



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

Bava Kamma Daf Kuf Gimmel

- **R' Kahana** once gave money for flax and left the flax in the seller's possession. The price of flax increased and the seller sold **R' Kahana's** flax to someone else, intending to give the proceeds to **R' Kahana**. **R' Kahana** asked **Rav** whether he can take the money. **Rav** told him, if when the seller sold it he said "this is the flax of **R' Kahana**", then you may take the money. If he did not, you may not (because it looks like you lent him money and are taking back interest).
 - **Q:** Does **Rav** hold like the people in EY, who would say that if the buyers don't know who the real seller is they cannot transfer the money to him, and that is why the money is not considered to belong to **R' Kahana**? **A:** The story can't be understood as explained above, because **R' Kahana** didn't lend money and take back more money. He bought flax, and the price of flax increased. When the seller then resold that flax, he in effect stole it from **R' Kahana** and would have to repay the value as it was at the time of the stealing. This would surely not be viewed as a loan with interest. Rather, the case was that **R' Kahana** purchased a future on flax from this seller, without actually purchasing flax right now. In such a case, **Rav** holds that if the purchaser exercised the future for a profit, and takes the actual underlying commodity, that would be mutar. However, if he takes money in its place, that would be assur as it looks like ribis.

MISHNA

- If someone stole at least a prutah of value from another, swore that he did not steal anything, and then admitted that he swore falsely and now wants to do teshuva (in which case he must return the principle value of what was stolen, an additional fifth of the value, and bring a Korbon Asham), he must give it directly to the victim even if he is now in a faraway land. He may not give it to the victim's son or shaliach to bring there, but he may give it to a shaliach of Beis Din. If the victim died, he must give it to his heirs.
 - If he gave him the principle value but not the additional fifth, or if the victim was mochel the principle amount but not the fifth, or he was mochel both besides a portion of the principle worth less than a perutah, he does not need to chase him down to return the remaining amounts. However, if he gave the fifth but not the principle amount, or if he was mochel the fifth but not the principle amount, or if he was mochel both except for a portion of the principle worth at least a perutah, he would have to chase him down to return the remaining amounts.
 - If he returned the principle and then swore falsely that he also gave the fifth, and he then admitted that he swore falsely this second time as well, he must pay an additional fifth on the fifth that he swore falsely about. This can continue going on until the amount that he swears about is worth less than a perutah.
- The same rules apply to a "pikadon", as the pasuk says "b'pikadon, oy bisisumes yad oy bigazeil oy ashak es amiso oy matza aveidah v'kichesh bah v'nishbah ahl shaker". In all these cases the person would have to pay the principle value, an addition fifth, and bring a Korbon Asham.

GEMARA

- **Q:** The Mishna seems to require him to chase down the victim to return what was stolen only because he swore falsely. This suggests that if he did not swear falsely, he would not have to go to a faraway land to return a stolen item. Whose view will this follow? It doesn't seem to follow **R' Tarfon** or **R' Akiva** of a Mishna!? A Mishna says if a person stole from one of 5 people, but he doesn't know from which of the 5 he stole, and each of the people claim that they were the victim, **R' Tarfon** says he can put the stolen item between these people and be done with it. **R' Akiva** says, that is not the proper way to do teshuva from an aveirah. Rather, he must return the

value of the item to each of the 5 people. Now, our Mishna can't follow **R' Tarfon**, because he seems to say that even in a case where the ganav swore, he can just place the item between the 5 people and walk away (which means he does not have to chase the victim down). The Mishna also can't follow **R' Akiva**, because he seems to say that even if he didn't swear falsely he would still have to return to each person (which means he would have to chase the victim down even without swearing falsely). So who does the Mishna follow!? **A:** The Mishna follows **R' Akiva**, because he holds that the item must be returned to each person only if the ganav had first sworn falsely, and the machlokes was regarding a case where he swore falsely.

- **R' Akiva's** view is based on the pasuk of "lasher hu lo yitnenu b'yom ashmaso" (he must give it to the one to whom it belongs). **R' Tarfon** says, although the pasuk requires that, the **Rabanan** enacted that he not have to do that so that it not deter people from doing teshuva. **R' Akiva** says the **Rabanan** only made an enactment that when the ganav knows his victim he need not chase him down to return the item if the costs associated with doing so are significant. However, if he doesn't know who he stole from, he would have to return the value to each of the 5 people.
- **Q: R' Huna bar Yehuda** asked, a Braisa says, **R' Shimon ben Elazar** said, **R' Tarfon and R' Akiva** would agree that if someone purchased an item from one of five people, but can't remember which one, that the buyer could just leave the money between them and be done with it. They only argue when a person *stole* from one of 5 people and doesn't know which of the 5, in which case **R' Tarfon** says he can put the stolen item between these people and be done with it, and **R' Akiva** says he must pay back each of the 5 people. Now, if they only argue in a case is where he swore falsely, why would there be a difference between where he bought an item and where he stole an item!? **Q2: Rava** asked, a Braisa says there was a story with a certain chossid who bought something from one of two people and did not remember from which one. **R' Tarfon** told him to leave the money between them and be done with it, and **R' Akiva** told him he must pay each of the people. Now, when a story is said about "a certain chossid" it either refers to **R' Yehuda ben Bava** or **R' Yehuda the son of R' Illai**. Neither of these great people would have sworn falsely, so the case must be where he did not swear falsely, and yet we see that they argue in this case as well!? **A:** Rather, we must say that the Mishna follows **R' Tarfon** (and he only argues with **R' Akiva** when the person did *not* swear falsely), and **R' Tarfon** agrees, based on a pasuk, that if the person does swear falsely, he would have to pay to each of the possible victims. **R' Akiva** says, although the pasuk only requires that when he swears falsely, the **Rabanan** enacted a penalty that this must be done even when he didn't swear falsely.
 - **Q:** We find a Braisa where **R' Tarfon** says, if a ganav is looking to do teshuva, but cannot remember from which of two people he stole from, he must repay both of the people. We see that he holds that way even if he did not swear falsely!? **A: Rava** said, the case of our Mishna is different than the case of the machlokes, because in our Mishna he knows exactly who it is he stole from. Therefore, in the case of our Mishna, if he doesn't swear falsely, it is as if the victim has asked him to hold onto the money for him until he is able to come and collect it. However, when he swears falsely, he can only get a kaparah by actually paying the victim, and that is why he would have to chase him even to a faraway land to repay for the stolen item.