



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

### Kesubos Daf Lamed Hey

- **Q: R' Dimi** had said that **R' Yochanan** holds that if one does something b'shogeg, for which he would have been chayuv misah if it were done b'meizid, and this action also caused him to be chayuv money, he would have to pay the money. **Rava** asked, **Chizkiya** taught that the Torah compares one who kills a person to one who killed an animal to teach that just as one is always chayuv to pay when he kills an animal (whether done b'shogeg or b'meizid), one who kills a person will always be patur from paying money whether the act was done b'shogeg or b'meizid (i.e. whether the person will be put to death or not)!? **A: Ravin** said, even **R' Yochanan** agrees that one who did such an act would be patur from paying. The machlokes is where one did an act b'shogeg, that would have made him chayuv to get malkus had it been done b'meizid, and the act also brought a monetary obligation. In that case **R Yochanan** says he would be chayuv to pay (the drasha with the comparison brought above only encompasses where one does an act that carries the death penalty, not malkus), and **Reish Lakish** would say that he is not chayuv to pay (the Torah specifically included the chiyuv malkus to be just like a chiyuv misah).
  - **Abaye** said, that we learn that malkus is like misah based on a gezeirah shava on the word "rasha". **Rava** said, we learn a gezeirah shava based on the word "makei".
    - **Q: R' Pappa** asked **Rava**, we don't find that the word "makei" is used by a malkus obligation!? **A: Rava** said, it is not based on a word, but rather on the general concept of "hitting".
    - **Q:** The act of hitting another does not bring malkus!? It brings a monetary obligation!? **A:** There is an extra pasuk there that is not needed to teach regarding a hitting that caused monetary damage, so we darshen it as applying to a hitting that caused less than a peruta worth of damage, in which case there would be a malkus penalty.
      - **Q:** In this case he is not even obligated for any payment, so how can this teach that a malkus obligation would make one patur from paying? **A:** The case is where he also ripped the person's clothing as he hit him. We learn that he is not chayuv to pay for the clothing.
  - **Q: R' Chiya** asked **Rava**, how does **Chizkiya** know that the pasuk regarding killing an animal always results in the person being chayuv to pay money? Maybe the pasuk refers to when it is done on Shabbos, in which case it would depend on whether it was done b'shogeg or b'meizid!? **A:** The pasuk says "makei beheimah yishalmena u'makei adam yumas". This is talking about a case where the person was warned (because he is being put to death). If the pasuk is talking about killing an animal on Shabbos and he was warned, he would not have to pay. It must be that the pasuk is not discussing when this took place on Shabbos.
- **Q: R' Pappa** asked **Abaye**, according to **Rabbah** who said that although **R' Meir** holds that when one is chayuv misah he does not pay a monetary obligation, when it comes to the penalty for stealing a sheep he would pay, because that entire penalty is a novelty and it therefore applies even when he is facing the death penalty, who would **Rabbah** say our Mishna follows? It can't follow **R' Meir**, because the next Mishna says that one does not pay when he gets the death penalty for violating his daughter although that is a penalty as well. It can't follow **R' Nechunya ben Hakanah** who says that **R' Meir** says one gets malkus and pays, because in our Mishna he pays and does not get malkus. It can't follow **R' Yitzchak** who says that a lav which carries the kares penalty does not carry the malkus penalty, because bi'ah with a mamzeres is clearly only subject to malkus and still the Mishna says that he pays the money and doesn't get malkus. Now, if **Rabbah** holds like **R' Yochanan** he can say that the Mishna is discussing where he wasn't warned and therefore will not get malkus and must pay, that can work for our Mishna.

However, how will he explain the Mishna according to **Reish Lakish**? **A:** It must be that he holds like **R' Yochanan**.

- **Q: R' Masna** asked **Abaye**, according to **Reish Lakish** who says that one is patur from paying when he does an action that carries malkus, even if it was done b'shogeg (so that he will not be getting the malkus), who is the shita that argues on **R' Nechunya** and holds that one who does an act that carries kares would still have to pay if it was done in a way in which he won't be chayuv for the kares (e.g. it was done b'shogeg)? **A:** It can be **R' Meir** who says that one gets malkus and still must pay, or it can follow **R' Yitzchak** who says that a chiyuv kares does not carry a chiyuv malkus.