



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

Bava Kamma Daf Tzaddik

- The Gemara had suggested that two Braisos argue regarding whether we say ownership of the rights to produce is considered to be ownership of the asset itself. The Gemara said, we find that this is the subject of a machlokes among Tanna'im. A Braisa says, if a person sells his slave with the agreement being that the slave should continue to work for the seller for another 30 days, **R' Meir** says the seller is considered the owner of the slave during those 30 days for purposes of "yom oy yomayim" (if a person kills a slave he is chayuv misah, however, if the owner hits the slave and the slave dies more than 24 hours later, the owner would not be chayuv misah), because the slave is still under his control. [The Gemara says, we see that **R' Meir** holds ownership of the "produce" is considered ownership of the asset (the slave) itself]. **R' Yehuda** says, the buyer is considered to be the owner for purposes of "yom oy yomayim", because the slave is his property. [The Gemara says, we say that **R' Yehuda** holds that ownership of the produce is not considered ownership of the asset itself]. **R' Yose** says, they are both included in the halacha of "yom oy yomayim" – the seller, because he has the slave under his control, and the buyer, because the slave is his property. [The Gemara says, **R' Yose** is uncertain whether ownership of the produce is considered ownership of the asset, and because the result deals with putting someone to death, we must go l'kulah]. **R' Eliezer** says, neither of them are included in the halacha of "yom oy yomayim" – the seller is not, because the slave is not his property, and the buyer is not, because the slave is not under his control.
 - **Rava** said, **R' Eliezer's** view is based on the pasuk of yom oy yomayim, which says "ki kaspo hu" (it is *his* property), which teaches that the slave must belong *solely* to the master.
 - **Q:** Who does **Ameimar** follow when he says that if a husband or wife sell melog property they have accomplished nothing? **A:** That follows **R' Eliezer** of this Braisa.
 - **Q:** Who is the Tanna of the Braisa that says that a slave that is half-freed, or a slave owned by partners, does not go out free if one of his limbs are knocked off by the master? **A:** **R' Mordechai** said to **R' Ashi**, that **Rava** said it follows **R' Eliezer**, who says in the Braisa that the slave must be "his property", and would similarly say here that the slave must be "his slave" to go out free in such a way.

MISHNA

- If a person hits another in the ear, he must give him a sela for boshes. **R' Yehuda in the name of R' Yose Haglili** says he must give him a maneh (25 sela). If he slapped him across the face he must give him 200 zuz. If he slapped him with the back of his hand, he must give him 400 zuz. If he pulled his ear, pulled his hair, spat at him and it reached him, removed his cloak from him, or uncovered the hair of a woman in the marketplace, he must pay 400 zuz.
 - The general rule is that the amount depends on the victim's status (the higher his status, the more embarrassing one of these things is). **R' Akiva** said, even the poor of Klal Yisrael are treated as people of high status who have lost their money, because all Yidden are the children of Avrohom, Yitzchak, and Yaakov.
 - It once happened that a person uncovered the hair of a woman in the marketplace. She went to **R' Akiva** and he said the man must pay her 400 zuz. The man asked for time to pay and was granted the time. He then waited outside her chatzer, and when she came out he broke a jug containing oil in the value of an issur. When she saw this, she uncovered her hair and took the oil and rubbed it into her hair. The man had people witness this event. He then went to **R' Akiva** and said, how can you make me pay this large sum of money to this woman for uncovering her head in public, when she did it to herself for a small amount of oil!? **R' Akiva** said, that is no argument. Although a person

may not wound himself, if he does he is patur. Yet, if he is wounded by someone else, the mazik is chayuv. Also, although a person may not cut down his trees, if he does he is patur. Yet, if someone else cuts down his trees, the mazik would be chayuv.

GEMARA

- **Q:** When **R' Yose Haglili** said he must pay a maneh, was he referring to the more expensive maneh of Tzuri, or the less expensive regular maneh? **A:** It once happened that a person hit another in the ear and **R' Yehuda Nesiah** said, "Here I am and here is **R' Yose Haglili**, so go give a maneh of Tzuri". We see that he meant a maneh of Tzuri. **SHEMA MINA.**
 - **Q:** What did he mean by "here I am, and here is **R' Yose Haglili**"? If it meant "here I am who saw you hit the person and here is **R' Yose** who holds that you are chayuv a maneh of Tzuri", that would mean that he was a witness who was then acting as a judge, and a Braisa says that a witness may not also be the judge!? **A:** The Braisa doesn't allow it when they saw an incident at night (when a case may not be held) and then wanted to judge the next day. The case of **R' Yehuda Nesiah** was where he saw it and judged on the same day, which would be allowed. **A2: R' Yehuda Nesiah** meant to say, "here am I, who holds like **R' Yosef Haglili** that you are chayuv to pay a maneh of Tzuri, and here are witnesses who saw the act, so go and pay".
 - **Q:** The Braisa just quoted, says that **R' Akiva** holds that a witness cannot act as a judge. A Braisa says, **Shimon Hateimani** says that the weapon of a murder has to be presented to Beis Din for inspection (to see if they find that it could have caused the death), and if it is not, the murderer will not be put to death. **R' Akiva** said, did the murderer hit the victim in front of Beis Din so that they can know how many times he was hit, and on what part of the body? If the murder was done by pushing someone off a building, do we make Beis Din travel to look at it? Do we bring it to Beis Din? If it was destroyed, do we make them rebuild it to see it? Rather, just as we rely on the witnesses for everything else, as long as the witnesses saw the weapon and determined that it was capable of killing, we rely on them for that as well. Now, **R' Akiva** said, "did the murder happen in front of Beis Din?", which suggests that if it did take place in front of them, they would be able to act as witnesses and judges!? **A:** He was answering according to the logic of **Shimon Hateimani**, but he himself did not truly hold that way.
 - A Braisa says, if an ox that is a tam killed someone and then did damage to someone else, it is judged for the capital case and not judged for the monetary case. If a muad killed someone and then did damage to someone else, it is judged for the monetary case first and then judged for the capital case. If they first judged the muad for the capital case, they do not go back and then judge it for the monetary case.
 - **Q:** Why can't they go back and judge the muad for the monetary case? **A: Rava** said, I found the **Rabanan** of the yeshiva of **Rav** who said this Braisa follows **Shimon Hateimani**, who says the weapon of the killing or the damage must be inspected by Beis Din. In this case, since the ox (which is the "weapon") was sentenced to death, we will not delay the killing of the ox so that Beis Din can inspect it for the monetary case. **Rava** said, I told the **Rabanan** that the Braisa can even follow **R' Akiva** (who does not require beis Din to examine the weapon), and the case is that the owner ran away, preventing a monetary case from taking place (because the defendant must be present to conduct a case).
 - **Q:** If the owner ran away, then even if the monetary case was to be done first, it could not be held!? **A:** The case is that Beis Din accepted testimony of the witnesses and the owner then ran away, leaving no assets from which to pay for the damage. Therefore, if the capital case was not yet held, the ox can be given to the damaged party as payment.
 - **Q:** What good will giving him the ox do? As soon as the capital case is held, the ox will be taken away and killed!? **A:** We allow the damaged party to rent out the animal and thereby collect

money for his damages. After he has done so, we then hold the capital case.

- **Q:** Why don't we do the same thing if the ox was a tam? **A:** **R' Mari in the name of R' Kahana** said, the money from renting out the animal is considered an asset of the owner (it is not considered to be the body of the animal itself), and a tam only pays from the body of the animal.