



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 Gimmel

- **Rava** said, if a document of cheirem was written against someone for not coming to Beis Din, it is not ripped up until he actually shows up. If it was written for his not listening to the Beis Din, it is not ripped up until he follows what they have told him to do.
  - The Gemara says, this last halacha is not correct. Rather, as soon as he says that he will listen, we rip up the document.
- **R' Chisda** said, we summon a person to come to Beis Din on Monday, the following Thursday, and the following Monday. If he doesn't even show up to the third day, we write a document of cheirem for him the next day.
  - **R' Assi** saw **R' Kahana** summon a woman to court in the evening and the next morning write a document of cheirem for her. He asked **R' Kahana**, do you not hold of **R' Chisda**? **R' Kahana** said, we only give more time for a man, who is busy travelling and is not local. However, a woman, who is always in the city, if she does not show up she is showing that she disregards the court and is therefore put into cheirem immediately.
  - **R' Yehuda** said, we may not summon a person to come to court in Nisson or Tishrei, or on Erev Yom Tov or Erev Shabbos.
    - We may summon him during Nisson or Tishrei to appear after those months. We may not summon on Erev Shabbos for after Shabbos, because he is busy then and will forget that he was summoned.
  - **R' Nachman** said we do not serve a summons on people who have come to attend the weekly shiur or the shiur for Yom Tov, because that will prevent them from coming to the shiur.
    - Today, when we are concerned that people might attend the shiur just so that he not be served, we may even serve people by the shiur.

IHM HAYA DAVAR SHEYEISH BO ACHRAYUS CHAYUV LISHALEM

- **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 (e.g. a cow or a donkey), 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).
  - **Q: R' Kahana** asked **Rav**, what if he had stolen a bed or table, which is only used indoors and not available for people to see? **A: Rav** said the same halacha would apply to a bed or table as well.

MISHNA

- A person may not take change (even with permission) from the box of the customs collector or from the box of the tax collector, and we may not accept tzedaka from them (the money in their boxes is considered to be stolen). However, one may take from the coins that are found in these people's houses, or from the coins he has with him in the market.

GEMARA

- A Braisa says, if one owes money to the tax collector, but doesn't have smaller coins with which to pay, he may give the larger coin and get back some smaller coins as change (if not he would suffer a loss by having to give the entire larger coin).
- **Q:** How can we say that these collectors are considered to have stolen from the people they collected from? **Shmuel** has said that the laws of the government are the law, and as such, the

taxes that they levy are not considered to be stolen!? **A: R' Chanina bar Kahana in the name of Shmuel** said, the case is referring to a tax collector who has no limit on the amount that he is allowed to collect. **R' Yannai** said, we are discussing a self-appointed tax collector, who has no authority from the government.

- Others learn that these distinctions were made on a Braisa, where **R' Akiva** said that a person may wear multiple garments to try and evade the tax collector. The Gemara there also asks, how can this be done? **Shmuel** has said that the laws of the government are the law, and as such, the taxes that they levy must be given!? To that, **R' Chanina bar Kahana in the name of Shmuel** gave his answer and **R' Yannai** gave his.
- Others learn that these distinctions were made on a Mishna which says that one may swear that something is terumah to prevent it from being taken by the tax collector. The Gemara there also asks, how can this be done? **Shmuel** has said that the laws of the government are the law, and as such, the taxes that they levy must be given!? To that, **R' Chanina bar Kahana in the name of Shmuel** gave his answer and **R' Yannai** gave his.
- **R' Ashi** adds a third answer, that the reference is to a non-Jewish tax collector, who collects more than he is supposed to.
- A Braisa says, if a goy who is known to rob sues a Yid, **R' Yishmael** says, even if the Yid is really chayuv under Jewish and non-Jewish law, we figure out a way that he shouldn't have to pay. **R' Akiva** says that can't be done, because it can lead to Chilul Hashem.
  - **Q:** It seems that **R' Akiva** only doesn't allow this because of Chilul Hashem. However, a Braisa says that **R' Shimon** said that **R' Akiva** learns from a pasuk that it is assur to steal from a goy!? **A: R' Yosef** said, he allows the stealing from a full-fledged goy, and in the Braisa he was referring to a "ger toshav".
    - **Q:** The pasuk that **R' Akiva** learns from refers to a goy and to a ger toshav, so he would not treat them differently!? **A: Rava** said, there is a difference between stealing from him (which is assur) and withholding payment that is due him (which would be mutar).
    - **Q: Abaye** asked, taking a Jewish slave away from a goy is comparable to withholding payment, and the pasuk teaches that it is assur to do so!? **A: Rava** is following his own view that a Jewish slave is actually fully owned (even his body) by the goy, and therefore taking him is straight out stealing.
- **R' Bibi bar Gidal in the name of R' Shimon Chasida** said, an item stolen from a goy is assur to keep, but an item he lost is mutar to keep.
  - An item stolen from a goy is assur to keep based on **R' Huna**, who learns from a pasuk that we are allowed to consume the assets of a goy only when the goyim are given over to us. An item they lose is mutar to keep based on **R' Chama bar Gurya in the name of Rav**, who learns from a pasuk that the mitzvah of returning a lost item applies only to "achicha", a fellow Yid.
    - **Q:** Maybe we should say that the pasuk of "achicha" teaches that only for a Yid must one go out of his way to get the lost item, but once it is in his hands he must return it even if it belongs to a goy? **A: Ravina** said, the pasuk says "umitzasah", which suggests that it was already in the person's hands, and still he only needs to return it if it belongs to a Yid.
  - A Braisa says, **R' Pinchas ben Yair** said, if not returning the lost item to the goy may result in a Chilul Hashem, it is assur to keep the lost item.
  - **Shmuel** said, the mistake of a goy is mutar to keep (e.g. he overpaid by mistake). We find that **Shmuel** once bought a gold bowl from a goy for the price of a copper one (the goy thought it was copper), and **Shmuel** added one extra zuz so that it not look like he was cheating if the mistake was ever discovered. **R' Kahana** once bought 120 barrels from a goy for the price of 100 barrels (the goy thought it was only 100). **R' Kahana** gave an extra zuz and told the goy "I am relying on your count". **Ravina** bought a palm tree with a goy for the purpose of chopping it and dividing the pieces. He told his attendant to go and take the

better pieces, because the goy was only concerned with the number, not the quality.

- **R' Ashi** was walking and saw grapes on a vine. He told his attendant, “go see, if they belong to a goy take them, if they belong to a Yid, do not”. A goy was sitting nearby and asked, “are you allowed to just take from a goy?” **R' Ashi** told him, I told my attendant to take them and pay for them only if they belong to a goy, because a Yid would never accept payment from me, and I didn't want to take anything for free”.
- We mentioned above that **Shmuel** said, “the laws of the government are the law”.
  - **Rava** said, we can prove this, because the government cuts down trees without permission, uses the wood to build bridges, and we walk on them. **Abaye** said that is no proof. It may be we can walk on them because the owners have been meya'ish. **Rava** said, yi'ush by itself would not make it mutar to use the bridges. It must be that it is yi'ush in conjunction with the fact that the laws of the government are the law. **Abaye** asked, the messengers who cut the trees don't really follow the instructions of the king, because they concentrate on taking trees from one place instead of taking it evenly from everywhere? **Rava** said, these messengers have the status of the king himself, and it is known that he will not bother to go all around and will instead focus on one area. Therefore, the people who did have their trees taken are supposed to go and collect payment from all those who did not have their trees taken. If they did not go and collect, they have only themselves to blame.
  - **Rava** said, if partners who stored their grain together each removed their grain, except for one who left his grain in the storage area, and the tax collector then came and took his grain as tax for all of the partners, they must pay him back for their share of the tax.
    - This is only if they were partners who owned the land that the produce was grown on (so they are all obligated to pay the tax). However, if he was a sharecropper, he is not supposed to be charged a land tax and the tax taken from him was therefore improperly taken and considered to be stolen.
  - **Rava** said, the property of one town resident may be taken as security for the tax obligation of another resident of that town.
    - This is only for the land tax and head tax of this year. He may not do so for the tax of past years.
  - **Rava** said, one may not purchase an animal from people who take their animals and fertilize fields for other people within the techum. The reason is that their animals get mixed up with the animals of other people, and they may have stolen animals. If they fertilize fields outside the techum, it is mutar to buy from them.
    - **Ravina** said, if an animal owner was chasing them claiming his animal was among their animals, even outside the techum one may not buy from them.
  - **Rava** or **R' Huna** called out – if a Yid testifies for a goy against a Yid in a non-Jewish court, he is put in cheirem. The reason is, such courts would hold a defendant liable based on the testimony of a single witness, and by him doing so, he has caused the Yid a loss he would not have had to suffer in a Beis Din. Therefore, it is only a problem if a single witness testifies in this way. If it was two witnesses, they would not be put in cheirem (because the Yid would have been liable to pay in Beis Din as well). Also, this is only a problem in a village court (where they make one liable to pay based on the testimony of a single witness). However, in the higher government courts they only require an oath when a single witness testifies, so he would not be put in cheirem.
    - **Q: R' Ashi** said, we asked **R' Huna**, if there is a prestigious person on who the courts would rely on like two people, do we say that they will make someone pay based on his testimony and he therefore shouldn't testify, or do we say since he is prestigious he cannot withhold testimony and he may therefore testify? **TEIKU**.
  - **R' Ashi** said, if a Yid sells land that borders another Yid's land, to a goy, we put him in cheirem.

- The reason can't be because of "bar metzra" because that doesn't apply when a goy is the buyer or the seller. Rather, the reason is because the neighboring Yid can say "you have placed a lion at my border" (the goy does not act with the same caution as halacha requires of a Yid, and therefore subjects his neighbors to more potential harm). Therefore, the seller is put in cheirem until he accepts responsibility for all harm that may be caused by the goy.