



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

Bava Kamma Daf Samach Tes

- The Gemara previously quoted **R' Yochanan**, who said, if a person steals and the owner did not have yi'ush, the ganav can't make the item hekdesch, because it is not his, and the owner can't make the item hekdesch, because it is not in his possession.
 - **Q:** We know that **R' Yochanan** always follows an anonymous Mishna, and there is an anonymous Mishna that says, people would leave marks by their produce that was "kerem rivai" (4th year vineyard that must be eaten in Yerushalayim, similar to maaser sheini), orlah (which is assur b'hana'ah), and land that had a person buried there (all these marks were placed so that if someone would take produce from these fields, he would know that it had to be treated with certain restrictions). **R' Shimon ben Gamliel** said these marks only must be left during shmitta, where people are allowed to take produce from any field. However, in any other year, the marks need not be left, because anyone who would take produce would be stealing, and we don't need to make a mark to prevent a thief from eating prohibited food. The "tznu'in" (the tzaddikim) would take money and say "whatever was taken from this field (of netah rivai) should become redeemed onto this money", in which case the produce becomes permitted and the money gets the restriction of the produce. Now, we see that the Mishna says this can take place after the produce is no longer in the owner's possession. This is an anonymous Mishna that says not like **R' Yochanan**!? Even if you want to say that the Tanna of that part of the Mishna is **R' Shimon ben Gamliel**, and **R' Yochanan** does not pasken like an anonymous Mishna when it is a singular view, that is incorrect, because **Rabbah bar bar Chana in the name of R' Yochanan** said that whenever **R' Shimon ben Gamliel** is mentioned in a Mishna, the halacha follows him except for 3 specific cases!? **A:** We have to change the words of the Mishna to say, the tznu'in would take money and say "whatever produce *will be* taken from this field should be redeemed on this money". Therefore, it was done while still in his possession.
 - **Q:** We find that **R' Yochanan** said that the tznu'in and **R' Dosa** say the same concept, and a Braisa says, **R' Yehuda** says, in the morning the owner of a field should stand by the field and say "whatever the poor people take today I am hereby making hefker" (this is said in case a poor person mistakenly takes a stalk with more than 2 ears of grain). **R' Dosa** says the owner of the field does this in the evening and says "whatever the poor people *took* today is hereby hefker". Now, since **R' Dosa** is referring to where the produce is no longer in his possession, the tznu'in were doing that as well (since **R' Yochanan** said they are saying the same concept). If so, the Mishna refutes **R' Yochanan**!? **A:** We must reverse the views of **R' Yehuda and R' Dosa**.
 - **Q:** Why must we reverse the views in the Braisa? Why don't we instead say that **R' Yochanan** said that it is **R' Yehuda** and the tznu'in who say the same concept? **A:** The views in the Braisa must be reversed for another reason anyway. According to the Braisa, **R' Yehuda** will hold of the concept of breirah (he is making hefker the stalks that will be taken later), and we find in a Mishna that **R' Yehuda** does *not* hold of breirah. Therefore, the views in the Braisa must be reversed in any case.
 - **Q:** We have now said that the views of the Braisa must be reversed, because if not there will be a contradiction in the statements of **R' Yehuda**. If the views of the Braisa are reversed, in which case **R' Yochanan** holds like **R' Dosa** who says the person says "whatever *will be* picked...", means that **R' Yochanan** holds of breirah. However, we find

that **R' Yochanan** does *not* hold of breirah!? **A:** The views of the Braisa should not be reversed, and the tznu'in and **R' Dosa** both refer to the case of where he says "whatever *was* picked". This would mean that **R' Yochanan** is not following the anonymous Mishna of the tznu'in. The reason he does not follow it is because there is another anonymous Mishna that says differently. The Mishna says, if a second ganav steals the item from the first ganav, the second ganav does not pay keifel. Now, we can understand why he doesn't pay keifel to the first ganav, because the first ganav is not the owner, and the pasuk says keifel is paid when "v'gunav mibeis ha'ish". But, why won't he pay keifel to the owner? It must be because it is not in his possession, and we see from this Mishna that lack of possession is a deficiency in ownership.

- **Q:** Why does **R' Yochanan** see more fit to follow this anonymous Mishna instead of the anonymous Mishna involving the tznu'in? **A:** This Mishna is supported by a pasuk. The pasuk says "v'ish ki yakdish es beiso kodesh LaShem". This teaches that just as one's house is in his possession, so too anything he makes kodesh must be in his possession.
- **Abaye** said, if **R' Yochanan** would not have said that the tznu'in and **R' Dosa** say the same concept, I would say that the tznu'in would agree with **R' Dosa**, because if the **Rabanan** enacted for the benefit of a ganav, they surely did so for the poor people, but that **R' Dosa** would not agree with the tznu'in, because the **Rabanan** only enacted for the poor people, but not for a ganav.
- **Rava** said, if **R' Yochanan** would not have said that the tznu'in and **R' Dosa** say the same concept, I would say that that Tanna that taught the view of the tznu'in is **R' Meir**, because he holds that maaser is considered to be the money of Hashem, and yet it is considered to be in the person's possession for purposes of redeeming the produce. We learn a gezeirah shava from maaser to netah rivai, which teaches that although netah rivai is not in the person's possession, he may still redeem it as well. However, with regard to the "leket" (stalks taken by the poor people), since we don't have that gezeirah shava, we would say that if it is not in his possession he cannot redeem it.
- **Ravina** said, if **R' Yochanan** would not have said that the tznu'in and **R' Dosa** say the same concept, I would say that that Tanna that taught the view of the tznu'in is **R' Dosa**. This would explain why **R' Yochanan** does not follow that anonymous Mishna, because he does not follow an anonymous Mishna that is the view of a singular Tanna.