midrašic* interpreter explains what conclusion one can reach by applying this hermeneutic:

(ה) מפרט וכלל כיצד כי יתן איש אל רעהו חמור או שור או שה פרט וכל בהמה לשמור כלל פרט וכלל  
נעשה כלל מוסף על הפרט (ספרא ברייתא דרבי ישמעאל פרשה א)

How does one interpret using the *perat ukelal* hermeneutic? “If a man gives his fellow an ass, or an ox, or a sheep” (*Exodus 22:9*) – this is a specifics clause (*perat*); “or any animal to guard” (*ibid.*) – this is an inclusive clause (*kelal*). If we have a verse in which an inclusive clause follows a specifics clause, the inclusive clause adds to the specifics.

In this case what the inclusive clause adds to the specifics clause are all kinds of animals besides asses, oxen, or sheep.<sup>31</sup>

The creator of our *kelal uferat ukelal* in *Bab'a Mezi'a* 57b appears to have been aware of *Sifra's perat ukelal* or an approximation of it and used it as the foundation for his *kelal uferat ukelal* interpretation. It is due to his use of *perat ukelal* as a building block in his *kelal uferat ukelal* that it fails if we apply the actual rules governing of *kelal uferat ukelal* to it. As noted above, his interpretation would not determine that the law applies to movable property with monetary value rather than to animals. Nevertheless, “rebuilding” a *kelal uferat ukelal* out of a true *Tann'ayitic perat ukelal* allows the Talmud to introduce the new interpretation with תנו רבנן, “our Rabbis taught,” which signifies that the cited source is a *barayt'a*.

## 7. Conclusions

In the *Tann'ayitic* period there are two forms of *kelal uferat ukelal*, one that requires the second inclusive clause to be wider in scope than the first. The logic of this form of *kelal uferat ukelal* appears to be that the greater scope of the second clause prevents the inclusive clauses from being construed as being the same. If that were so, the result would require that the interpreter apply the *kelal uferat ukelal* hermeneutic which would produce a different *halakhic* outcome than the *kelal uferat kelal* hermeneutic. Interpretations using the *kelal uferat ukelal* hermeneutic result in the application of the law only to the specifics listed after the inclusive clause.

A second form of *Tann'ayitic kelal uferat ukelal* contains two equivalent inclusive clauses. The logic of this sort of *kelal uferat ukelal* is that if the two inclusive clauses in the interpretation are the same, then one can be sure that the two clauses are addressing a single subject. When there is a difference between the first and second clause one might imagine that the two clauses are not related, which of course would prevent the formation of a *kelal uferat ukelal* interpretation altogether. This form of *kelal uferat ukelal* appears only twice in the *Talmudim*, but not in the mainstream *Tann'ayitic halakhic midrašim*. Those who created these two *Tann'ayitic Talmudic kelal uferat ukelal* interpretations may represent a different interpretive school from that represented in the *Tann'ayitic halakhic midrašim*. It is possible, however, that there was only one interpretive school that made use of *kelal uferat ukelal*. That school, when confronted by a verse whose syntax provided a basis for using *kelal uferat ukelal* but whose content featured two equivalent inclusive clauses, chose to give weight to syntax and to defend that decision by finding a logical basis for accepting the equivalent inclusive clauses as legitimate. Given the rabbinic notion that not one word or sequence of words in the Torah is

the result of haphazard writing since God is the Torah's author, this was a logical choice. That is, if a verse's syntax contained an inclusive clause followed by a specifics clause followed by an inclusive clause, then it was obvious that this verse was meant to be interpreted using *kelal uferat ukelal*. If the verse contained two inclusive clauses, then God meant those inclusive clauses to be equally reasonable for use in a *kelal uferat ukelal* as inclusive clauses that differed in scope.

A new form of *kelal uferat ukelal* emerged in the 'Amor'aic period. The first instance of this new form appears in the Palestinian Talmud as a creation of third-fourth generation Palestinian 'Amor'ayim. The creator of this form of *kelal uferat ukelal* made use of verbs as inclusive clauses. Obviously, a verb only implies action or a state of being, but by its nature it does not imply inclusion of specific items. In order for verbs to function as inclusive clauses the reader must imagine that "any" or "anything" is part of the verb. Thus, a reader is expected to understand the Hebrew phrase that means "you shall not do" as an inclusive clause by adding the implied word "anything," rendering the verb's meaning "you shall not do anything." Further, the verb may imply some area of *halakah* that the Sages have attached to certain verbs. Thus, "do" in the framework of the rites of animal sacrifice includes four actions: slaughter, receiving the sacrifice's blood, bringing the blood to the altar, and sprinkling it on it. In the Palestinian *kelal uferat ukelal* of this kind the specifics clause still contains only nouns. The outcome of these *kelal uferat ukelal* interpretations is the same as that of all the others we have seen: the shared characteristics of the specifics clause determine the cases to which the law applies. In this singular Palestinian 'Amor'aic *kelal uferat ukelal* the inclusive clauses are different from one another, but it is hard to tell whether that is a conscious act on the interpreter's part since the actual inclusive term is implied but not actually articulated.

The post-Tann'ayitic Babylonian Talmudic *kelal uferat ukelal* appears to have its origins in the Palestinian 'Amor'aic form of *kelal uferat ukelal*. The first instance of this form of *kelal uferat ukelal* we can date makes its appearance in the sixth and seventh Babylonian 'Amor'aic generations (c. 371 – 460). Here, too, verbs function as inclusive clauses. Again, we are forced to add "any" or "anything" in order to make the verbs have an inclusive sense. The verbs forming the inclusive clauses are generally not equivalent. As in the Palestinian 'Amor'aic *kelal uferat ukelal* the specifics clause always contains nouns, which from the point of view of logic makes sense: A noun indicates a specific item; a verb does not.

We find that named sixth and seventh generation Babylonian 'Amor'ayim object to the application of the *kelal uferat ukelal* hermeneutic when they see some disparity between the first and last inclusive clauses. The disparity is never related to the similar words the interpreter uses in his *kelal uferat ukelal*. Rather, the objection is to the differing subject matter of the two inclusive clauses. For example, if one inclusive clause deals with a biblical prohibition carrying at most the punishment of stripes, and the other one deals with a prohibition punished by the more serious punishment of excision, an 'Amor'a is likely to object that "the first (or second) inclusive clause is not the same as the last (or first)." The logic seems to be that if the two inclusive clauses are not discussing the same subject then they cannot join with each other to form the necessary elements for a *kelal uferat ukelal* interpretation. The response to this is that the representatives of the School of R. Ishmael created interpretations of this sort. This appeal to classical Tann'ayitic authority was always sufficient to thwart the objection wherever it arose in the *Talmud*.

At the end of the development of *kelal uferat ukelal* the use of verbs as inclusive clauses becomes a non-issue. The objection that two inclusive clauses do not deal with the same subject also disappears. In one instance of a post-Tann'ayitic Babylonian Talmudic *kelal uferat ukelal* the shared characteristics of the specifics clause should include only animals. Yet the interpreter uses them to prove that the law applies only to cases that involve movable property with monetary value. This

outcome runs completely counter to the rules of *kelal uferat ukelal*. Therefore, it appears that the creators of this kind of *kelal uferat ukelal* used them to connect existent rabbinic law to the Torah in order to give those laws heightened authority. In essence they used this hermeneutic to read an *halakha* into the Torah's text. This is the opposite of how the *Tann'ayim* applied the *kelal uferat ukelal* hermeneutic to the Torah. Their use of this interpretive tool helped them to extract *halakha* from the text.

Finally, we found that sometimes a creator of a late 'Amor'aic or post-'Amor'aic *kelal uferat ukelal* uses part of a *Tann'ayitic barayt'a* for use in his interpretation. When this happens, the resultant *kelal uferat ukelal* is edited to serve the needs of its new context. Since part of the *kelal uferat ukelal* contains *barayt'a* material the Talmud introduces it with the typical introductory terms appropriate to a *barayt'a*.

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## Notes

1. "Regarding all charges of misappropriation – pertaining to an ox, an ass, a sheep, a garment, or any other loss, whereof one party alleges, 'This is it...'" (*Exodus 22:8*). The penalty for a bailee's misappropriation of the bailor's property is payment of double the worth of the stolen item.
2. According to Jewish law only real estate is subject to lien.
3. Speak to the Israelite people, and say to them: When any of you presents an offering of cattle to the Lord, he shall choose his offering from the herd or from the flock (*Leviticus 1:2 TNK*).
4. You shall not covet your neighbor's house: you shall not covet your neighbor's wife, or his male or female slave, or his ox or his ass, or anything that is your neighbor's (*Exodus 20:14 TNK*).
- 5.

מכילתא דרבי ישמעאל יתרו - מסכתא דבחדש פרשה ח  
מה הפרט מפורש בדבר שהוא קונה ומקנה, אף כלל בדבר שהוא קונה ומקנה; אי מה הפרט מפורש בנכסים המטלטלין שאין להם אחריות, אף אין לי אלא נכסים המטלטלין שאין להם אחריות, וכשהוא אומר במשנה תורה שדהו, על כרחך מה הפרט מפורש בדבר שהוא קונה ומקנה, אף אין לי אלא בדבר שהוא קונה ומקנה; אי מה הפרט מפורש בדבר שאינו בא ברשותך אלא ברצון בעלים, אף אין לי אלא דבר שאי אפשר לבא ברשותך אלא ברצון בעלים.

6. *Babylonian Talmud, Qiddushin 2b; Šulḥan 'Aruk, 'Even ha 'Ezer 42:1*.
7. "And it shall be that on the seventh day (the leper) shall shave **all his hair** – his head, his beard, and his eyebrows – **all of his hair** shall he shave."

8. The *Palestinian Talmud* has the following parallel to the *Babylonian Talmud* passage:

תלמוד ירושלמי קידושין א, ב (נט ע"ד)

תני רבי ישמעאל והיה ביום השביעי יגלה את כל שערו כלל את ראשו ואת זקנו ואת גבות עיניו פרט וכשהוא אומר ואת כל שערו יגלה חזר וכלל כלל ופרט וכלל אין אתה דן אלא כעין הפרט לומ' לך מה הפרט מפורש שהוא מקו' כינוס שיער ובנראה אף אין לי אלא מקום כינוס שיער ובנראה והלכה אמר' יגלהנו כדלעת

“And it shall be that on the seventh day he shall shave all his hair” – this is an inclusive clause; “his head, his beard, and his eyebrows” – this is a specifics clause; “and when it says, “and all his hair he shall shave” – the Torah repeats an inclusive clause. This is a *kelal uferat ukelal*, and we apply it by using the shared characteristics of the specifics. Which is to say: Just as the specifics are all areas with an abundance of hair that is visible, so (the recovered leper) must shave wherever hair is abundant and visible. But the law is that he must be shaved smooth as a pumpkin (i.e., totally) (*Palestinian Talmud, Qiddušin* 1:2 [59d]).

9. “**You shall apply the money to anything you desire** – cattle, sheep, wine, or other intoxicant – **or to anything you desire....**”

10. This *kelal uferat ukelal* appears twice more in the *Babylonian Talmud* in *Nazir* 35b; *Bab'a Qam'a* 54b; and *ibid.* 63a. A parallel appears in the *Palestinian Talmud, Ma'aser Šeni* 1:3 (53a) and *'Eruvin* 3:1 (20c). See below, note 18 for the *Palestinian Talmud's* version of this *kelal uferat ukelal*.

11. Rashi, the eleventh century master commentator, defines “fruits that come from fruits” as not only grown animals but calves or lambs as well. Similarly, one's purchases are not restricted just to wine but one may also purchase grapes that come from their seeds. “Things that grow from the earth” he defines as produce that has its sustenance from the earth.

12. The *Palestinian Talmud, Ma'aser Šeni* 1:3 (52d-53a) introduces our *kelal uferat ukelal* with ר' ישמעאל דרש (“R. Ishmael interpreted”) suggesting that the interpretation was an actual quote of R. Ishmael's words. R. Ishmael is a third generation *Tann'ayitic* sage. In the *Palestinian Talmud, 'Eruvin* 3:1 (20c) the interpretation appears preceded by תני ר' ישמעאל (“R. Ishmael taught”). תני in the *Palestinian Talmud* often indicates a *Tann'ayitic* source, especially when it is attached to the name of a *Tann'ayitic* sage. The formulation of the *kelal uferat ukelal* in the *Palestinian Talmud* is:

ונתת הכסף בכל אשר תאוו נפשך כלל בבקר ובצאן בין ובשכר פרט ובכל אשר תאוו נפשך הרי כלל אחר כלל ופרט וכלל אי אתה דן אלא כעין הפרט לומר לך מה הפרט מפורש דבר שהוא וולד וולדות הארץ אף אין לי אלא דבר שהוא וולד וולדות הארץ.

This *kelal uferat ukelal* is parallel to the one in the *Babylonian Talmud* and its meaning is essentially the same.

13. “Do not do thus to the Lord your God” (*Deuteronomy* 12:4). The reference is to the destruction of places of idolatry. Israel is warned not to do the same to the places where God is worshipped.

14. “One who sacrifices unto other gods, save only unto the Lord, shall be destroyed” (*Exodus* 22:19).

15. See *Mekilt'a d'R. Išma'el, Pišha'* 18, ed. Horovitz-Rabin, p. 72 and *Sifre Numbers. Qoraḥ* 118, ed. Horovitz, p.139 . The *kelal uferat ukelal* uses *Exodus* 13:13 and *Numbers* 18:16.

16. *Numbers* 6:17: “He shall offer the ram as a *šelamim*-sacrifice to the Lord, together with the basket of unleavened cakes; the priest shall also offer the meal offerings and the libations”. This is a description of one of the offerings that a nazirite must bring when he completes the period of his vow. A nazirite is someone who takes a vow that prohibits him from cutting his hair, drinking or eating any grape products, or becoming ritually impure by contact with the dead. See *Numbers* 6 for a full description of the laws concerning the nazirite. A *šelamim*-sacrifice is one that has part of it placed on the altar and the rest given as food to the donor and priests.

17. That *kelal uferat* stated זכה - כלל, זכה - פרט, “he shall offer” – this is an inclusive clause; “a slaughtered sacrifice” – this is a specifics clause.” Ravina adds another inclusive clause to form a *kelal uferat ukelal*.

18. “And if his *šelamim*-sacrifice to the Lord is from the flock, whether a male or a female, he shall offer one without blemish.”

19. The word used as the first inclusive clause is זכה, that is, a slaughtered sacrifice. Offerings of birds, namely pigeons or doves, do not require slaughter. Rather, their heads are pinched off by hand. Meal-offerings by their nature are not subject to slaughter.

20. R. Sherira ben Hanina, head of the major Babylonian in Pumbeditha (906 – 1006 C.E.), speaks of post-*'Amor'aic* contributors to the Talmud called *Sabor'ayim*. In his famous Epistle he also enumerates passages that he identifies as theirs. All these passages appear without attribution. Some medieval commentators also identified various Talmudic passages as *Sabor'aic*, which also turn out to be anonymous. In the twentieth century academic Talmudists like Abraham Weiss, David Weiss Halivni, Yaakove Sussman, Shamma Friedman, and Y. E. Efrati posited that the post-*'Amor'aic* anonymous stratum of the Talmud is far more extensive than earlier scholars thought and that it accounts for the larger part of the Babylonian Talmud. In the twenty-first century this view continues to inform the work of Richard Kalmin, David Kraemer, and Jeffrey Rubenstein among others. More recently Robert Brody of Hebrew University has challenged this hypothesis.

21. *Deuteronomy* 15:16-17: But should he (the Hebrew slave) say to you, “I do not want to leave you” – for he loves you and your household and is happy with you. Then you shall take an awl and put it through his ear into the door, and he shall become your slave in perpetuity. Do the same with your female slave.

This rule also appears in *Exodus* 21:5-6. The *kelal uferat ukelal*, however, is based on the verse in the *Deuteronomy* which according to the interpreter has better syntactical qualities for this kind of interpretation.

22. Two later commentators, Samuel Shtrashun (Vilna, 1794 – 1872) and Ze’ev Wolf Lipkin (1788 – 1858), in their notes to the Vilna edition of the *Babylonian Talmud* emended the final inclusive clause of this *kelal uferat ukelal* to match ms. *Vatican* 111 and the Spanish imprint. They did so on the basis of logic, not on the basis of a text they possessed. See *Hagahot v’Hidduše ha-RaŠaŠ, Babylonian Talmud, Qiddušin* 21b, s.v. מרצע פרט and *Hagahot Ben Aryeh, Qiddušin* 21b, s.v. באזנו ובדלת.

23. Compare the Talmudic derivation of R. Yosi and Rabbi’s rulings with that in *Sifre Deuteronomy* 122, ed. Finkelstein, p 180.

24. The formula for this interpretation as it appears in *Qiddušin* 21b is באזנו - מיעט, מרצע - ריבה, ולקחת - ריבה, חזר וריבה, ריבה ומיעט וריבה - ריבה הכל, מאי רבי? רבי כל מילי, מאי מיעט? סם. ‘R. Yosi interprets using ‘extension-limitation-extension.’ “You shall take” – this is an extension; “an awl” – this is a limitation; “in his ear and in the door” – this is another extension. An ‘extension-limitation-extension’ interpretation includes everything. What exactly does it include? Literally everything (that is a sharp object that pierces). What does it exclude? A chemical (that could pierce the slave’s ear). The format of this interpretation forces the creator of the *kelal uferat ukelal* to decline the use of the *kelal uferat ukelal* hermeneutic.

25. The full verse is יהיו מנרת זהב טהור מקשה תיעשה המנורה ירכה וקנה גביעיה כפתריה ופרחיה ממנה יהיו “And thou shalt make a lampstand of pure gold: of beaten work shall the lampstand be made: its shaft, and its branches, its bowls, its knobs, and its flowers, shall be of the same” (*Exodus* 25:31).

26. “If a man deliver unto his neighbor an ass, or an ox, or a sheep, or any beast, to keep, and it die, or be hurt, or driven away, no man seeing it;...”

27. A salaried bailee need not pay for land which is stolen because it is not movable property and therefore does not fit the requirements of the *kelal uferat ukelal*’s results. Land is not mentioned because it is not movable. Regarding what the Rabbis call Canaanite slaves, i.e., non-Hebrew slaves, the Torah says: והתנחלתם אתם לבניכם אחרים לרשת אהוה, “And you may make them an inheritance for your children after you, to hold for a possession...” The Hebrew root נ-ח-ל sometimes connected to the term אהוה refers to a land inheritance. See for example *Numbers* 2:1-7 and *Joshua* 15:20-62.

28. *Tosafot, Bab’a Mezi’a*’ 57b, s.v. כלל רעהו אל איש כי יתן points out that the result of the *kelal uferat ukelal* in *Bab’a Mezi’a*’ 57b is derived using *perat ukelal uferat* in *Nazir* 35a and by using *kelal uferat* in the *Barayt’a* of R. Ishmael at the beginning of *Sifr’a*. *Tosafot*’s conclusion is that these *halakhic midrašic* interpretations cannot all be the law’s source. Rather, they form supportive prooftexts for it. In short, the law comes first and the interpretation follows suit.

Maimonides in his *Mišnah Commentary* does not find it necessary to support the exemption of some of the various bailees from payment, each according to the contractual conditions appropriate to him, on the basis of *kelal uferat ukelal*. Rather, he gathers all the various forms of deposits mentioned in each of the Torah’s sections on bailees and finds that what is common to them all is that they are movable property that has intrinsic monetary worth. In one way or another land, slaves, and promissory notes do not fit this definition. As to sanctified items, he derives them in the same way as the Talmud does. For that derivation, see our citation of *Bab’a Mezi’a*’ 57b. This suggests that he may have rejected the *kelal uferat ukelal* interpretations in this Talmudic passage in favor of a more logical approach.

29. *Mekilt’a, Neziqin* 15, ed. Horovitz, pp. 300-1.

30. I would not accuse the anonymous creator of this “*barayt’a*” of being a forger. It is quite likely that the original *barayt’a* was vaguely remembered and was “reconstituted” by the anonymous creator of the *kelal uferat ukelal*. This is what David Weiss Halvni would call a מסורה, “a reconstituted tradition,” that has replaced a מקור, “an original source.”

31. See *Mekilt’a, Neziqin* 16. *Mekilt’a of R. Šimon bar Yohay*.