

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

Bava Kamma Daf Ayin Ches

- Q: The Gemara quoted Rava, who said that whenever the pasuk uses the word "seh" it means to exclude klayim. What case is this teaching needed for? Regarding korbanos we learn to exclude klayim from the extra word "oy". Regarding maaser we learn a gezeirah shava on the word "tachas" from korbanos to exclude klayim there as well. Regarding a bechor we learn a gezeira shava from maaser to exclude klayim, or we can learn it from the fact that an animal that looks like a different species than its mother is excluded from bechor, so surely klayim is excluded. Based on all this, where is Rava's teaching needed!? A: It is needed for "peter chamor" (redemption of a firstborn donkey), as a Mishna teaches, that the redemption may not be done with an animal of klayim.
 - Q: R' Elazar argues in the Mishna and says that klayim may be used, so according to him, what is Rava's teaching needed for? A: R' Elazar will say it is needed to exclude a specific type of klayim where a kosher animal was impregnated by a non-kosher animal, and gave birth to a non-kosher looking animal. This would not follow R' Yehoshua, because he learns this exclusion from the pasuk of "sei kvasim v'sei izim", which he darshens to teach that both parents must be kosher animals.
- Rava asked, if a person said "harei alai olah" and separated an ox for this purpose, and a ganav then stole this animal. If the ox has been lost, can the ganav give the owner a lamb or a bird to be brought as an olah in its place (which is less expensive), because the owner will fulfil his promise to bring an olah by bringing these animals, or can the owner say, "I wanted to do the mitzvah in the best possible way (with a more expensive animal)"? Rava then answered, that the ganav could just give a lamb or bird in its place.
 - o **R' Acha the son of R' Ika** quoted this view as a statement from **Rava** (rather than as a question and answer).

MISHNA

• If a ganav sold the animal but retained 1% for himself, or if he was a partner in the animal before he stole his partner's share, or if he stole and shechted the animal and the shechita was improper causing it to be a neveilah, or if he slits the neck down the length or rips out the trachea or esophagus, in all these cases he would have to pay keifel, but would be patur from paying daled v'hey.

GEMARA

- Q: What part of the animal can be part of that 1% holdback that would make it be considered as not entirely sold? A: Rav said, it must be something that the shechita would make mutar, and Levi said, even if he only left over the shearings for himself, he would be patur from daled v'hey. A Braisa says like Levi as well.
 - Q: A Braisa says, if the ganav sold the animal except for its hand, its foot, its horn, or its shearings, he would be patur. Rebbi says, if he left off the sale something that if missing would make the shechita passul, he is patur. R' Shimon ben Elazar says, if he left out its horn he would be patur, but if he left out its shearings he would be chayuv. Now, Levi can hold like the T"K, but who will Rav hold like!? A: He will hold like R' Shimon ben Elazar in a Braisa, who says that if he sold it except for an arm or a leg, he is patur, but if he sold it except for its horn or its shearings he is chayuv.
 - Q: What is the basis of the machlokes? A: The T"K holds "utvacho" and "micharo" refer to a complete shechita and a complete sale. If anything is left out he would therefore be patur. Rebbi holds that "utvacho" clearly refers to something that is needed to make a valid shechita, and we learn "micharo" from there to teach that it too refers to

something that is needed for a valid shechita. **R' Shimon ben Elazar** holds that a horn, which is not typically cut off, if it is left out of the sale it makes him patur from daled v'hey. With regard to shearings, which are typically cut off, leaving it out of the sale does not make him patur from daled v'hey. **R' Shimon ben Elazar** of the Braisa would hold, with regard to the hands and feet, which need shechita to make them mutar to eat, leaving them out of a sale makes him patur from daled v'hey. With regard to horns and shearings, since they are not subject to shechita, leaving them out does not make him patur.

- Q: The Braisos contradict each other with regard to the view of R' Shimon ben Elazar!? A: Each Braisa is a different Tanna's view on what R' Shimon ben Elazar held.
- A Braisa says, if a ganav steals an animal missing a leg, or a lame animal, or a blind animal, or an
 animal belonging to partners, he would chayuv in daled v'hey. If partners steal an animal, they
 would be patur from daled v'hey.
 - Q: Another Braisa says that partners who steal are chayuv!? A: R' Nachman said, the
 first Braisa is discussing a case where they stole from another partner in the animal
 (their fellow partner in the animal), and the second Braisa is discussing a case where
 they stole from an unrelated person.
 - Q: Rava asked R' Nachman, a Braisa says that a ganav who steals from his partner, or partners who steal from an unrelated person are patur, because the pasuk says "utvacho", which means the ganav is only chayuv daled v'hey if he does the full shechita, and when he steals with a partner he is only doing half. This refutes what R' Nachman said!? A: R' Nachman said, we must say that the earlier Braisos are not contradictory, because the Braisa that says they are chayuv is talking about where one partner shechted and the other consented that he do so. The Braisa that says they are patur is discussing where one of the partners shechted without the other's consent. In that case they would be patur from daled v'hey.
- Q: R' Yirmiya asked, if the ganav sold the animal except that he has rights to it for 30 days, or he sold it except for the rights to its work, or except for the rights to its offspring, what is the halacha? Is the sale complete and he is chayuv in daled v'hey, or not? With regard to the last question, clearly according to the view that a fetus is part of the mother, by leaving out the fetus he has left out part of the animal. The question is according to the view that a fetus is not considered part of the mother do we say that since it is attached, leaving it out makes the sale incomplete, or do we say that since it is destined to be separated from the mother it is not considered to be part of the mother and does not render the sale incomplete? Others explain, do we say that since a fetus is not considered to be part of the mother, leaving it out is not considered to make the sale incomplete, or do we say that since a fetus that is not viable and can only become mutar to eat through the shechita of the mother, leaving the fetus out of the sale makes the sale incomplete? TEIKU.
- Q: R' Pappa asked, if a ganav stole an animal, cut off a leg, and then sold it, what is the halacha? Do we say that he did not sell everything that he stole, so he is patur from daled v'hey, or do we say that whatever he did sell, he sold completely and therefore is chayuv? TEIKU.
- A Braisa says, if a ganav stole an animal and gave it to someone else to shecht for him, or he
 gave it to someone else to sell for him, or he gave it to someone else to be makdish it for him, or
 he sold it on credit, or bartered it, or gave it as a gift, or gave it to repay a debt, or used it to pay
 for things that he bought on credit, or he used it for presents for his bride, in all these cases he is
 chayuv to pay daled v'hey.
 - Q: What is the Braisa teaching? A: The Braisa is teaching the first case, that although we typically say there is no shaliach for an aveirah (and the one who actually did the aveira would be chayuv, not the principle), with regard to the shechting there is, because the pasuk compares shechting to selling just like selling involves another person, so too the shechita can involve another person. The Braisa also teaches that in the case of the one who made it hekdesh he is chayuv, because there is no difference between the case of selling to a regular person or giving it to hekdesh.