



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

### Bava Kamma Daf Pey Ches

HACHOVEL B'EVED KNAANI SHEL ACHEIREM CHAYUV...

- **Q:** Why does **R' Yehuda** hold that slaves do not get paid for embarrassment? **A:** The pasuk regarding boshes says "ish v'achiv", which refers to Yidden. The **Rabanan** hold that an eved Knaani is also referred to as a "brother", because he is also chayuv in mitzvos.
  - **Q:** According to **R' Yehuda** we should say that the eidim zomemim who wanted to put a slave to death should not be put to death, because the pasuk says "kasher zamam laasos l'achiv"!? **A:** **Rava in the name of R' Sheishes** said, we would put them to death to fulfil the pasuk that tells us "uvi'arta harah mikirbecha".
  - **Q:** According to the **Rabanan**, a slave should be fit to be a king (which the pasuk says must be "from your brothers")!? **A:** If the pasuk is to be understood simply, there is even a question on **R' Yehuda**, because a ger should surely be fit, and yet he is not. Rather, when the pasuk says "mikerev achecha", it refers to the "choicest of your brothers".
  - **Q:** The pasuk regarding witnesses also uses the word "brother", and therefore according to the **Rabanan** a slave should be a valid witness!? **A:** **Ulla** said, we can't say that he should be a valid witness, because we can darshen a kal v'chomer from a woman, that he is not valid. If a woman, who may marry into Klal Yisrael, is not a valid witness, then surely a slave, who may not marry into Klal Yisrael, is not a valid witness.
    - **Q:** Maybe a woman is invalid because she is not fit to have a bris milah, but a slave, who is, can be a valid witness? **A:** A minor is fit for bris milah, and is still not a valid witness.
    - **Q:** Maybe a minor is not valid because he is not chayuv in mitzvos, but a slave who is, should be a valid witness? **A:** A woman is chayuv in mitzvos and is still not a valid witness. The common characteristics between a woman and a minor are that they are not chayuv in all mitzvos (only some) and they are passul to be a witness. I can also say that a slave, who is also not chayuv in all mitzvos (only some) is also passul to be a witness.
      - **Q:** Maybe the commonality of a woman and a minor is that they lack the status of being a man, whereas a slave is a man, and therefore can be a valid witness? **A:** We will learn that a slave is passul from a gazlan, who is passul even though he is a man.
      - **Q:** Maybe a gazlan is passul because of his actions, but a slave did not do anything wrong and is therefore different than a gazlan? **Q:** We will learn it from a combination of a gazlan and either a woman or a minor.
  - **Mar the son of Ravina** darshens the pasuk of "lo yumsu avos ahl banim", to teach that a person can't be put to death based on the testimony of someone who doesn't have a yichus relationship with his son (which is the case for a slave).
    - **Q:** Based on this drasha, we should darshen the next words of the pasuk in a similar fashion, and should say "ubanim lo yumsu ahl avos" means that a son who has no yichus to his father is also a passul witness, which would mean that a ger is a passul witness!? **A:** A slave has no yichus to his father or to his children. A ger has yichus to his children, and that is why he would be valid. We can prove this, because if a ger was passul, the pasuk should be written in a way to teach that a ger is passul, and we can then learn that a slave is passul from a kal v'chomer.

- The mother of **R' Shmuel bar Abba** remarried to **R' Abba** (different than the father of **Shmuel**). She wrote over all of her property to her son (so that her husband should not inherit her). After she died, **R' Yirmiya bar Abba** said the property belongs to **R' Shmuel bar Abba**. **R' Abba** (the husband) went and told **R' Hoshaya** what happened, who then told **R' Yehuda**, who said, **Shmuel** said, if a wife sells her melog property and then dies, the husband may take the property back from the buyers (and therefore this property can be taken back from the son). When **R' Yirmiya bar Abba** heard this he said, I have paskened based on a Mishna. The Mishna says, if a father writes over his properties for his son to acquire them after his (the father's) death, the son cannot sell the property during the father's lifetime, because they are still in the father's possession, and the father cannot sell it, because they have been written over to the son. If the father does sell it, the buyer only has rights in it until the father dies. If the son sold it, the buyer only gets rights in it once the father dies. Now, the Mishna seems to say that when the son sold it, the buyer will get rights to the property after the father dies, even if the son ultimately died before the father. This follows the view of **Reish Lakish**, who argues on **R' Yochanan**, who says that if the son never took possession, his buyer would get no rights to the property. **R' Yirmiya bar Abba** explained, since we hold like **Reish Lakish**, whose view is based on the principle that ownership of the produce is not tantamount to ownership of the property, if so, a husband's rights to his wife's melog cannot stop her from giving that property away, and that is why the son, **R' Shmuel bar Abba** gets the property. **R' Yehuda** responded, that **Shmuel** said, the case of the mother and son is not like the case of this Mishna. **R' Yosef** explained, if the Mishna was trying to prove this point, it would have given the case of a son who wrote his property to his father. However, as written, the Mishna doesn't prove anything, because since the son stands to inherit the father, it may be that is why his sale is valid even before he takes possession, and the reason is not because ownership of rights to produce is not tantamount to ownership of the property. **Abaye** said, a father inherits a son just as a son inherits a father. You must mean that if the Mishna said the case of the son who wrote his property to his father, the son did so to prevent his own son from inheriting, and if the father's sale of the property would be valid, that would prove that the son's ownership of the produce is not tantamount to ownership of the property. Now, the Mishna, as written, can be understood in a similar way. The case can be where the father gave the property to his son to prevent his other sons from inheriting the property. Therefore, that property does not come with inheritance rights, and therefore by saying that the sale of the son is valid, it proves that the father's ownership of the produce is not tantamount to ownership of the property.
  - **Q:** If so, what did **Shmuel** mean when he said that the case of the mother and son is not like the case of the Mishna? **A:** The case of a wife selling her melog property is a special enactment done in Usha, which said that if a woman sells her melog property during her husband's lifetime, the husband may take the property from the buyers. Therefore, **R' Abba** would be able to prevent **R' Shmuel bar Abba** from getting the property.
    - **R' Idi bar Avin** said, we can prove this from a Braisa. The Braisa says, if witnesses say they saw a woman get divorced and receive her kesubah, and they are found to be zomemim, we don't make them pay the entire amount of the kesubah to the woman, only the discounted value of her kesubah. A kesubah has a discounted value because it is only collectible upon divorce or if the husband dies first. If the wife were to die first it would be uncollectible. Therefore, it would trade at a discount. Now, why can't the woman sell her kesubah while she is alive and the buyer can then collect even if she were to die first? It must be because of the enactment in Usha, that does not allow her to do so.
      - **Abaye** said, this is no proof. The Braisa is discussing the kesubah payments, to which a husband has a much stronger claim (as "tzo barzel") than to her melog property. Therefore, just because she can't sell rights to her kesubah if she were to die first, would not mean that she could not sell rights to her melog if she were to die first.