



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

Bava Kamma Daf Ayin Aleph

GANAV V'TAVACH B'YOM HAKIPPURIM...

- **Q:** Why is this person chayuv in daled v'hey? Even though he is not chayuv misah for shechting on Yom Kippur, he is chayuv malkus, and we pasken that one who gets malkus for an action does not have to also pay!? **A:** The Mishna is following **R' Meir**, who says that one who gets malkus does pay.
 - **Q:** If the Mishna follows **R' Meir**, why is he patur when he shechts on Shabbos? A Braisa clearly says that **R' Meir** holds that if one steals an animal and shechts it on Shabbos he is chayuv for daled v'hey!? **A:** That Braisa is no proof, because it was said in the name of **R' Yochanan**, that the Braisa is discussing where he had someone else shecht it for him. Since the ganav is not chayuv misah in this case, he has to pay. However, even **R' Meir** agrees that if he would be chayuv misah he would be patur.
 - **Q:** How can it be that the shaliach does the aveirah of the shechita and the ganav has to pay for daled v'hey? **A:** **Rava** said, although in general that is a good logic, regarding the halacha of daled v'hey the pasuk compares shechting to selling, which teaches that just as he is chayuv for selling, even though it happens through another person, he is also chayuv for shechting even if it happens through another person. **A2:** The Yeshiva of **R' Yishmael** taught a Braisa that says that the word "oy" in the pasuk teaches that the ganav is chayuv even if a shaliach does the shechita. **A3:** The Yeshiva of **Chizkiya** taught a Braisa that says that the word "tachas" in the pasuk teaches that the ganav is chayuv even if a shaliach does the shechita.
 - **Q:** **Mar Zutra** asked, how can it be that if the ganav himself would have done it (the shechita) he would be patur, but because he gave it to a shaliach he is chayuv? **A:** **R' Ashi** said, if the ganav did it himself he wouldn't be patur, rather he wouldn't pay based on "kam lei bidirabah minei". Now that someone else did it, where there is no "kam lei...", he must pay.
 - **Q:** If the Braisa is discussing where the shechita was done by a shaliach, why do the **Rabanan** say that the ganav is patur from paying the daled v'hey? **A:** The **Rabanan** of the Braisa is **R' Shimon**, who says that a shechita that is not valid is not even considered to be a shechita at all.
 - **Q:** A Mishna clearly says that a shechita done on Shabbos, although the shochet would be chayuv misah, is a valid shechita!? **A:** He holds like **R' Yochanan Hasandler**, who says that an animal shechted on Shabbos b'mezid may never be eaten by anybody.
 - **Q:** According to the view that **R' Yochanan Hasandler** is based on a D'Oraisa, that is why the **Rabanan** of the Braisa say he is patur. However, according to the view that he is based on a D'Rabanan, why did the Braisa say he is patur? **A:** They meant to say he is patur on the other cases – when he shechts for avodah zara, or when he shechts the shor sentenced to die.
 - **Q:** Why does **R' Meir** hold that the ganav who stole and shechted the animal for avodah zarah is chayuv for daled v'hey? At the very beginning of the cutting it becomes assur, and the remaining part of the shechita is therefore no longer considered shechting the animal of the owner (because it became assur b'hana'ah)!? **A:** **Rava** said, the case is where the ganav said he means to worship the avodah zara with the end of the shechita. Therefore, it does not become assur until that time.
 - **Q:** When he steals and shechts a shor that was sentenced to death, since the animal is assur b'hana'ah, it is not as if he shechted the animal of the owner!? **A:** **Rava** said, the

case is that the owner had given the ox to a shomer, where it killed a person and was sentenced to death, and the ganav stole it from there. **R' Meir** holds like **R' Yaakov** that if the animal is returned to the owner by the shomer, the shomer is considered to have returned the animal and would not be chayuv for anything further, and he also holds like **R' Shimon**, who says that something that can cause a benefit of money is considered to be money. In this case, the shomer could have saved money by simply giving back the animal, even though it is assur b'hana'ah. Therefore, the ganav's act of shechting causes this loss and he must pay daled v'hey to the shomer.

- **R' Kahana** said, I asked **R' Zvid**, from the fact that **R' Shimon** disagrees with 2 cases at the end of the Mishna, it would suggest that he agrees with the rest of the Mishna. If so, how can we say that the Mishna only follows **R' Meir** (who says one who is chayuv malkus is also chayuv any monetary punishment for that act)? **R' Zvid** answered, when **R' Shimon** argues on the last 2 cases, he means to agree with the other two cases in that segment (shechting for purposes of refuah, or to feed to a dog), but not to the other segments of the Mishna.

GANAV MISHEL AVIV V'TAVACH UMACHAR...

- **Rava** asked **R' Nachman**, if a ganav stole an ox belonging to partners and shechted it, and then admitted his act to one of the partners (which makes him patur from the daled v'hey to that partner), what is the halacha? Do we say that the pasuk says he is chayuv "five cattle", and not 5 half cattle, and therefore he is totally patur, or do we say that the pasuk means for him to be chayuv even if it would only be for half of 5 cattle? **R' Nachman** said, the pasuk means that he must be chayuv for 5 full cattle, and would be patur if half the obligation was removed.
 - **Q:** The Mishna said that if he steals from his father, shechts the animal, and his father then died, he would be chayuv in daled v'hey. Now, when his father died it is as if he admitted the act to himself, and therefore is only chayuv to his brothers for their share, and yet the Mishna says he is chayuv!?! **A:** The case of the Mishna is where his father took him to Beis Din, and he was therefore chayuv to pay before his father died.
 - **Q:** This would mean that if his father hadn't taken him to Beis Din he would be patur. If so, when the Mishna wants to contrast and give a case in which he would be patur, why does it give the case of where his father died before he shechted it? Why not give the case of where he shechted it while his father was alive, but his father had not taken him to Beis Din? **A: R' Nachman** answered, it could have given this other case, but it gave this case because it was more similar in style to the earlier case.
 - In the morning **R' Nachman** retracted his statement and said that he is chayuv even if it is for only half of the 5 cattle. He explained, the reason he was mistaken the night before was because he did not properly examine the matter.
 - **Q:** If so, why is he patur if he shechted the animal after the father died? **A:** After the father died, the ganav himself is a part owner, and therefore it is not considered to be a shechita which is entirely assur.