



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

Bava Kamma Daf Samach Vuv

- **Rabbah** said, the concept that if an item that was stolen underwent a change, it becomes acquired by the ganav (and he would then have to pay for the item, but not return the actual item), is well established from a pasuk and from a Mishna. A pasuk says “v’heishiv es hagzeila *asher gazal*”, which teaches that if it is in the form as it was when it was stolen, he must return it. If not, he must give money equal to its value. A Mishna says that if someone stole wood and made it into a keili, or stole wool and made it into clothing, he pays the value of the raw material, and does not need to return the finished product. We see that a change results in the ganav being koneh the item.
- **Rabbah** continues, with regard to the owner of the stolen item having “yi’ush”, the **Rabanan** have said that it also results in the ganav being koneh the item. However, we do not know if this is D’Oraisa or only D’Rabanan. On the one hand it may be D’Oraisa, just like a lost item becomes the property of the finder if the owner had yi’ush, so too a stolen item becomes the property of the ganav when stolen. On the other hand it may be that this is only D’Rabanan, because it is different than a lost item, which the finder has in his possession in a permitted way, unlike the ganav, who has the item only by means of stealing. It may be that the **Rabanan** allowed the ganav to keep the item and only pay the money to encourage them to do teshuva and pay for the item (as opposed to having to spend the effort to return the actual item). **R’ Yosef** said, yi’ush is not koneh a stolen item, *even* D’Rabanan.
 - **Q: R’ Yosef** asked **Rabbah**, a Mishna says, if one stole chametz and it remained in his possession over Pesach (which makes it assur to benefit from), the ganav can simply return the actual chametz to the owner. Now, if yi’ush causes the ganav to be koneh, as soon as Pesach arrives (and the chametz becomes assur) the owner certainly has yi’ush. It should therefore become the property of the ganav, and he should have to pay the value of the chametz (from before Pesach) to the owner!? **A: Rabbah** said, I only said my principle when the owner has yi’ush and the ganav wants to be koneh. In this case, the ganav does not want to be koneh, and that is why he is not koneh.
 - **Q: Abaye** asked **Rabbah**, we learn from the pasuk of “korbono” that a stolen animal may not be used for a korbon. This can’t be talking about where he stole the animal and tried to make it kadosh before yi’ush, because we wouldn’t need a pasuk to teach that, because he can’t even make it kadosh! Rather, it must be talking about after yi’ush, and we see that yi’ush doesn’t create a kinyan!? **A: Rava** said, we find a similar drasha regarding a zav making “mishkavo” (his couch) tamei, which teaches that he would not make a stolen couch tamei. The case can’t be where he stole the material and made it into a couch, because in that case it would certainly become his couch. Rather, it must be talking about where he stole the couch in its completed state. Similarly, the case of the korbon is talking about where he stole an animal that was already made kadosh by the owner. If the ganav uses it as a korbon before yi’ush of the owner, it would be passul.
 - **Q: Abaye** asked **R’ Yosef**, a Mishna brings a machlokes between the **T”K and R’ Shimon** whether the thought of a ganav to use a stolen piece of leather in its present state, without further processing, gives it the status of being a finished product and susceptible to tumah. The machlokes is only whether the owner has yi’ush before the ganav made the decision to use as is. We see from here that yi’ush clearly creates a kinyan for the ganav!? **A: R’ Yosef** said, the Mishna is discussing where the leather was cut, and it is the cutting that makes the ganav be koneh – not the yi’ush.
 - **Q: Rabbah bar R’ Chanan** asked, the preceding Mishna discusses leather used as a tray, in which case there is no cutting of the leather. Presumably the Mishna

with the ganav is discussing the same. If so, there is no cutting, and we see that yi'ush creates a kinyan!? **A: Rava** said, **R' Yosef** was not able to answer the challenge from this Mishna for 22 years. When he became Rosh Yeshiva he answered, that just as a physical change creates a kinyan, so too a name change creates a kinyan. Therefore, since there was a name change from "a piece of leather" to a "tray", that is what creates the kinyan, not the yi'ush.

- **Q:** A beam that is built into a ceiling changes in name from "beam" to ceiling", and yet a Mishna says that if one stole a beam and built it into a ceiling, the **Rabanan** said that he does not need to return it (and can instead pay the value) so as to make it easier to do teshuva. Based on what was just said, since there is a change in name he should not have to return the actual beam, because he was koneh it! Not to help for teshuva!?! **A: R' Yosef** said, we find a Braisa which learns from pesukim that a beam retains its name of a "beam" even after it is put into a ceiling. Therefore, there is no true name change. **A2: R' Zeira** said, a change that is reversible is not called a true change, and since if the beam is removed from the ceiling it will again be called a beam, it is not considered to be a true name change, and would therefore not cause a ganav to be koneh it.