



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

Bava Kamma Daf Mem Ches

- A woman went into a person's house to bake bread there with permission. The goat of the owner of the house came, ate the dough, and died. **Rava** said the woman must pay for the goat.
 - **Q:** Should we say that **Rava** argues with **Rav**, who said earlier that the person can tell the animal owner "your animal should not have eaten it"? **A:** In **Rav's** case the person had entered the chatzer without permission, and therefore in no way accepted responsibility to guard the animals of the owner, and can therefore make that claim. In this case, the woman had permission, and therefore accepted responsibility to guard the animal from damage.
 - **Q:** The Gemara earlier brought a Braisa that told of a woman who went to grind wheat in someone's property, and that Braisa implied that if she had gone in with permission and the owner's animal ate it and was damaged, she would be patur!? **A:** When grinding wheat there is no issue of tznius if the owner were to remain in his chatzer, and he therefore does not need to leave and must therefore guard his animals on his own. However, when baking, the woman must roll up her sleeves. Therefore, the owner leaves to give her privacy. By doing so, she takes on the responsibility to guard the animals.

HICHNIS SHORO LACHATZAR BAAL HABAYIS

- **Rava** said, if a person brought an ox into someone's chatzer without permission, and the ox dug a ditch in the chatzer, the owner of the ox must pay for the damage done to the chatzer, and the owner of the chatzer must pay for any damage done by the bor. Even though the pasuk says "ki yichreh *ish bor*", which comes to exclude a bor dug by an animal, since the owner of the chatzer should have filled the bor before making the property hefker, and he did not, he is chayuv as if he dug it himself.
- **Rava** also said, if a person brought an ox into someone's chatzer without permission and the ox damaged the owner of the chatzer, or he was damaged by tripping over the animal, the owner of the ox is chayuv. If the ox damaged something by dropping down (e.g. laying down on something) he is patur.
 - **Q:** Just because he damaged by dropping down, he should be patur? **A:** **R' Pappa** said, "dropping down" means it let out wastes which went onto keilim and ruined them. The wastes are considered to be a bor, because a person usually makes animal waste hefker and it is therefore a bor even according to **Rav** who says that only something that is hefker can be a bor, and a bor is not chayuv for damaging keilim.
- **Rava** also said, if a person went into someone's chatzer without permission and damaged the owner of the chatzer, or the owner was damaged by tripping over the trespasser, the trespasser is chayuv. If the owner damaged the trespasser, he is patur.
 - **R' Pappa** said, the owner is only patur for damaging the trespasser if he didn't know that the trespasser was there. However, if he knew he was there he would be chayuv, because the trespasser can tell him "You have a right to expel me from your property, but you have no right to damage me".

NAFAL L'BOR V'HIVISH MEIMAV CHAYUV

- **Rava** said, he is only chayuv when the ox spoiled the water at the time he fell into it. However, if he fell in and only afterwards caused the water to spoil, he is considered to be a bor that did damage, and the water is viewed as being keilim, in which case he would be patur.
 - **Q:** That makes sense according to **Shmuel** who says that anything can be a bor. However, according to **Rav**, who says that only something that is hefker can be a bor, how is this ox considered to be a bor!? **A:** Rather, **Rava** must have meant that he is only chayuv if his body caused the water to spoil. However, if it was the smell of the animal

that spoiled the waters, it is considered to be a grama (indirect damage), and he would therefore be patur.

HAYA AVIV OY BINO L'TOCHO MISHALEM ES HAKOFER

- **Q:** We are presumably discussing an ox that is a tam, so why would the owner have to pay kofer!?! **A: Rav** said, the case is where the ox is a muad to fall on people in boros and kill them. If so, the ox should have been killed after its first killing!?! **R' Yosef** explained, that the ox fell unintentionally each time while trying to get food from the bor. Therefore it was not put to death and now became a muad. **A2: Shmuel** said the Mishna is following **R' Yose Haglili**, who says that a tam pays for half the kofer payment. **A3: Ulla** said, the Mishna follows **R' Yose Haglili**, and also holds like **R' Tarfon**, who says that a tam pays full damages for keren when it is done in the reshus of the nizik. That is why in this case he actually pays the full kofer.
 - **Q:** According to **Ulla** it makes sense why the Mishna used the example of "his father or his son", because that is a case of people there with permission, and is therefore considered a case of reshus of the nizik. However, according to **Shmuel**, why limit the ruling to the father and the son? **A:** The Mishna uses an example of people who are typically found there, but does not mean to limit it to anybody.

V'IHM HICHNIS BIRSHUS BAAL CHATZER CHAYUV...

- **Rav** said, the halacha follows the **T"K**, and **Shmuel** said the halacha follows **Rebbi**.
- A Braisa says, if the owner of a chatzer tells someone "Bring in your ox, but you guard it", the halacha is that if the ox does damage in the chatzer he is chayuv, and if the ox gets damaged the owner of the chatzer is patur. If the owner of the chatzer said "Bring in your ox and I will guard it", the halacha is that if the ox was damaged the owner of the chatzer is chayuv, and if the ox did damage, its owner is patur.
 - **Q:** The first case implies that if he did not expressly reject responsibility the owner of the chatzer would be chayuv for damage to the ox, and the owner of ox would be patur for damage to the chatzer. The second case implies that if he did not expressly accept responsibility the owner of the chatzer would be patur and the owner of the ox would be chayuv!?! The first case seems to follow the **Rabanan** and the second case seems to follow **Rebbi**!?! **A: R' Elazar** said, whoever taught the first case is the not the same person as the one who taught the second case. **A2: Rava** said, the entire Braisa follows the **Rabanan**, and since in the first case he had to say "but you guard it" (because that is the only case that he the owner of the chatzer would be patur), he says in the next case "and I will guard it". **A3: R' Pappa** said, the entire Braisa can follow **Rebbi**, who also holds like **R' Tarfon**. Therefore, when he specifically tells the owner of the ox that he must watch the ox, he is telling him that he has no rights in the chatzer. Therefore, when the ox damages the chatzer, it is considered to be in the reshus of the nizik, and the owner of the ox must pay for full damages. In the second case, he is telling the owner of the ox that he is giving him rights to the chatzer. Therefore, the damage is considered to be done not in the reshus of the nizik, and he would only be chayuv for half damages.