



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Kesubos Daf Lamed Daled

- **Q:** The Gemara had said that the reason **R' Meir** said that one who steals a sheep and then has a shaliach shecht it for him on Shabbos, he is chayuv to pay back 4 sheep is because the action of the shaliach is attributed to him (and he is not chayuv misah because he did not do the actual shechita). **Mar Zutra** asks, how can it be that if the thief himself would have done the shechita he would be patur from paying, but when a shaliach does it for him he becomes chayuv!? **A:** Even if he would do the shechita himself, he would be chayuv to pay. He wouldn't pay because of "kam lei b'diraba minei", but he would have the chiyuv to pay.
 - **Q:** If the case is where a shaliach shechted it for him, why do the **Rabanan** say that he is patur from having to pay? **A:** The view of the **Rabanan** is the shita of **R' Shimon**, who says that a shechita which doesn't permit the meat to be eaten is not considered to be a shechita (and would therefore not obligate one to pay the 4 sheep).
 - **Q:** A shechita done on Shabbos makes the meat mutar to be eaten and should therefore be considered a "shechita"!? **A:** The **Rabanan** in the Braisa follow the view of **R' Yochanan Hasandler**, who says that a shechita done intentionally on Shabbos makes the meat assur forever.
 - There is a machlokes between **R' Acha and Ravina** as to the reason for **R' Yochanan Hasandler's** view. One says the meat is assur D'Oraisa based on a pasuk, and the other says it is only assur D'Rabanan. According to the view that it is only assur D'Rabanan, we must say that when the **Rabanan** say he is patur from having to pay they are going on the other cases of the Braisa (where he shechted for avodah zarah or where the animal was a "shor haniskal").
- **Q:** The Braisa also said that the thief would be patur to pay if he shechted it to avodah zarah. The Halacha is that as soon as the first cut is made, the animal becomes assur b'hana'ah. If so, when he completes the shechita it is no longer the animal of the original owner that he is shechting, and as such should not be chayuv to return 4 sheep!? **A: Rava** said, the case is where the thief said that it should be for the avodah zarah at the time of completion of the shechita.
- **Q:** The Braisa also gave the case of where the thief shechts a shor haniskal. A shor haniskal is assur b'hana'ah and as such does not belong to the person it was stolen from!? **A: Rabbah** said, the case is where the owner had given the animal to a shomer to watch, and the animal killed someone while in the possession of the shomer and was then condemned to death, and **R' Meir** must hold like **R' Yaakov** who says that the shomer can return the condemned animal to the owner and be patur from repaying, and he also holds like **R' Shimon** who would say that if one stole the animal from that shomer he would have to repay him (because that causes the shomer to have to pay for a new animal). Therefore the thief must pay.
- **Rabbah** said, we can say that the Braisa refers to where the thief himself did the shechita, and normally **R' Meir** would hold that when one is chayuv misah he would not have to pay. However, in these cases, where there is a novelty in the Torah requiring him to pay 4 or 5 times what he stole, he will have to pay even if he is chayuv misah.
 - We find that **Rabbah** says this as well, that if one steals before Shabbos and shechts on Shabbos he would be chayuv to pay, but would be patur if he stole and shechted on Shabbos.
 - **R' Pappa** said, if one stole before Shabbos and shechted on Shabbos he would be chayuv to pay, because he was chayuv to pay before Shabbos began. However, if one had borrowed an animal before Shabbos, and he shechted it on Shabbos, he would be patur (because he becomes chayuv to pay at the time that he becomes chayuv for Shabbos).

- **Q: R' Acha the son of Rava** asked **R' Ashi**, **R' Pappa** is saying exactly what **Rabbah** had said! What is he teaching us? **A: R' Ashi** said, **R' Pappa** is teaching regarding a borrowed animal. We would think that he is considered to be chayuv from the time that he takes possession, not the time of shechita, and therefore should be chayuv to pay. **R' Pappa** teaches that he is not chayuv until the time of shechita, and he is therefore patur from having to pay.
 - **Rava** said, if a person leaves a borrowed animal in his estate, his heirs may use it for the remainder of the borrowing period. If the animal dies, they need not pay for it. If they thought their father owned it and they therefore shechted and ate it, they must repay in the amount of cheap meat. If their father left over real property, they are chayuv to pay.
 - Some say this last statement (regarding the real property) was said in regard to the first part (where the animal died) and some say it was said in regard to the last part (where they shechted it). The one who says it is on the first part would surely hold that it applies on the last part as well, and argues on **R' Pappa** (by saying it is on the first part they are saying that the responsibility comes at the time of the borrowing, which is in conflict what **R' Pappa** said, above). The one who says it applies to the latter statement would say that it does not apply to the first statement, and would therefore agree with **R' Pappa**.
- **Q:** We can understand why **R' Yochanan** did not answer the conflicting Mishnayos according to the answer of **Reish Lakish**, because **R' Yochanan's** answer had the Mishna follow the majority view of the **Rabanan**. Why didn't **Reish Lakish** follow the view of **R' Yochanan!**? **A: Reish Lakish** holds that if one did an action that carries the malkus penalty and a monetary payment, he would be patur from the payment even if he ultimately would not be chayuv in the malkus (i.e. he was not warned).
 - We find that they argue about this elsewhere as well. **R' Dimi** said that **R' Yochanan** says one would be chayuv to pay unless he was actually getting the malkus or misah, and **Reish Lakish** says he would be patur from paying even if he does not get the malkus or misah.