



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

Bava Kamma Daf Chuf Ches

- The Gemara brought a machlokes whether one may take matters into his own hand, or whether he must go to Beis Din to adjudicate.
 - **Q:** A Braisa says, if an ox went on top of another ox, trying to kill it, and the owner of the lower ox came and pulled away his ox, causing the upper ox to fall and die, the owner of the lower ox is patur. Now, presumably we are discussing a case where the upper ox was a muad, which means that the owner of the lower ox would have been fully paid for any damage and not have had to bear any loss, and still he was allowed to take matters into his own hands!? **A:** This is no proof. The Braisa can be talking about a tam, where the person would have had to bear some loss, in which case all would agree that he may take matters into his own hands.
 - **Q:** The end of that Braisa says, if the person pushed the top ox off and the ox fell and died, the person would be chayuv. Now, if the case is where that ox was a tam, why would the person be chayuv? He was saving himself from suffering a loss!? **A:** He should have pulled his own ox out (which is a less dangerous method) instead of pushing the other ox off. That is why he is chayuv.
 - **Q:** A Braisa says, if a person fills another person's chatzer with barrels of wine or oil, the owner of the chatzer may break the barrels to walk in and out. We see that a person may take matters into his own hands!? **A: R' Nachman bar Yitzchak** said, the Braisa means he may break them to walk out to Beis Din, and may break them to walk in to get his documents of proof that he needs to show to Beis Din.
 - **Q:** A Braisa says, if the master of a Jewish slave who is a nirtza uses force to get him to leave his house after his term is over, and in doing so injures the slave, the master is patur. We see that a person may take matters into his own hands even though he is not suffering a loss!? **A:** The Braisa is discussing a slave who is a ganav, and therefore as long as he remains in the house the master is exposed to loss. Until now, he had the fear of his master and certainly wouldn't steal. However, once his term is over, that fear is gone, and his remaining in the house is therefore a threat of financial loss. **A2: R' Nachman bar Yitzchak** said, the Braisa is discussing a slave who was given a non-Jewish maid to marry. Once his term is over he is no longer allowed to live with her. Therefore the master may use force to get him to leave, to prevent him from doing an aveirah with her.
 - **Q:** Our Mishna said that if the person trips over the pitcher and breaks it he is patur, which suggests that if he went ahead and broke it he would be chayuv. This teaches that one may *not* take matters into his own hands!? **A: R' Zvid in the name of Rava** said, he would be patur even if he broke the pitcher. The reason the Mishna speaks in terms of him tripping on the pitcher is because it needs to do so in the next case, where he trips and injures himself, in which case the owner of the pitcher must pay for the injury.
 - **Q:** A Braisa says, the pasuk teaches that if a woman saved her husband from being beaten by grabbing the private area of the attacker, she must pay for the boshes. Presumably the Braisa is discussing where she had no other way to save her husband, and we see that she was not allowed to take matters into her own hands even to prevent a loss!? **A:** The case is where she could have saved him in another way.
 - **Q:** If so, when the Braisa then contrasts this case with a case in which the woman would be patur, and says that case would be if she was a messenger of Beis Din, why couldn't the Braisa say that she would be patur in a case where she didn't have another way to save her husband!? **A:** That is actually what the

Braisa means to say – if she has no other way to save him, she becomes like a messenger of Beis Din and would be patur.

- **Q:** A Mishna says, if there was a public path running through someone's field, and he decided to instead give the public a path on the side of his field and take the path in the middle of his field for himself, the halacha is that the new path is considered to be given to the public, and the old path is not considered to belong to the person (and he can't prevent the people from using it). Now, presumably it does become his, and the Mishna means that he still may not prevent people from using it. This shows that one may not take matters into his own hands!? **A: R' Zvid in the name of Rava** said, the **Rabanan** were goizer that a person may not take a path like this out of concern that he may replace it with a crooked path that is more difficult for the public to use. Therefore, he does not even take ownership of the original path at all. **A2: R' Mesharshiya** said, that the case of the Mishna is where he actually replaced the path with a crooked path, and it is in that case that he does not get ownership of the original path. **A3: R' Ashi** said, any path on the side of a field is considered to be a crooked path, because it makes some people further from where they have to go (as compared to a path in the middle).
 - **Q:** If so, why does he also lose the new path to the people? Let him say, you take back what was yours and I will take back what was mine!? **A:** He cannot do so based on the statement of **R' Yehuda**, that once the public makes a kinyan on something, it may not be taken back from them.
- **Q:** A Braisa says, if a field owner left peyah on one side of his field, and poor people then came and took produce from another side of the field, the place they took from becomes peyah as well. The Gemara assumes that what he initially designated as peyah now becomes the owner's again, but he may still not prevent the people from taking the grain. We see that a person may not take matters into his own hands (because if he could, he should stand there with a stick and prevent anyone from taking from that area)!? **A: Rava** said, the Braisa means that the land is peyah in the sense that he does not need to give maaser from that grain, but it truly does now go back under the ownership of the field owner, and he could prevent people from taking from it.

MISHNA

- If a pitcher of water broke in the reshus harabim and a person then slipped on the water and injured himself, or he injured himself on a broken piece of the pitcher, the owner of the pitcher is chayuv to pay for the injury. **R' Yehuda** says, if the owner of the pitcher had intent, he would be chayuv. If he did not, he would be patur.

GEMARA

- **R' Yehuda in the name of Rav** said, the owner is only chayuv if the person's clothes became ruined by the water. However, if he physically injured himself by falling, the owner would be patur, because it is the ground that injured him, not the water (the water is a grama). When **R' Yehuda** told this to **Shmuel**, he said we have learned that a bor is never chayuv for damage done to keilim. The water is a form of bor, so why would he be chayuv for the clothing, which are a form of keilim!? **Rav** holds that the water would only be a form of bor if the water was made hefker. The Mishna is discussing where the water was not made hefker, and is therefore no different than his ox, and that is why he is chayuv even for keilim.
 - **Q: R' Oshaya** asked, a Braisa says, we learn from the pasuk that bor will be patur for damage done to people or keilim. Therefore, if an ox fell in with its keilim, or a donkey with its keilim, the owner of the bor would only be chayuv for the animal, and not for the keilim. A case comparable to this would be a person who left his stone, knife, or package in the reshus harabim and it caused damage. Therefore, if someone banged his pitcher against the stone left in the reshus harabim and the pitcher broke, the owner of the stone would be chayuv. Now, the beginning of this Braisa refutes **Rav** (because it considers an item left in the reshus harabim as a bor, and **Rav** said it would have the status of one's ox), and the end refutes **Shmuel** (it says the owner of the rock would be chayuv for the keili, and a bor is patur for keilim)!? **A:** We can ask that the Braisa itself is self-contradictory! Rather, we can say that **Rav** will understand the Braisa fully according to his view and **Shmuel** will explain it fully according to his view. **Rav** will say that the

first part of the Braisa is discussing where the person made the items hefker, in which case they are a form of bor. The Braisa then means to say, however, if they were not made hefker, then if the stone caused damage he would be chayuv (because that stone would be a form of his ox, and not bor). **Shmuel** would say that the Braisa means to say, once we have established that any items left in the reshus harabim are a form of bor, the Braisa then says, that according to **R' Yehuda**, who says that bor is chayuv for keilim, if the stone damaged someone's keili, the owner of the stone would be chayuv.

- **R' Elazar** said, the owner of the stone would only be chayuv if the person tripped on the stone and broke his keili against the stone. However, if he tripped on the ground and broke the keili on the stone he would be patur (because the ground caused the fall). This does not follow **R' Nosson**, who says that one is chayuv even if he was not the cause of the fall.
 - **Others** say that **R' Elazar** said that the owner is chayuv even if the person tripped on the ground. According to this version he is following the view of **R' Nosson**.