



## Daf In Review – Weekly Chazarah

### Maseches Kesuvos, Daf טז – Daf ז

Daf In Review is being sent I'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen, A"H  
vI'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

-----Daf טז---24-----

#### MISHNA

- Similarly, if there are 2 men, and each says that he is a Kohen, they are not believed. However, if they testify regarding each other, they are believed. **R' Yehuda** says we do not elevate one to the status of a Kohen based on a single witness. **R' Elazar** says that is only true if there are challenges to that status. However, when there are not challenges, we elevate him even based on a single witness. **R' Shimon ben Gamliel in the name of R' Shimon Hasgan** says that we do elevate a person to Kehuna based on the testimony of a single witness.

#### GEMARA

- **Q:** Why do we need all the previous Mishnayos which each taught the concept of peh she'assar peh shehitir? **A:** If we would only have the Mishna where **R' Yehoshua** agreed (where the person admitted the field belonged to another's father, whom he says he then bought it from), we would think we only believe him in that case, where his admission opens himself up to a loss of money, however, in the case where the witnesses say they were forced to sign a document, where there is no such loss, we would think that we don't believe them. If we would just say this second case, we would think they are believed, because they are testifying for others. However, in the first case where the person testifies for himself, we would think that we should not believe him. If we would just have these two cases, we would say that in monetary cases they are believed, but not in cases of issur. That is why we also needed the case of the married woman who says she got divorced. Finally, the case of the woman who says she was captured but was not violated is only needed to teach that if the witnesses came after she got married (or received a heter to get married) she need not leave the second husband (or the heter to get married). And, according to the view that this was said on the case of the woman who says she got divorced, the chiddush of the case of the captured woman was that even when there are 2 captured women, and we should possibly be concerned for reciprocity in testimony, we are not concerned. The reason that our Mishna, regarding the men who claim the status of a Kohen, is needed, is to teach the machlokes between **R' Yehuda** and the **Rabanan**.
- A Braisa says, if 2 people say about each other, "I am a Kohen and my friend is a Kohen", they are believed to be allowed to eat terumah, but not to marry a woman of pure lineage, unless there are 3 men to the group and each two say testimony about the third. **R' Yehuda** says that they may not even eat terumah unless there are 3 men, with each 2 giving testimony about the third person.
  - **Q:** It would seem that the **Rabanan** are not afraid that 2 people will collude to give reciprocal testimony, and **R' Yehuda** is concerned for that happening. However, a Mishna says that the **Rabanan** say that a donkey driver is not believed to say "My grain is not yet separated maaser but my friend's grain is", and **R' Yehuda** says that he is believed. Presumably, this is because **R' Yehuda** is not concerned for collusion and the **Rabanan** are!? **A:** **R' Ada bar Ahava in the name of Rav** said we must reverse the shitos. **A2:** **Abaye** said we don't have to reverse the shitos. The reason **R' Yehuda** is more lenient in this case is because we are generally more lenient when dealing demai.
    - **Q:** **Rava** asked, that doesn't explain the contradiction in the shita of the **Rabanan**!? **A:** This contradiction can be answered by using a statement of **R' Chama bar Ukva**, that the case is where the donkey driver had the utensils used for selling the grain in his hand. This shows that he clearly wants to sell his grain. The **Rabanan** say, that the only reason he would praise his friend's grain over his own would be if he was colluding with him.
  - We can say that the machlokes is based on whether giving someone to eat terumah would make people treat the person as genealogically fit as well. **R' Yehuda** says it does, which is why he says we cannot allow him to eat terumah. The **Rabanan** say it does not, which is why we allow him to eat terumah.

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- **Q:** They asked, can we elevate someone who is referred to in a document as a Kohen to the status of a genealogically fit Kohen? The case would be where the lender refers to himself as a Kohen and witnesses sign the document. Do we say they only sign to the underlying transaction, or do we say that they are signing to everything written in the document? **A: R' Huna and R' Chisda** argue – one says we may do so and the other says we may not.
- **Q:** They asked, can we elevate someone who “duchaned” to the status of a genealogically fit Kohen? This can be asked according to the view that we elevate from terumah, because it may be that we only elevate there, since the eating of terumah by a non-Kohen carries a death penalty at the Hands of Heaven, and this can be asked according to the view that we do not elevate from terumah, it may be that only there we don't because terumah is eaten in private, but with regard to the public act of duchaning, maybe we would elevate, because one wouldn't have the chutzpah to so publicly act as a Kohen unless he was truly a Kohen. What is the Halacha? **A: R' Chisda and R' Avina** argue – one says we may do so and the other says we may not.
- **Q: R' Nachman bar Yitzchak** asked **Rava**, do we elevate from duchaning to giving the status of genealogically fit? **A: Rava** said, this is a machlokes between **R' Chisda and R' Avina**. **Q:** He asked, how do we pasken? **A: Rava** said, I can bring a proof from a Braisa. **R' Yose** said in the Braisa, the power of chazaka is great, because we see in a pasuk that Kohanim whose lineage came into question were told that they may not eat “kodesh hakodashim”. This suggests that they were allowed to eat terumah. The pasuk is teaching that based on their chazaka of having eaten teruma previously, they may continue to eat terumah. Now, since **R' Yose** bases this on chazaka, it must be that just as they were allowed to continue eating terumah, they would be allowed to continue duchaning. Now, if we are concerned that people will elevate from duchaning to the status of pure lineage, we could not allow them to duchan. It must be that we do not so elevate!
  - The Gemara says, it may be that only here we are not concerned that people will elevate their status, because their chazaka was weak in that all knew they had issues with their lineage. If we do not say this, we would have the same concern when we allow them to eat terumah, according to the view that we elevate from terumah to the status of pure lineage.
  - We must say, that the statement of “the power of chazaka is great” is meant in the sense that initially the Kohanim in the pasuk only ate terumah D'Rabanan, and they were now allowed to eat terumah D'Oraisa
  - We can also say that these Kohanim were only allowed to continue eating terumah D'Rabanan. The reason he was not concerned that they would be elevated to pure lineage was because that only happens to Kohanim who eat terumah D'Oraisa. What was meant by “chazaka is great” was that we allow them to eat terumah D'Rabanan and are not concerned that it will lead them to eat terumah D'Oraisa.

### -----Daf 75-----25-----

- **Q:** A Braisa says, one who duchaned in Bavel or ate challah in Surya can be established as a Kohen. Presumably this means for genealogical fitness, and we can see from here that we do elevate from duchaning to yuchsin (pure lineage)!? **A:** The Braisa means that he is established as a Kohen for purposes of eating terumah.
  - **Q:** Challah and terumah are on equal levels, so what would be the meaning of the statement that one who eats challah can be “elevated” to eating terumah!? It must be that from eating challah one is elevated to yuchsin, and the same must be for duchaning as well!? **A:** The Braisa holds that challah in today's times is only D'Rabanan, and the Braisa says that one who eats challah can be elevated to eating terumah D'Oraisa.
- **Q:** A Braisa says, one who duchaned or got terumah in Eretz Yisrael can be established as a Kohen (because Beis Din would check the status of such Kohanim). Presumably this refers to establishing for yuchsin, and we see that we do elevate from duchaning for yuchsin!? **A:** The Braisa means that he is established as a Kohen for purposes of eating challah.

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- **Q:** Challah and terumah are on equal levels, so what would be the meaning of the statement that one who gets terumah can be “elevated” to eating challah!? It must be that from eating terumah one is elevated to yuchsin, and the same must be for duchaning as well!? **A:** The Braisa holds that terumah in today’s times is only D’Rabanan, and the Braisa says that one who eats terumah can be elevated to eating challah, which is a D’Oraisa.
- **Q:** A Braisa says, we can establish a chazaka for one as a Kohen by seeing him duchan, or by getting terumah, or by giving testimony about his lineage. Now is testimony a form of chazaka? Rather, the Braisa must mean that duchaning is like testimony in that they both establish one for yuchsin. We see that we do elevate from duchaning to yuchsin!? **A:** The Braisa means that if testimony is given about seeing something that can be used to establish a chazaka, it too has the status of a chazaka. An example of that would be one who testified that a person was called up to the Torah first, as a Kohen, and **R’ Ami** gave that person the status of a Kohen. **R’ Yehoshua ben Levi** did the same for one who was called up to the Torah second, and gave him the status of a Levi.
  - **Reish Lakish** did not feel that being called to the Torah first was enough to establish one as a Kohen, but **R’ Elazar and R’ Yochanan** felt that it was enough.
  - **Rebbi and R’ Chiya** each paskened – one elevated a son to Kehuna based on the word of his father, and the other elevated a brother to the status of a Levi based on the word of his brother.
    - We can prove that **Rebbi** is the one who elevated the son based on the father, because **Rebbi** said in a Braisa that one who says his son is a Kohen is believed to give him terumah. Once we know **Rebbi** is the one who paskened this way, we can also say that it was **R’ Chiya** who allowed the status of Levi to be given based on the brother.
    - **Q:** Why does **R’ Chiya** believe the testimony of the brother but not of a father? They are both relatives and should therefore be treated in a similar manner!? **A:** The case that he allowed is where the brother spoke “meisi’ach lefi tumo”, and in fact there would be no difference between a brother and a father. We find that **R’ Yehuda in the name of Shmuel** said that **Rebbi** also elevated one to a Kohen based on his own testimony when it was meisi’ach lefi tumo.

### -----Daf ןו-----26-----

- A Braisa says, just as terumah establishes one as a Kohen, maaser rishon does as well. However, one who gets terumah under the auspices of Beis Din is not established as a Kohen.
  - **Q:** Maaser rishon belongs to the Levi!? **A:** The Braisa follows **R’ Elazar ben Azarya**, who says that maaser may be given to a Kohen as well.
    - **Q:** He says it may *also* be given to a Kohen, not that it may *only* be given to a Kohen!? **A:** It is referring to the time after Ezra penalized the Leviim and said that maaser must be given *only* to a Kohen.
    - **Q:** How can we establish a Kohen based on his getting maaser? Maybe the person happened to give it to a Levi (even though he shouldn’t have based on Ezra’s penalty)? **A:** **R’ Chisda** said, the case is where a person’s father was a Kohen, but there were rumors that this person’s mother was a divorcee or a chalutza. If he then gets maaser, we can establish him as a proper Kohen, because maaser would not be given to one who is not a proper Kohen or a Levi.
  - **Q:** If getting terumah under Beis Din doesn’t create a chazaka, what will? **A:** **R’ Sheishes** said that the case is where a son of a Kohen is rumored to have a mother who was a divorcee or chalutza, and this son then took a share with his brothers of the terumah of their father’s estate, under the auspices of Beis Din. Such a taking does not establish him as a proper Kohen.
    - **Q:** This seems obvious!? **A:** We would think that since the other brothers will eat the terumah we should assume that this one will as well (proving that he is a valid Kohen). The Braisa teaches that we don’t assume that, because it may be that he takes this share to sell the terumah to a valid Kohen.

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- **Q: R' Shimon ben Gamliel** seems to be saying the same thing as **R' Elazar**!? We can't say that they argue with regard to how many people need to testify to be considered a "rumor", because **R' Yochanan** said that all agree that a rumor has no effect unless it is made by 2 people!? **A:** The case is where the son of a Kohen was rumored to come from a mother who was a divorcee or chalutza, and based on that Beis Din demoted him from his status as a Kohen. Then a single witness came and said the person was truly a valid Kohen, and Beis Din reestablished him based on that. Then 2 witnesses came and said that his mother was a divorcee or chalutza, and Beis Din again disqualified him. Then a single witness came and said he is a valid Kohen. All agree that we may combine the testimony of the 2 single witnesses, thereby creating 2 witnesses. The issue is whether we would do that and embarrass Beis Din by making them promote him again. **R' Elazar** says we do not promote him again, for that reason, and **R' Shimon ben Gamliel** says we do promote him, and we are not concerned for the embarrassment of Beis Din.
  - **Q: R' Ashi** asked, **R' Elazar** should even hold this way if the 2 witnesses came together and there were 2 against 2!? **A: R' Ashi** said, it must be the machlokes is whether we can combine the two single witnesses as being a pair of witnesses – **R' Elazar** says they are not combined, and **R' Shimon ben Gamliel** says they are combined. We find this is a machlokes among Tannaim in a Braisa as well.

### MISHNA

- If a woman is imprisoned by goyim based on a monetary matter, she remains mutar to her husband. If they imprisoned her because of a capital crime, she is assur to her husband (we are concerned that she ultimately was mezaneh with them willingly, and thereby becomes assur to her husband).

### GEMARA

- **R' Shmuel bar R' Yitzchak in the name of Rav** said, if she is imprisoned on monetary matters she is only mutar if the Yidden rule over the goyim. However, if the goyim rule, they fear nothing and we must be concerned that they will be mezaneh with her even then, and she may ultimately be mezaneh willingly and would therefore be assur to her husband.
  - **Q: Rava** asked, a Mishna says that a Jewish girl was pledged to goyim in Ashkelon for a loan (and given to them when the loan was not repaid). Her family stayed away from her as if she was violated, even though witnesses testified that she was not violated. The **Chachomim** said to the family, if you believe the witnesses to say that she was given over to goyim, you must believe them that she was not violated, and if you don't believe she was not violated, you shouldn't believe that she was given over to goyim. Now, Ashkelon is a place where the goyim rule, and yet the Mishna suggests that we would only be concerned when she was pledged (and therefore given over willingly), but not when she was imprisoned against her will. This would mean that a woman imprisoned for a monetary matter against her will is assumed not to have been violated, even when the goyim rule!? **A:** The Mishna's ruling would be the same if she was imprisoned against her will, but the story as told in the Mishna happened where she was pledged.
    - **Another version of Rava** is that he brought the Mishna as a proof, that presumably without witnesses we would assume that she was violated whether she was pledged or imprisoned against her will. The Gemara says that it is not a proof, because it may be that the case of where she is pledged is treated differently.
    - **Others** bring this Mishna as a contradiction to our Mishna, and **R' Shmuel bar R' Yitzchak** answers the contradiction by saying that our Mishna is discussing where the Jews rule and that is why for a monetary matter we need not be concerned that she was violated, and the other Mishna is discussing where the goyim rule, which is why we are concerned.

### AHL YIDEI NEFASHOS ASURAH

- **Rav** said this refers to the wives of thieves who are hanged, and therefore people are very free to violate their wives. **Levi** said this refers to the wives of murderers.
  - **Chizkiya** said this is only once they were actually sentenced to death. **R' Yochanan** said this is even if they were not yet sentenced to death.

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## MISHNA

- If a city is attacked by an army, the wives of all Kohanim become assur to their husbands (we are concerned that they were violated by the army). However, if there are witnesses who say that they were not violated, even if the witnesses are slaves or maidservants, they are believed. A person is not believed to testify about themselves that they were not violated.

## GEMARA

- **Q:** Another Mishna says, if an army comes into a town during a time of peace, we say that all open barrels of wine are tamei (as yayin nesech) and all sealed barrels of wine remain tahor. When they come in times of war, all barrels remain tahor, because they don't have the time to pour wine to their avodah zarah. Now, if they don't have time for that during war, why do we think they would have time to violate women? **A: R' Mari** said, the yetzer harah for z'nus is much greater, and they find time for that even during war.
  - **R' Yitzchak bar Elazar in the name of Chizkiya** said, the wives of Kohanim would remain mutar if the army was the army of the country that the place belongs to (they are looking to keep the people happy so that they pay taxes, and guards are set up to protect the people from the soldiers), and would be assur if they were from another country.
    - **Q:** Even with the friendly army, why are we not concerned that someone will bypass the guards and violate a woman? **A: R' Yehuda in the name of Shmuel** said, the case is where the guards are within sight of each other, so no one slips by.
    - **Q:** Still, the guards may doze off and someone will get by!? **A: R' Levi** said, the case is where they surrounded the city with chains, and dogs, and sharp things, and geese. These things make noise and/or protect from soldiers who try to get around the guards.
    - **R' Abba bar Zavda** said, it is a machlokes between **R' Yehuda Nesia and the Rabanan** whether these additional measures are necessary.
- **R' Idi bar Avin in the name of R' Yitzchak bar Ashyan** said, if there is even one hiding place in the city, all the women would remain mutar.
  - **Q: R' Yirmiya** asked, if the hiding place is only large enough for one person, what would the Halacha be? Would we say that we look at each woman as if she was the one in the hiding place and is therefore mutar, or do we say that we still consider each woman as having been violated? **A:** The Gemara says, this should be like the case where there are 2 paths, and we know that one of them certainly has tumah, and there are 2 people, one of whom went down one path and the other of whom went down the second path, and they come to ask whether they are tamei (for possibly having gone down the tamei path), **R' Yose** (who the Halacha follows) says, if they come and ask individually, we pasken that they are tahor. If they ask together, they are tamei. If one comes alone, but asks regarding himself and the other person, **R' Yose** compares that to the case of where they came together, and they are therefore tamei. Based on this, in our case as well, since we are paskening about all the women of the city, it is presumably treated as when they ask about everybody, and we must therefore pasken that they are assur.
    - **Q:** The Gemara says, there is no proof from that case. In that case there is definite tumah to someone. In our case, it is possible that none of the women were violated, and therefore the case is very different.
  - **Q: R' Ashi** asked, if a woman says, "I did not hide, but I was not violated", is she believed with a miguy that she could have said she hid, and would then have been believed? **A:** The Gemara says we can compare this to a case where an owner says to the person he is renting his donkey, that he should not take the donkey on a particular road, because the water levels there are dangerous. The renter took the donkey there and the donkey died, but he claims that it did not die because of the water. **Rava** wanted to say that we should believe him with a miguy that he could have said that he took the donkey on

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another route. **Abaye**, said, we don't say a miguy in the face of incontrovertible facts, and water on that road is such a fact. Therefore, we don't believe him based on a miguy. Similarly in this case, we should say that since the army came in, there is incontrovertible evidence that she was violated, and we should not believe her based on a miguy.

- **Q:** The Gemara says, the cases are not comparable, because the case of her being violated is a concern, and is not incontrovertible evidence.

IHM YEISH EIDIM AFILU EVED V'AFILU SHIFCHA NE'EMANIN

- The Gemara says, we would even believe the testimony of the woman's own maidservant.
  - **Q:** A Mishna says that we don't believe a woman's own maidservant to testify for her regarding not having had bi'ah with someone!? **A: R' Pappi** said, we are lenient in the case of a captured woman (like our case). **A2: R' Pappa** said, our Mishna is discussing the husband's maidservant, and the other Mishna is discussing her maidservant. In our case, we would not believe a woman's own maidservant.
    - **Q:** How can **R' Pappa** say that a woman's own maidservant would not be believed in our Mishna? Our Mishna says that she is not believed regarding herself, which suggests that her maidservant would be believed!? **A:** Her own maidservant is considered as "herself" and is included in that term in the Mishna.
    - **A: R' Ashi** said, both Mishnayos are discussing her own maidservant. We are concerned that her own maidservant would remain quiet rather than testify against her mistress (which is why being with a man in front of her maidservant will not suffice to the requirement that she only be alone with him in front of a witness), but she would not testify falsely. In our Mishna, remaining quiet would not be enough, she would have to actually testify, and we are not concerned that she will testify falsely.
      - **Q:** Why are we not concerned that she will testify falsely out of love or fear for her mistress? **A:** We are not concerned that she will remain quiet about the violation, and then also testify falsely regarding it. We find this logic used by **R' Chisda**, when he was concerned that people would not testify out of fear, he was not also concerned that they may come and testify falsely out of fear.
    - **Q:** Maybe we can say that whether we believe a woman's own maidservant is a matter of machlokes, because we find one Braisa that says she is believed and another that says that she is not believed!? **A:** According to **R' Pappi and R' Ashi** we must certainly say that it is a machlokes. However, according to **R' Pappa** we can say that the Braisa in which she is believed is discussing a case where she spoke "meisi'ach lefi tuma".

-----Daf ןב-----28-----

MISHNA

- **R' Zecharya ben Hakatzav** (who was a Kohen) was in a situation where his wife was in a city under attack by an army. He said, "I swear that her hand did not leave mine from the moment the goyim came into the city until they left, and she was not violated". They said to him, a person is not believed to testify on his own behalf.

GEMARA

- A Braisa says, although he was not permitted to live with his wife anymore, he was allowed to have a house for her in his own courtyard, and she would make sure to never be there without some of her children (so that she should never be secluded with her husband).
  - **Q: Abaye** asked, may a Kohen create this setup for a divorcee also, or is it only in this case that we were lenient because it was a case of a captured woman? **A:** A Braisa says that a woman who was divorced should not remarry and live in the same neighborhood of her first husband, and if he is a Kohen, she should not live in his mavoy even if she has not remarried. We see that she certainly would not be allowed to live in the same courtyard as her former husband.

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- **Q:** Who would have to leave the neighborhood in this case – him or her? **A:** A Braisa says, she must move away, but if it was her house, he is the one who must move.
- **Q:** What if they each own a house in that courtyard? **A:** The Braisa said that she must move from him. If that is discussing where it is his courtyard, that would be obvious. It can't be discussing where it is her courtyard, because then it would be he who would have to leave, as we just said. It must be that they both own houses in that courtyard, and we see that it is she who must move away from him.
  - **Q:** Maybe the case is where they are both renting houses!? If so, what is the Halacha where they both own houses in the same courtyard? **A:** **Rav** learns from a pasuk that it is more difficult for a man to be misplaced than it is for a woman. Therefore, it would make sense that it is she who must move away from him.
- A Braisa says, if a Kohen borrows money from his wife and then divorces her, he must repay through a shali'ach, so that they not get together and have feelings for each other again.
  - **R' Sheishes** said, if they come to us in Beis Din to deal with this loan without a shali'ach, we do not take on the case. **R' Pappa** said, we even put them in cheirem for doing so. **R' Huna the son of R' Yehoshua** said, we even give them malkus.
  - **R' Nachman** said,, a Braisa says that a shali'ach is only necessary when they were divorced from nissuin. However, if they were divorced from eirusin, they may deal with the loan directly.
    - We see from a story that took place in front of **Rava**, that even if they were only divorced from eirusin, if we see that this couple is especially close, we still require that a shali'ach be used.

### MISHNA

- The following testimonies may be made by an adult regarding something that he witnessed as a minor: one can testify regarding the signature of his father, rebbi or brother, even if they died while he was still a minor; that he saw a woman get married with a hinuma and with her hair down (proving she was a besulah); that a particular child would go and be toivel to eat terumah (proving that he is a Kohen); that a person would get a portion of the terumah at the granary; that a particular area is a Beis Hapras; and that he would walk up to a certain point on Shabbos (this shows where the techum for the city ends). However, a person is not believed to say that a person has a right of way through another's field, or that he has a certain right of use of another's property (these are monetary claims and as such need full, valid witnesses and testimony).

### GEMARA

- **R' Huna the son of R' Yehoshua** said, this person is believed only when he has a person who witnessed the subject of the testimony as an adult, testifying along with him.
- The Mishna needs to give the case of the handwriting of the father, the rebbi, and the brother. If it would only say the case of the father, we would say that he is believed there because a son is often with his father. If it would only say the case of the rebbi, we would say that he is believed there, because it is only the fear of his rebbi that caused him to remember his handwriting. If we would only say these 2, we would say that regarding his brother he is not believed, because he doesn't have either advantage. The Mishna therefore teaches that since document authentication is only a D'Rabanan requirement, the **Rabanan** were lenient.

### ZACHOR HAYISI BIPLONIS SHEYATZISAH...

- **Q:** Since this testimony is used for the amount of the kesubah payment, why is he believed regarding this? **A:** Since most women get married as a besulah, it is not considered as being real, full testimony.

### V'SHEHAYA ISH PLONI YOTZEI M'BEIS HASEFER...

- **Q:** Maybe the person is the slave of a Kohen, which is why he was allowed to eat terumah!? **A:** This is a proof to **R' Yehoshua ben Levi**, who says that one may not teach Torah to a slave (so the person being taken from the yeshiva could not have been a slave).
  - **Q:** A Braisa says that if a slave reads 3 pesukim as an Aliyah in shul, this does not mean he is free. It must be that a slave can learn Torah!? **A:** **R' Yehoshua ben Levi** meant that one may not treat a slave like a Jewish child and teach him Torah. This Braisa is discussing where he read on his own volition.

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## LITBOL LECHOL B'TERUMAH

- The testimony of such a person is only believed to allow for the eating of D'Rabanan terumah.

## V'SHEHAYA CHOLEK IMANU AHL HAGOREN

- **Q:** Maybe he was a slave of a Kohen who was receiving a portion for his master!? **A:** Our Mishna follows the view of **R' Yehuda** in a Braisa that says that a slave may not get a portion unless his master is there with him. **R' Yose** argues in the Braisa and says that he may. The Gemara explains, **R' Yehuda** held that way because in his area people would elevate someone for yuchsin if they saw him get a portion of terumah. They would not do so by **R' Yose**, so he did not have that concern.
  - A Braisa said, **R' Elazar the son of R' Yose** said, I have never said testimony except for once, and through that testimony a slave was elevated to the status of a Kohen (erroneously).
    - **Q:** We know that Hashem doesn't even allow bad things (i.e. aveiros) to happen through the animals of tzaddikim, He surely would not have let something bad happen from an action of a tzaddik himself!? **A:** He meant that they almost elevated a slave to the status of a Kohen. He had seen a person (who was a slave) get a portion of terumah in the granary in the area of **R' Yose**, and he said testimony about that in the area of **R' Yehuda** (where they were ready to elevate his status based on that).

## V'SHEHAMAKOM HAZEH BEIS HAPRAS HU

- Such a person can be believed about this because a Beis Hapras is only D'Rabanan.

## V'AHK KAHN HAYINU BA'IN B'SHABBOS

- The Mishna follows the view that the Halacha of techum is only D'Rabanan (and that is why this person is believed).

## V'EIN NE'EMAN LOMAR DERECH HAYA L'PLONI...

- He is not believed, because to take money from someone, there must be valid witnesses and testimony.
- A Braisa says, a person is believed to say that when he was a child he heard his father say that a particular family is valid or passul, or that he remembers that "ketzatz" was eaten at the wedding of a particular woman, or that he would bring challah and Kohanic gifts to a particular Kohen, only if he himself brought these gifts to the proposed Kohen. If these people were goyim who converted or slaves who were freed, they are not believed. This person is not believed to say that a person has a right of way through another's field, or that he has a certain right of use of another's property. **R' Yochanan ben Broka** says they are believed.
  - **Q:** Regarding which Halacha does **R' Yochanan ben Broka** argue? It can't be on the last case, because that is a monetary claim which certainly needs two valid witnesses. **A:** It must be regarding the goy who converted or the slave who was freed. **R' Yochanan ben Broka** says they are believed. The point of machlokes is, the **T"K** holds that since he saw the incident as a goy, he was not careful in his observation and resulting testimony. **R' Yochanan ben Broka** holds that since he had intent to convert he was careful.
  - **Q:** What is a "ketzatz"? **A:** A Braisa explains, when a family member would marry someone of tainted lineage, the other family members would take a barrel of fruit, break it in the town square, and tell everyone to take some to act as a way to remember that it is only the lineage of that person which will be tainted, and not the rest of the family.

## HADRAN ALACH PEREK HA'ISHA SHENISARMILA!

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## PEREK EILU NAAROS -- PEREK SHLISHI

## MISHNA

- The following naaros are entitled to the penalty if they are violated: one who violates a naarah who is a mamzeres, who is a nesinah, or who is a kutis; one who violates a naarah who is a convert, a captured woman, or a maidservant, who had converted, was ransomed, or was freed before they were 3 years old; one who



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violates a naarah who is his sister, father's sister, mother's sister, wife's sister, brother's wife, father's brother's wife, or a niddah, must also pay the penalty, because he is only chayuv kares for these women, and not the death penalty of Beis Din.

### GEMARA

- **Q:** Is it only these passul girls who get the penalty (i.e. mamzeres, nesina, kutis), but not regular, valid girls? **A:** The Mishna means to say that these girls get the penalty even though they are passul and one would therefore think there is a reason not to allow them to get it.
- The Mishna suggests that only a naarah gets the penalty, but a minor would not. This is the view of **R' Meir** in a Braisa. The Braisa says, **R' Meir** says, a girl from one day old until she brings shtei saaros may be sold by her father and is not entitled to the penalty if she is violated. From when she brings shtei saaros until she is a bogeres (i.e. 12 and a half years old) she is entitled to the penalty if she is violated and may not be sold by her father, because the entitlement of the father to sell, and of the girl to the penalty, never overlap. The **Chachomim** say, a girl from when she is 3 years old until she is a bogeres is entitled to the penalty if she is violated.
  - **Q:** Do the **Chachomim** mean that she is entitled to the penalty but may not be sold? **A:** They mean that there is a right to the penalty even when there is a right for her father to sell her.
- **Q:** Why would the women in the Mishna who the rapist may not marry be entitled to the penalty? The pasuk says "v'lo sihiyeh l'isha", which suggests that the woman must be fit for him to marry!? **A:** **Reish Lakish** said, the pesukim say the words "naarah", "naarah", and "hanaarah" – one teaches the Halacha of the penalty, one teaches that it applies even if one violates a naarah who he is assur to marry via a lav, and the third teaches that it applies even if one violates a naarah who he is assur to marry with kares. **R' Pappa** said, the pesukim regarding a seducer say the words "besulah", "besulos", "habesulos" – one teaches the Halacha of the penalty, one teaches that it applies even if one seduces a naarah who he is assur to marry via a lav, and the third teaches that it applies even if one seduces a naarah who he is assur to marry with kares.
  - **R' Pappa** doesn't use the drasha of **Reish Lakish**, because he uses the words for the drasha of **Abaye**, that the girl must be alive at time of payment of the penalty. **Reish Lakish** doesn't use the drasha of **R' Pappa**, because he uses the pasuk for a gezeirah shava to teach that oneis and mefateh are the same penalty.
    - **Q:** How does **Reish Lakish** learn the drasha of **Abaye** and how does **R' Pappa** learn the gezeirah shava? **A:** There are a total of 6 words (the 3 of each of them). Two are needed for the basic Halacha of oneis and mefateh. One is used for the drasha of **Abaye**, one is used for the gezeirah shava, and the remaining 2 are then used to teach regarding women assur via a lav, and women assur via kares.
  - The Mishna (which says that the penalty applies even to a woman to whom he may not marry) does not follow the following Braisa. The Braisa says that **Shimon HaTeimani** says that the penalty only applies when the woman violated could enter kiddushin with the violator. **R' Shimon ben Menasya** says that it only applies to a woman who is allowed to remain married to that man.
    - **R' Zeira** explains, that the difference between them is a woman who could have a kiddushin with this man, but who may not remain married to him, as would be the case with a mamzeres and a nesinah.
      - **Q:** According to **R' Akiva** who says that kiddushin does not take effect for one assur with a lav, what would the difference between them be? **A:** According to **R' Simai** it would be the case of a widow and a Kohen Gadol. According to **R' Yesheivav** the difference would be a woman who is assur via an assei (e.g. a Mitzri and an Adomi). According to the view that **R' Yesheivav** would say that even a normal assei would prevent kiddushin from taking effect according to **R' Akiva**, we would say that the difference between them would be a Kohen Gadol who violates a woman who is not a besula, and the reason this assei is different than the others is that it is an assei that does not apply to all people (and therefore kiddushin would take effect).

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- **R' Chisda** said, according to **Shimon HaTeimani** and **R' Shimon ben Menasya**, one who violates a niddah would be subject to the penalty, because although one is subject to kares for being with her, kiddushin would still take effect and one would be allowed to keep her as a wife.

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- Our Mishna, which says that the penalty applies even when the girl who was violated is assur to the man with kares, excludes the view of **R' Nechunya ben Hakana**, who says in a Braisa that not only when one is chayuv misah and money for the same action is he patur from having to pay the money (“kam lei b'diraba minei”), one is even patur from paying when the same action makes him chayuv kares and money. Therefore, according to him, since his bi'ah makes him chayuv kares, he would not have to pay the penalty.
  - **Abaye** explained, that **R' Nechunya's** view is based on the word “ason” being used in connection with a court imposed death penalty, and used (by Yaakov Avinu) to refer to death by the Hands of Heaven. This compares the two and teaches that both make the person patur from having to pay as well.
    - **Q: R' Ada bar Ahava** asked, how do you know that when Yaakov Avinu used the word “ason” he was referring to his concern of the death of Binyomin through cold or heat, which would be “by Hands of Heaven”? Maybe he was referring to death by wild animal or thieves, which is death by human hands? **A:** Yaakov was concerned for any manner of death, and therefore surely used the word “ason” to refer to death by the Hands of Heaven as well.
    - **Q:** Why is it assumed that death by heat or cold is considered to be death by the Hands of Heaven? A Braisa says that they are not considered to be by the Hands of Heaven!? Also, **R' Yosef** said that death by an attacking animal is a form of death by the Hands of Heaven in absence of the availability of Beis Din to carry out the death penalty. If so, why was it assumed that it is considered to be death by human hands? **A:** Reverse **R' Ada bar Ahava's** statement, so that he said that death by heat and cold is by human hands and death by animal is by the Hands of Heaven.
  - **Rava** said, **R' Nechunya's** view is based on the pasuk in which Hashem says that if Beis Din does not give skila to a person who gives his children to the molech avodah zara, then He will give the person kares. We see that kares is like their death penalty, and we learn that just as he is patur from paying money when he is chayuv misah, he is also patur money when he is chayuv kares.
    - The difference between **Abaye** and **Rava** would be where a non-Kohen ate terumah, where the punishment is death by Heaven, but is not kares. According to **Abaye** he would be patur from paying money, because Yaakov was surely referring to any form of death, and according to **Rava** he would be chayuv money, because only one who is chayuv kares would be patur.
      - **Q:** Why would he be patur in this case according to **Abaye**? We find that **R' Chisda** said that **R' Nechunya** says that one who steals and eats cheilev would have to pay for it even though he is chayuv kares, because the act of stealing came before the act of eating. If so, the same should be regarding the one who ate the terumah!? **A:** The case is where someone else stuck it into his mouth, so he didn't lift it before eating it.
        - **Q:** He is chayuv for stealing as soon as he bites it and is not chayuv for eating the terumah until he swallows it!? **A:** The person stuck it directly down his throat.
        - **Q:** If it was stuck down to a point that he could have brought it back up and he didn't bring it back up, he would be chayuv for stealing at the moment it entered his throat, but would not be chayuv for eating until it is actually swallowed!? If it was put to a point where he cannot bring it back up, he was forced to eat it and should not be chayuv at all!? **A:** The case is where he could bring it back up only with difficulty.
        - **R' Pappa** said, the case is where someone put liquid terumah into another's mouth, which is disgusting to be spit out, and therefore he becomes chayuv for both only once he swallows it.

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- **R' Ashi** said, the case is where the terumah belonged to the non-Kohen, and while eating it he tore someone's clothing. That is where **Abaye** would say that he is patur.