



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

Bava Kamma Daf Chuf Daled

MISHNA

- Which animal is a tam and which is a muad? **R' Yehuda** says, a muad is any animal that they have testified about on 3 days. It goes back to being a tam when it stops doing those things for 3 days. **R' Meir** says, a muad is an animal that they have testified about what it did three times, and it is a tam if the children can touch it without it goring.

GEMARA

- **Q:** Why does **R' Yehuda** require three days to make a muad? **A:** **Abaye** said, the pasuk could have said "tmol", which would refer to one day. It instead says "mitmol", which refers to a second day. It then says "shilshom", which refers to a third day. The pasuk then says "v'lo yishmirenu baalav", which refers to the fourth goring. **Rava** said, "tmol" and "mitmol" refer to one day. "Shilshom" refers to a second day. "v'lo yishmirenu" refers to the third time, and teaches that he must pay full damages for the *third* time.
- **Q:** Why does **R' Meir** say that 3 occurrences are enough, even if they all take place on the same day? **A:** A Braisa says, **R' Meir** says, if it becomes a muad when it is done on 3 separate days, surely it should become a muad when it is done three times on the same day! The **Chachomim** said to **R' Meir**, we find that a zavah becomes tamei only if she sees blood on three consecutive days, and not if she sees blood 3 times in one day!? **R' Meir** said, that is because of a drasha of the pasuk.
- A Braisa says, which animal is a muad? **R' Yose** says, any animal that they have testified about on 3 separate days. It goes back to being a tam if the children touch it and it doesn't gore. **R' Shimon** says a muad is an animal that they have testified about what it has done 3 times, and the concept of "3 days" is only said with regard to making it back into a tam.
 - **R' Nachman in the name of R' Adda bar Ahava** said, the halacha follows **R' Yehuda** regarding muad, because **R' Yose** paskens like him, and the halacha follows **R' Meir** regarding becoming a tam again, because **R' Yose** agrees with him. **Rava** asked **R' Nachman**, why don't you pasken like **R' Meir** regarding muad since **R' Shimon** paskens like him? **R' Nachman** said, I follow **R' Yose**, because he always has good reasons for his shitah.
- **Q:** Are the 3 days that **R' Yehuda** requires needed to make the ox a muad, or are they needed to make the person a muad? The difference would be where 3 sets of witnesses testified, and each pair testified that the ox gored on a different day. In that case the ox has become a muad, but because they are coming together, the owner can say that he was only testified against once! **A:** A Braisa says, that the testimony must take place in the presence of the owner *and* in the presence of Beis Din. Also, the witnesses only become eidim zomemim if all 3 sets of witnesses become eidim zomemim. Now, if the purpose of the testimony is to make the ox a muad, this makes sense, because the case would be where all 3 sets are coming to testify together to make the owner chayuv full damages for the victim of the third attack, and that is why they can all become zomemim together, because they all intended to obligate the owner to pay full damages. However, if the point of the testimony is to make the owner a muad, they would need to come on 3 separate days, and in that case the first two sets can say that they only came to obligate the owner to pay half damages, because they did not know that another set of witnesses would be coming. If so, how do we make them zomemim and make them pay the amount of full damages!?
 - **R' Ashi** said that **R' Kahana** said this Braisa is equally as problematic according to the view that the witnesses come to make the ox a muad, because the earlier witnesses can still claim that they didn't know that the other witnesses in Beis Din were also going to

testify about this ox!? The Gemara says, the Braisa is referring to a case where the sets of witnesses signaled to each other regarding their intent to testify about this ox. Therefore, they all did intend to require the owner to pay full damages. **R' Ashi** said, the case could be where all the sets came one after the other, so we know that they were each aware of the other. **Ravina** said, the case could be where they know the owner, but not which of his oxen did the damage.

- **Q:** If the 3rd set can't identify the ox, they can't properly warn the owner to guard the ox, which means they can't make him a muad. If so, how can they become eidim zomemim? **A:** They tell him "You have a goring ox in your herd, and you must therefore guard your entire herd".
- **Q:** If one incites the dog of one person onto another person, what is the halacha? The inciter is certainly patur, because he didn't actually do the damage, but is the dog owner chayuv? Could he say "it wasn't my fault", or would we tell him "you have a dog that is susceptible to inciting and you therefore should have gotten rid of it"? **A: R' Zeira** said, our Mishna says that a muad goes back to being a tam if the children provoke it and it doesn't gore. This suggests that if it would gore, the owner would be chayuv even though the animal was provoked by the children. **Abaye** said, this is no proof. Maybe the Mishna means that if it would gore it would still be considered to be a muad, but for that goring there would be no payment obligation.
 - **Q:** A Mishna says that if one incited a dog or a snake against a person, he is patur. Presumably this means that the inciter is patur but the owner is chayuv!? **A:** The Mishna may mean that *even* the inciter is patur.
 - **Rava** said, even if we say that when one incites a dog against another person the owner is chayuv, if the victim was the inciter, the owner would be patur. This is because of the rule that when someone does something that is not normal, and someone else comes along and adds by doing something not normal, the first person will be patur. Therefore, although the owner has a dog that is susceptible to incitement, the victim is responsible, because he alone did the incitement.
 - **R' Pappa** said to **Rava**, this rule was used by **Reish Lakish** in a case, and therefore you would hold like him. The case is, if there are 2 animals in the reshus harabim, one is walking and one is sitting down, if the walking animal kicked the sitting animal, the owner would be patur (it is not normal for an animal to sit in the reshus harabim, and is also not normal for the animal to intentionally kick the other animal). However, if the sitting animal kicked the walking animal, he would be chayuv. **Rava** said, I would hold that the walking animal would be chayuv for kicking the sitting animal, because we would say to the owner of the walking animal "You have a right to walk on the sitting animal, but not to kick it"!