



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

### Bava Kamma Daf Mem Aleph

#### MISHNA

- If an ox gored a person and killed him, if the ox was a muad, the owner must pay kofer. If the ox was a tam, the owner is patur from paying kofer. In either case, the animal is chayuv misah.
  - This is the halacha even if the victim was a young boy or girl.
  - If the ox gored and killed a slave, the owner of the ox must pay 30 sela'im to the owner of the slave. This is the case, whether the slave was worth 100 maneh, or just one dinar.

#### GEMARA

- **Q:** If we kill the ox when it is a tam, how can we ever have the case that it became a muad? **A:** **Rabbah** said, the case is that the ox tried to gore 3 people, but they were able to run away. Such an animal is treated as a muad, so that if it then kills somebody, it is put to death and the owner would have to pay kofer.
  - **Q: R' Ashi** asked, if the animal did not actually kill 3 times, it would not become a muad (just based on the fact that it tried to gore)!? **A:** Rather, the case is where it gored 3 people, severely injuring them, but not killing them, and all three people then died from the injuries after the 3<sup>rd</sup> goring. The ox would become a muad retroactively and would be put to death, and the owner would have to pay kofer.
  - **R' Zvid** said, the case would be where the ox killed 3 animals, in which case the ox would not be put to death, but would become a muad to kill even people.
    - **Q:** Would it become a muad for people just because it was a muad for animals!? **A:** Rather, **R' Simi** said, the case would be where the ox killed 3 goyim, for which it would not be put to death, but would become a muad.
    - **Q:** Would it become a muad for Yidden just because it was a muad for goyim!? **A:** Rather, **Reish Lakish** said, the case would be where it killed three people who were treifos, for which it would not be put to death.
    - **Q:** Would it become a muad for regular people just because it was a muad for treifos!? **A:** Rather, **R' Pappa** said, the case would be where the ox killed and ran away to the swamp (where Beis Din couldn't get it), and then killed again, and again ran away to the swamp, and then killed a third time.
    - **R' Acha the son of R' Ika** said, the case would be where the set of witnesses to each of the first two killings became eidim zomemim (so the animal was not put to death). The animal then killed again and a third set of witnesses came to testify. The witnesses who made the first two sets into eidim zomemim tried to do the same to the third set, but another set of witnesses came along and said that these witnesses (who made all the other witnesses into eidim zomemim) were themselves zomemim. That has the effect of reinstating the original two sets of witnesses, meaning that now there are witnesses to all three killings, making it a muad that was never put to death.
      - **Q:** This answer can work if we follow the view that the ox's killings must happen on 3 separate days in order for it to become a muad. However, according to the view that the testimonies for the killings must happen on different days, to better warn the owner to guard his ox, in this case the owner can tell Beis Din, "I didn't know that my ox killed anyone until now, and I had no way to know to guard him"!? **A:** The case is where the witnesses say that the owner was present by each of the killings.
    - **Ravina** said, the case would be where witnesses testified that an ox belonging to this owner killed twice, but they don't know which ox it was, and therefore the

ox was not put to death. When it killed a third time, they recognized that this was the ox that killed the previous two times as well.

- **Q:** What was the owner expected to do if he wasn't told which animal to guard!? **A:** The witnesses tell him that he has a goring ox among his cattle, and he therefore should have guarded his entire herd of cattle, since he knows that there is a goring ox among them.

V'ZEH V'ZEH CHAYAVIN MISAH...

- A Braisa says, the pasuk regarding such an ox says "the ox shall be stoned and its meat may not be eaten". Now, it seems obvious that it can't be eaten if it was killed by stoning. The pasuk is teaching that even if it was shechted after being sentenced for stoning, its meat may not be eaten. The pasuk of "ubaal hashor naki" teaches that it is assur b'hana'ah.
  - **Q:** The Gemara asks, maybe if it was shechted after the sentence it is mutar to eat, and the pasuk of "its meat may not be eaten" teaches that it is assur b'hana'ah, as we find that **R' Avahu in the name of R' Elazar** says that an issur of "eating" written in the Torah is an issur to have hana'ah as well? **A:** The Gemara says, that is only true when we also learn the issur of eating from the words "do not eat". However, in the case of the ox, we learn that he may not eat it from the words "the ox shall be stoned". Therefore, the issur hana'ah can't be learned from the "do not eat". Or we can say that since the pasuk said "do not eat *the meat*", instead of saying "do not eat *it*". This teaches that even if it was shechted when it was alive, it is still assur to eat.
    - **Q: Mar Zutra** asked, maybe it is only assur if it was shechted with a stone (and is therefore a "stoned ox"), but if it was shechted with a knife after the sentence it would be mutar to eat? **A:** There is never a requirement to shecht using a knife. A Mishna teaches that any sharp and smooth object may be used for shechita.
    - **Q:** Since we can learn the issur of eating and of having hana'ah from "lo yei'acheil", what does the pasuk of "baal hashor naki" come to teach? **A:** It comes to teach that not only is the meat assur, but rather even the skin is assur b'hana'ah as well.
      - **Q:** According to the Tanna'im who use this pasuk for another drasha, how do they know that the skin is assur as well? **A:** They learn it from the word "es bisaro" – that which is secondary to the meat – i.e. the skin.
        - The other view does not darshen the word "es".
  - A Braisa says, the pasuk says "ubaal hashor naki". **R' Eliezer** says, this teaches that if a tam kills a person, the owner is patur from paying half kofer. **R' Akiva** said to him, a tam only pays from the body of the animal, so it is obvious that there is no half kofer payment even without the pasuk, because the animal is put to death and therefore has no value!? **R' Eliezer** said to him, do you think that I was referring to an animal that is condemned to die!? I was referring to a case where there was only one witness to the killing, or it is known only by the testimony of the owner, in which case the animal is not put to death.
    - **Q:** If the owner admitted to the killing he would be patur by having admitted to a penalty!? **A: R' Eliezer** holds that kofer is a payment for kaparah, and not a penalty.
    - Another Braisa says that **R' Eliezer** responded to **R' Akiva** by saying, do you think that I was referring to an animal that is condemned to die!? I was referring to a case where the animal intended to kill an animal and instead killed a person, or intended to kill a goy and instead killed a Yid, or intended to kill a person who was not viable and instead killed a person who was viable. That is when the pasuk is needed.
      - **Q:** Each Braisa has a different response of **R' Eliezer**. Which response was given first? **A: R' Kahana in the name of Rava** said, he initially gave the answer of the second Braisa (which is a stronger, more encompassing answer), and then gave the other answer. This can be compared to a fisherman, who first takes the large fish that he caught, and then takes the smaller fish. **R' Tavyumei in the name of Rava** said, he first gave the answer of the earlier Braisa, and then followed it with the stronger answer given in the second Braisa. This can be compared to a fisherman who takes the small fish when that is all he has, but when he finds a larger fish, he throws away the small one and keeps the larger one.