



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

Sotah Daf Mem Hey

- Our Mishna does not follow the view of **R' Eliezer ben Yaakov**, who says that "zikeinecha" teaches that the Sanhedrin must be there and "shoftecha" teaches that the king and the Kohen Gadol (who are each referred to as a judges ("shofet") in pesukim) must be there as well.
 - **Q:** Does **R' Eliezer ben Yaakov** only argue with regard to the king and the Kohen Gadol, but with regard to the Sanhedrin he agrees with **R' Yehuda** or **R' Shimon** (that either 5 or 3 judges are needed), or does he require that the entire Sanhedrin be present? **A:** **R' Yosef** said, we can bring proof from a Mishna that all must be present. A Braisa says that if a "zaken mamrei" rebels against the Sanhedrin when they are not sitting in their usual place, he is not chayuv. Now the case must be where he encountered all of the Sanhedrin outside of their place, because if he encountered less than all, he would surely not be chayuv. However, we learn from pesukim that the Sanhedrin are not allowed to all leave at once unless it is for a mitzvah. We can say that the mitzvah they are all allowed to leave for is the mitzvah of eglah arufah according to the view of **R' Eliezer ben Yaakov!**
 - **Abaye** said this is no proof. It may be that the mitzvah they all had to leave for was to extend the boundaries of Yerushalayim or of the Azaros, which we have learned requires the presence of all of the Sanhedrin on site.
 - There is a Braisa that is a proof to **R' Yosef**. The Braisa is similar to the one quoted by **R' Yosef** and then adds specific examples of why the entire Sanhedrin may be elsewhere, rather than in their usual place. The example given is that they went to perform the eglah arufah process.

NIMTZA TAMUN B' GAL OY TALUY B'ILAN

- **Q:** A Braisa says, the pasuk regarding "shikcha" says "v'shachachta omer *basadeh*". **R' Yehuda** says this excludes a bundle that was hidden from view, and the **Rabanan** say this comes to include a bundle that is hidden from view. Maybe we should say that our Mishna follows the view of **R' Yehuda**, and just as he says "basadeh" means not hidden, so too he is the one who holds that "ba'adama" means not hidden? **A:** **Rav** said, the Mishna may even follow the **Rabanan**. The reason they darshen differently in our Mishna than in the case of shikcha is simply based on the context of the pasuk.
 - The Gemara says that **R' Yehuda** can also learn the halacha from the context of the pasuk (and doesn't need to learn this from "basadeh"). He actually uses "basadeh" to teach that if one forgot grains still attached to the ground it is also subject to the halachos of shikcha. The **Rabanan** will learn this halacha from the pasuk that puts the words "kitzircha" and "visadecha" together. **R' Yehuda** uses this pasuk for the drasha of **R' Avahu in the name of R' Elazar**, to teach that shikcha only applies in your own field ("bisadecha"), but if your grain floated to another field, shikcha will not apply. The **Rabanan** say we have 2 drashos available – one from "basadeh" (as could have been written) and one from "visadecha" (as written). **R' Yehuda** says only one drasha can be made using this word.
- **Q:** **R' Yirmiya** asked, if a forgotten bundle is laying off the ground in one's field, is it subject to the halachos of shikcha? Do we say it is in the airspace of the field and therefore is subject to the halachos, or do we say that it is not "in the field" and is therefore not subject to them? **A:** **R' Kahana** said to **R' Pappi** (or to **R' Zvid**), we can answer based on **R' Avahu's** statement (above). He said it is patur if it "floats" in another person's field, which suggests that if it floated in the owner's field he would be chayuv.

- The Gemara says this is no proof, because surely in another's field even if it was lying on the ground the owner would be patur. He used the example of where it floated in only because that must be how it got to the other person's field. Therefore, there is no proof from that verbiage.
- **Q:** Maybe we can bring a proof from a Braisa. The Braisa says, if one picked up a bundle to take to the city and put it down on top of another bundle and forgot both the bundles, the bottom bundle is considered shikcha and the top bundle is not. **R' Shimon ben Yehuda in the name of R' Shimon** says both are not shikcha – the bottom is not because it is covered, and the top is not because it is not on the ground. Now, all seem to agree that the upper bundle is not shikcha! **A:** It may be that since he picked it up to take it to the city he was koneh it and that is why the **T"K** holds it does not become shikcha.
 - **Q:** If so, this should be the halacha even if he put the bundle on the ground after lifting it!? **A:** That actually would be the case, and the reason the case given is where he puts it on top of another bundle is to allow for **R' Shimon** to say that the bottom bundle is also not shikcha.
 - **Q:** The Braisa says it is patur from shikcha because "it is floating". We see that is the reason!? **A:** The Braisa means that it is "as if it is floating" – meaning it is as if he is still holding it (since he was koneh it) and that is why it is patur.
- **Abaye** once stated that he stands ready to answer any question. One of the **Rabanan** asked him, if we find two dead bodies lying on top of each other, from which body do we measure for purposes of eglah arufah? Do we say that even though the bottom one is concealed with like-kind (another body) it is considered concealed and not subject to eglah arufah, and we therefore measure from the top body, because the fact that it is lying on a like kind thing makes it as if it is lying on the ground, or do we use the reverse logic and say that we measure from the bottom one, or do we say that the bottom body is considered covered and the top one is considered not to be on the ground and therefore eglah arufah doesn't apply in this case at all? **Abaye** answered, we can answer this from the Braisa quoted above. In that case we see that the **T"K and R' Shimon** argue whether the lower bundle is considered to be concealed, presumably because they argue whether a like kind item is considered to conceal. The same would be in the case of the bodies. The Gemara says this is no proof. It may be that all agree that it is considered to be concealed, and the machlokes in the Braisa may be whether we hold that a concealed bundle is subject to shikcha or not.
 - **Q:** If that is the point of the Braisa, why not use an example of where the bundle was covered by dirt or rocks? **A:** The example uses when it is covered in like-kind to teach that if you hold a concealed bundle is not considered shikcha, that would be true even if it was covered with like-kind.
- A Braisa says, the pasuk regarding eglah arufah says "chalal" –this teaches that the person was murdered with a knife, and not choked, "chalal" – that the person was found dead, and not "almost dead", "ba'adama" – and not covered, "nofeil" and not hanging from a tree, "basadeh" and not floating in water. **R' Elazar** says, as long as he was killed with a knife, eglah arufah must be done (and the other exclusions of the **T"K** do not apply).
 - From another Braisa we see that **R' Elazar** holds there is an extra word of "chalal", and that is why only that word is available for a drasha. The other words are not extra and therefore cannot be used for a drasha.

NIMTZA SAMUCH LASAPAR OY L'IHR SHERUBAH OVDEI KOCHAVIM...

- This is based on the word "ki yimatzei" (that happens to be found), which excludes finding in a place where it would commonly be found (where murder is not as uncommon).

OY L'IHR SHE'EIN BAH BEIS DIN

- Without a Beis Din we cannot have "ziknei ha'ihv", so eglah arufah cannot apply.

EIN MODIDIN ELAH L'IHR...

- **Q:** This is obvious, since we just said that if there is no Beis Din there is no eglah arufah!? **A:** This teaches the halacha of a Braisa, that if there is a further town that has a Beis Din, that is the town that must deal with the eglah arufah, even though they are not the closest town.

MISHNA

- **R' Eliezer** says, if two cities are equidistant from the site of the body, they each must bring an eglah arufah. Also, the city of Yerushalayim never brings an eglah arufah.
- **R' Eliezer** says, if the head is found in one place and the body is found in another place, we move the head to the body and measure from there. **R' Akiva** says we move the body to the head and measure from there.
- From what part of the body do they measure? **R' Eliezer** says from the navel. **R' Akiva** says from the nose. **R' Eliezer ben Yaakov** says from the place that he was killed, meaning from the neck.

GEMARA

- **R' Eliezer** holds that 2 are brought, because he says that it is possible that they are exactly equidistant, and he says that the word "krova" can mean that even two are brought.

V'EIN YERUSHALAYIM MIVI'AH EGLAH ARUFAH

- This is because the pasuk says "the body is found in the land that Hashem gave you to inherit" and the Mishna holds that Yerushalayim was not divided among the shevatim as an inheritance.

NIMTZA ROSHO B'MAKOM...

- **Q:** What is the machlokes? It can't be regarding where on the body they measure from, because that is the next part of the Mishna!? **A: R' Yitzchak** said, the halacha is that a meis mitzvah acquires ownership of the ground on which he is found (to be buried there). Regarding this halacha is what **R' Eliezer** says we follow the place of the body (the head must have rolled away after the death) and **R' Akiva** says we follow the place of the head (the momentum of the running body carried the body further after the death).

MEI'AYIN HAYU MODIDIN

- **R' Akiva** holds that the main element of life is in the nose (for the air that he breaths), and **R' Eliezer** holds it is in the stomach (from the food that he eats).
 - **Q:** Maybe we can say this is the same argument regarding what part of a baby's body is formed first (the **T"K** says it is the head and **Abba Shaul** says it is the stomach)? **A:** It may be that **Abba Shaul** would agree that once the person is formed his main source of life is from the air that he breaths from his nose, as the pasuk says "kol asher nishmas ruach chayim b'apav".

R' ELIEZER BEN YAAKOV OMER MIMAKOM SHENAASEH CHALAL MITZAVARO

- This view is based on a pasuk which associates the term "chalal" with the neck.