



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

Bava Kamma Daf Kuf Yud Aleph

NOSSAN ES HAKESEF LIYEHOYARIV...

- A Braisa says, if the ganav gave the asham to Yehoyariv (the earlier mishmar) and the money to Yedaya (the following mishmar), **R' Yehuda** says the money must be given to Yehoyariv (and the asham stays with them as well), and the **Chachomim** say the asham must be given over to Yedaya (and the money stays with them as well).
 - **Q:** What is the case? If the asham was given to them at the time of their mishmar and the money was given to them at the time of their mishmar, why would **R' Yehuda** say that Yedaya has to give up the money they received? They acted properly in accepting the money (accepting the asham before the money is improper, but they did not do that), so why would they be penalized? **A: Rava** said, the case is that both, the asham was given to Yehoyariv and the money was given to Yedaya, during the mishmar of Yehoyariv. **R' Yehuda** holds that since Yedaya got the money when it was not their mishmar, we take the money from them and give it to Yehoyariv so that it is now given together with the asham. The **Rabanan** say Yehoyariv acted improperly by accepting the asham before the money. Therefore we take the asham from them and give it to Yedaya.
 - A Braisa says, **Rebbi** said, according to **R' Yehuda**, if Yehoyariv went and offered the asham during their mishmar, the ganav would have to go and bring another asham and give it to Yedaya to offer for him, and Yehoyariv are koneh their portion of the asham that they brought.
 - **Q:** The asham is passul, and its meat cannot be eaten, so how do they take a portion!? **A: Rava** said, this refers to their portion of the hides.
 - A Braisa says, **Rebbi** said, according to **R' Yehuda**, if the asham is still in existence, the asham is taken and given to where the money was given (to Yedaya).
 - **Q: R' Yehuda** is the one who said the money is moved to where the asham is!? **A:** The case is that the mishmar of Yehoyariv completed their mishmar without offering the asham. By not offering it they have been mochel their claim to the money and now must give the asham to Yedaya as well.
 - A Braisa says, **Rebbi** said, according to **R' Yehuda**, if the asham is still in existence the money must be given to where the asham is (to Yehoyariv).
 - **Q:** That is obvious, since that is exactly the view of **R' Yehuda**!? **A:** The case is that both of these mishmars completed their week, and neither asked the other for the missing part. We would think that they now each keep what they have gotten. **R' Yehuda** teaches that since they didn't claim it from each other, it reverts back to the original halacha, in which case the money is given to Yehoyariv as well.

SHEHAMEIVI GIZEILO AHD SHELO HEIVI ASHAMO...

- **Rava** said, we learn this from the pasuk that says that the principle must be returned and then says "milvad eil hakipurim", which suggests that the asham is brought after the money is returned.
 - **Q:** They asked **Rava**, a pasuk says that the korbon mussaf is brought "milvad olas haboker", which according to you should mean that the morning Olah is brought after the mussaf. Yet, we have learned that nothing at all may be offered on the Mizbe'ach before the morning Olah!? **A: Rava** said, I am not learning from the word "milvad". I am learning from the words "asher yichaper bo", which is written in the future tense, and teaches that when he gives back the money the asham should not yet have been brought.

- A Braisa explains that there is an additional fifth paid for the sin of me'ilah and an additional fifth paid by a ganav. We learn one from the other, as follows. Just as the pasuk regarding the ganav refers to principle with the word "asham", the word has the same meaning in the pasuk regarding me'ilah. Also, just as we are taught that payment of the fifth is not essential for his kaparah for me'ilah, the same would be for the kaparah of the ganav.

HADRAN ALACH PEREK HAGOZEL EITZIM!!!

PEREK HAGOZEL UMAACHIL -- PEREK ASIRI

MISHNA

- If a person stole and gave it to his children to eat, or left it for them intact as an inheritance, they are patur from having to pay the owner for the item. However, if it was real property, they are chayuv to pay.

GEMARA

- **R' Chisda** said, if someone stole an item and the owner was not yet "meya'ish", and a third person came and ate the item, the owner may collect from the ganav or from the third person. The reason is, before yi'ush the item is considered to be in the possession of the owner, so when the third party ate it, he took it from the owner's possession.
 - **Q:** Our Mishna said, that if the ganav gave the property to his children to eat they are patur from having to pay for it!? **A: R' Chisda** would say, the Mishna is discussing where they ate it after yi'ush.

IHM HINI'ACH LIFNEYHEM PITURIN MILISHALEM

- **Rami bar Chama** said, we see from here that the reshus of an heir is like the reshus of a purchaser (and just as a purchaser would not have to return the stolen item, an heir would not have to either). **Rava** said, the reshus of an heir is *not* like the reshus of a purchaser (a purchaser is koneh the item, but an heir is not and would therefore have to return the item if it was still intact). The reason they do not have to return it in the Mishna is because it is referring to where they ate the stolen item.
 - **Q:** From the fact that the end of the Mishna says "if it was real property, they are chayuv to pay", this suggests that the Mishna is discussing where the item is still intact!? **A: Rava** would answer, the Mishna means that if the father left over real property in his estate (it is not referring to the stolen property itself), that real property is used to pay for the stolen item (there is a lien on the property).
 - **Q:** We have learned that **Rebbi** taught his son **R' Shimon**, that when the Mishna says "real property" it is referring to anything that is intact and recognizable as being the stolen property, and it must be returned for the honor of their father (so that people not see it and realize it was property stolen by their father). Clearly then, the Mishna is referring to stolen property that is still in existence!? **A: Rava** said, I explain our Mishna according to **R' Oshaya**, who taught the following Braisa – if a person steals and feeds it to his children, they are patur from having to pay for it. If he left it for them as an inheritance, then if the item is still in existence, they must return it. If not, they are patur from having to pay for it. However, if the father also left over real property in his estate, they have to pay for the stolen item from the real property.
 - **Q:** The Braisa just said, if the item is no longer in existence they are patur. This seems to refute **R' Chisda**!? **A: R' Chisda** would say, the Braisa is discussing where they ate it after yi'ush.
 - **Q:** The Braisa just said, if the item still exists they are chayuv to return it. This seems to refute **Rami bar Chama**!? **A: Rami bar Chama** will say, the Braisa is discussing before yi'ush.
 - **R' Ada bar Ahava** said that **Rami bar Chama's** statement was made on a Braisa (as opposed to our Mishna). The Braisa says, if a father left over money of ribis as an inheritance, even if the heirs know it is ribis, they do not have to return it. **Rami bar**

Chama said, we see from here that the change in possession to an heir is treated like the change in possession to a purchaser.

- **Rava** said, it may be that the change in possession to an heir is treated differently than to a purchaser. The reason why they do not have to return the ribis is because the Torah only obligates the *lender* to return the ribis, but does not obligate his heirs to do so.
- The version that said that **Rami bar Chama's** statement was made on the Braisa would say, it surely would apply to our Mishna as well. The version that said the statement was made in reference to our Mishna may hold that he would not make this statement on the Braisa, based on the reason given by **Rava**.