



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

### Bava Kamma Daf Pey Aleph

- A Braisa says, Yehoshua divided the land among the Yidden with 10 conditions: 1) that people may pasture their animals in forests even if the forests are privately owned, 2) people may gather wood from other people's fields, 3) people may gather grass for their animals from any field except from fields of "tilsan", 4) people may cut a young branch off of another's tree (to use for planting or grafting), except when cutting an olive tree he must leave two fistfuls of tree off the ground, 5) all the people of a town may use the water of a spring that comes from another's property, 6) all people may fish in the sea of Tverya (the Kineret), as long as they don't spread something that would block the boats, 7a) people may go to the bathroom behind a privately owned fence, even if the field it is protecting is the high end saffron, and 7b) people may take shortcuts through other people's fields until the second rains, 8) people may walk along the sides of the road (even into the reshus hayachid) to avoid hazards in the reshus harabim, 9) if a person becomes lost in a vineyard, he may cut his way out, and 10) a "meis mitzvah" is koneh the place that he is found (to be used to bury him).
  - **R' Pappa** said this was only allowed for a small animal in a large forest. However, a small animal in a small forest, or a large animal in a large forest, and certainly a large animal in a small forest, is not allowed.
  - This only refers to small twigs, but not other wood. Even these insignificant twigs may only be taken when still attached to the ground (if they were detached, the owner must have detached them because he wanted them, so a person may not take them). Also, they may only be taken when moist, not when dried out (dried is needed for firewood, so that must be left for the owner). Finally, they may only be taken if they will grow back.
  - **Q:** From the Braisa it seems that grasses growing in a field of tilsan is a good thing (and that is why the grasses can't be taken in that field), but a Mishna seems to say that it is bad for the tilsan!? **A:** **R' Yirmiya** says, when the tilsan is cultivated for its seed, it is bad if other grasses grow with it. When it is being grown for its stalks, it is good when other grasses grow with it. **A2:** When it is grown for human consumption, other grasses are bad for it. When it is grown for animal feed, it is good when other grasses grow with it. **R' Pappa** explained, if they are planted in rows, that is a sign it was planted for human consumption.
  - **R' Tanchum and R' Biryas** said in the name of a certain elder: with regard to an olive tree one must leave an egg sized piece of the young branch still on the tree, with reeds and vines he can only cut from above the knot, with other trees he can only take the soft and thin branches and not from the main branch, only from the new branches that do not bear fruit and not from the older ones that bear fruit, only from a shady area and not from an area that faces the sun.
  - **Rabbah bar R' Huna** said that when taking water he must pay the owner. The Gemara says the halacha does not follow **Rabbah bar R' Huna** regarding this.
  - A Braisa says, initially the Shevatim agreed among themselves that no one can block boats in the Kineret, but all may fish there.
    - A Braisa says, the Kineret is in the portion of Naftali, and Naftali also got a small piece of land on the south side large enough to use for its fishing.
    - A Braisa says, **R' Shimon ben Elazar** says, detached trees found on the mountains in EY were considered to belong to everyone, whereas trees in the ground belong to the Shevet in whose portion it was found. Also, the portion of every Shevet had mountains, lowlands, open plains, and valleys.

- **R' Acha bar Yaakov** said, the chiddush here is that the person may even take a stone from the wall to use to clean himself after going to the bathroom. **R' Chisda** said, this may even be done on Shabbos. **Mar Zutra Chasida** would return the stone to the wall after using it, and would tell his attendant during the week to go and cement it back in place.
- **R' Pappa** said, in Bavel the nature of the soil is such that walking on it after the dew would be harmful to it.
- **Shmuel and R' Yehuda** were walking in Bavel and **Shmuel** began walking off the road (in a private reshus). **R' Yehuda** said to him, are the conditions that Yehoshua enacted in EY applied in chutz laaretz as well? **Shmuel** said, I hold that they apply even in chutz laaretz.
  - **Rebbi and R' Chiya** were walking and moved to the side of the road to avoid hazards. **R' Yehuda ben Kenusa** was walking ahead of them, and he remained on the road. **Rebbi** asked **R' Chiya**, who is that person up ahead who is trying to show greatness by not walking on the side when he is really allowed to? **R' Chiya** said, I think it is my talmid **R' Yehuda ben Kenusa**, who does all his actions for the sake of Heaven (and not to try and show greatness). They caught up to him and saw it was him and **Rebbi** told him, if you weren't **Yehuda ben Kenusa** I would have put you in cheirem!
- A Braisa says, if a person sees someone lost in a vineyard, he may cut his way to get him out. Also, if a person is lost in a vineyard he may cut himself out.
  - **Q:** What is meant by "also"? **A:** We would think, when someone else, who knows the way, is helping, he will keep the damage to a minimum, and can therefore cut, but one who is totally lost may not do so.
  - **Q:** We learn from a pasuk that we must help find a person who is lost, so it would seem that D'Oraisa we can cut the vineyard. What did Yehoshua add? **A:** D'Oraisa he would have to walk him out to the boundary and walk all the way around. Yehoshua came and said he can just cut his way through.
- **Q:** A Braisa says that a meis mitzvah is moved to the side of the road, or to a less developed field and not buried exactly where he is found!? **A:** **R' Bibi** said, this Braisa is talking about a meis mitzvah who is found lying across the entire road. The meis must be moved to allow Kohanim to walk over this road. Once the meis is moved, we may move it to the side of our choice.
- **Q:** How can we say there are 10, when in fact there are 11 (which we listed as 7a and 7b)!? **A:** 7b was actually enacted by Shlomo Hamelech, as a Braisa darshens this halacha from a pasuk in Mishlei.
- **Q:** Are there only 10 such conditions of Yehoshua? We find that **R' Yehuda** says that Yehoshua stipulated that during certain times of the year people can leave their manure in the streets so that people and animals walk on it and make it fit to use as fertilizer!? We also find that **R' Yishmael the son of R' Yochanan ben Broka** says that it was enacted by Yehoshua that the owner of bees that took up living in another person's tree may cut the branch of that tree off to take back his bees, and it was enacted that one should spill out his wine to use his barrel to save the more expensive honey of someone else that will otherwise be lost, and that one should unload his wood off his donkey to save the more expensive flax of someone else!? **A:** We don't list enactments that are the view of a single opinion. The 10 we listed are agreed to by the majority.
  - **Q:** We find that **R' Avin in the name of R' Yochanan** said that Yehoshua enacted that if a tree has branches hanging over another's property, or is within 16 amos of another's property, the tree owner is not considered to be stealing nutrients from the other property, and therefore the owner of the tree can bring bikkurim from that tree and say the parsha as well!? **A:** The Braisa that said there are only 10 follows **R' Yehoshua ben Levi**, who argues with **R' Yochanan** and says there was no enactment for bikkurim. In fact, we find that **R' Geviha of Bei Kasil** taught the first Braisa as being said by **R' Tanchum and R' Biryas in the name of R' Yehoshua ben Levi**.