



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

Gittin Daf Nun Gimme!

MISHNA

- If someone makes another person's produce tamei, or if he mixes terumah into the other person's produce, or if he makes the other person's wine into "yayin nesech", if it was done b'shogeg he is patur. If it was done b'meizid, he is chayuv.

GEMARA

- With regard to the case of making wine into yayin nesech, **Rav** says the case is where the person pours it for avodah zarah, and **Shmuel** says the case is where he mixed yayin nesech wine into the person's regular wine.
 - **Shmuel** doesn't say like **Rav**, because one who pours wine to avodah zarah would be chayuv misah, and as such would be patur from paying under the rule of "kam lei b'd'rabbah minei". **Rav** says he would be chayuv to pay, because, as **R' Yirmiya** says, he is chayuv for stealing it the minute he picks it up, and he is not chayuv misah until he actually pours it. Since the penalties do not come at the same time, he is chayuv for both.
 - **Rav** doesn't say like **Shmuel**, because he says that **Shmuel's** explanation is the same thing as the case of the person who mixes terumah into the produce. **Shmuel** says that these cases are cases of penalty, and one cannot be learned from the other. That is why each one must be taught separately.
 - **Q:** According to the view that we can learn out cases of penalty from each other, why do we need to list all these cases in the Mishna? **A:** All the cases are needed. If we would just have the case of the person making the produce tamei, if the produce was terumah he would be chayuv because he makes it totally assur, and if the produce is chullin he is chayuv because it is assur to increase tumah in EY. However, when he mixes terumah into regular produce, where he has done nothing wrong, maybe he should not be chayuv. If we would just say the case of mixing, we would say he is chayuv in that case because that is a more common case, but making tamei, which is more uncommon, maybe he would be patur. If we would say these two cases we would say he is chayuv because there is no concept of kam lei b'd'rabbah minei. However, in the case where he pours the wine, since this concept does apply, maybe he would not be chayuv, the Mishna therefore teaches he is chayuv like **R' Yirmiya** explained.
 - **Q:** According to the Braisa taught by the father of **R' Avin**, which says that at first the penalties for making someone's produce tamei and making their wine yayin nesech were instituted, and later they added the penalty for one who mixes terumah into someone's produce, why were each of the cases needed? **A:** If we would only have the case of making something tamei we would say that he is chayuv because the concept of kam lei b'd'rabbah minei does not apply, but in the case of yayin nesech where it does apply we would say that he should be patur. Therefore, the Mishna has to also teach the case of yayin nesech to teach that he is chayuv there as well. If we would only have the case of yayin nesech, we would say that only there he is chayuv because he has rendered the wine totally useless for any purpose, but in the case of tamei, where it has some use (he can use it to fuel a fire or for animal feed) he should be patur. That is why both these cases are needed. Now, if we would only have these 2 cases, we would say he is chayuv in these cases because he has caused a significant loss,

but in the case of where he mixes in terumah, where the loss is limited (he can only sell it to Kohanim and therefore the price goes down based on lower demand), we would say he is patur. That is why the Mishna has to teach this case as well.

- **Chizkiya** said, D'Oraisa one is chayuv when he damages in an unrecognizable way (like in our Mishna) whether it was done b'shogeg or b'meizid. The **Rabanan** said that b'shogeg he will be patur so that he will let the person know that his produce is now assur.
 - **Q:** Why don't we say that b'meizid is patur as well so that he will let the person know?
A: This person is intentionally damaging the other person's produce. Obviously, he wants the person to know what he did. So he will surely tell him.
- **R' Yochanan** said, D'Oraisa he is patur whether he did it b'shogeg or b'meizid, because unrecognizable damage is not considered to be damage. The **Rabanan** said that he is chayuv if it was done b'meizid so that we don't have people going around and making other people's produce tamei, and claiming to be patur.
 - **Q:** A Mishna says, Kohanim who make a korbun into piggul are chayuv if they do so b'meizid, for the benefit of the world. Now, piggul is a form of damage that is not recognizable. To say that the takanah was made to make the meizid chayuv refutes **Chizkiya**!? **A:** The Mishna means that the meizid is chayuv, but the shogeg is patur, and it is the shogeg being patur that was done for the benefit of the world, because in truth all should be chayuv because such damage is true damage.
 - **Q:** **R' Elazar** asked, a Braisa says, if someone does work with the parah adumah or its water mixture, he is patur from punishment in Beis Din, but is chayuv to be punished by Heaven. Now, if unrecognizable damage is true damage, he should even be chayuv in Beis Din!? **A:** **R' Elazar** answered, the Braisa may be talking about the type of work that is only considered work if intended to be so by the owner (he took the parah into the barn to nurse and to thresh the grain there as well, in which case it is work only if he wants her to thresh the grain, or he used the water as a counter-weight to measure something). Since it is dependent on the intent, it is considered to only be a "grama" of damage, for which one is only chayuv from Heaven.
 - **Q:** **Rava** has said that using the chatas water as a weight does not make it passul!? **A:** He is talking about using it on one side of a balance scale. **R' Elazar** is talking about using the water for actual measurement (by placing something in to see how much water gets displaced).
 - **Q:** If he used the water directly in that way, then if you hold unrecognizable damage is considered to be damage, he should clearly be chayuv!? **A:** Both cases are where he used the water on a balance scale. **R' Elazar** is discussing where he was "masiach daas" from the water and it therefore becomes passul. **Rava** is discussing where he was not masiach daas, and therefore it does not become passul.
 - **Q:** **R' Pappa** asked, a Braisa says, if one stole terumah and it became tamei, he can simply return it to its owner and is not chayuv to pay. Now, if unrecognizable damage is considered to be true damage, he should have to pay!? This is a **TEYUFTA** of **Chizkiya**.
 - **Q:** Maybe we can say that the machlokes between **Chizkiya** and **R' Yochanan** is actually a machlokes between Tanna'im. A Braisa says, if one makes another person's produce tamei, or he mixes terumah into another's produce, or he makes another's wine into yayin nesech, **R' Meir** says the person is chayuv to pay, whether it was done b'shogeg or b'meizid. **R' Yehuda** says, if it was done b'shogeg he is patur, if it was done b'meizid he is chayuv. We can say that the machlokes is that **R' Meir** says unrecognizable damage is considered to be real damage and **R' Yehuda** says it is not!? **A:** **R' Nachman bar Yitzchak** said, it may be that everyone holds it is not considered to be true damage. The machlokes may be that **R' Meir** says we penalize the shogeg as a gezeirah for the case of meizid, and **R' Yehuda** says that we do not.
 - **Q:** Based on this we have a contradiction to the shitos from another Braisa. The Braisa says that if one cooks something on Shabbos, **R' Meir** says if it was done b'shogeg, the person may eat the food on Shabbos, and if it was done b'meizid he may never eat that food. We see **R' Meir** does not penalize the shogeg as a

gezeirah for the case of meizid. The Braisa then says that **R' Yehuda** holds that if it was done b'shogeg, he may not eat it until after Shabbos, and if it was done b'meizid he may never eat this food. We see that **R' Yehuda** does penalize the shogeg as a gezeirah for the case of meizid. These views are contradictory to what they hold in the previous answer!? **A:** The views of **R' Meir** are not problematic, because it may be that he only penalizes when it is a halacha D'Rabanan (like unrecognizable damage), but he does not feel the need to be goizer for a D'Oraisa (the case of cooking on Shabbos). And, although he penalizes by yayin nesech, which is a case of D'Oraisa, that is different because the issur of avodah zarah is so strong that he was goizer over there as well. The views of **R' Yehuda** are also not contradictory. He only penalizes by a D'Oraisa (since it is a stronger issue), but not by a D'Rabanan. And, although he is not goizer by the case of yayin nesech, which is D'Oraisa, that is because the aveirah of avodah zarah is so strong, people stay away from it and there is no need to be goizer.

- **Q:** A Braisa says, **R' Meir** says if one plants a tree on Shabbos, if it was done b'shogeg he need not uproot it, and if it was done b'meizid it must be uprooted. If one planted a tree on shmitta, whether it was done b'shogeg or b'meizid, it must be uprooted. **R' Yehuda** says that if it is planted on shmitta, then b'shogeg it need not be uprooted but b'meizid it must be uprooted, and if it was planted on Shabbos, then in either case it must be uprooted. Now, we see from here that **R' Meir** was goizer even by the D'Oraisa of shmitta!? **A:** The Braisa itself seems problematic, because he is only goizer regarding shmitta, but not regarding Shabbos!? Rather, we must say like **R' Meir** explained, when people look at a tree years later, they will remember in which year it was planted. Therefore, this tree will always be known as having been planted during shmitta, leading people to think that planting during shmitta is mutar. That is why it must be uprooted in all cases. That concern is not present regarding planting on Shabbos, because people will not remember what day the tree was planted. **R' Meir** gives another reason, that Yidden are suspected of not keeping the halachos of shmitta, but are not suspected of not keeping Shabbos. That is why we only need to be goizer for shmitta.
 - **Q:** Why is this second reason needed? **A:** There are times when people may be able to tell that the tree was planted on Shabbos, in the case where it was planted 30 days before Rosh Hashanah, thereby getting the status as having been planted for the entire previous year. In a year where the 30th day before Rosh Hashana was a Shabbos, people looking back will be able to tell that it was planted on Shabbos. Therefore, **R' Meir** gives a second reason why he was goizer for shmitta, but not for Shabbos.
 - **Q:** Above we said that **R' Yehuda** is goizer in a case of D'Oraisa, but regarding shmitta he is not goizer!? **A:** In the place of **R' Yehuda**, people were very careful about shmitta, and that is why a gezeirah was not necessary in that case.