



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

Bava Kamma Daf Tzaddik Daled

- **Abaye** said, **R' Shimon ben Yehuda, Beis Shammai, R' Eliezer ben Yaakov, R' Shimon ben Elazar, and R' Yishmael** all hold that when something undergoes a change it does not cause it to change possession.
 - **R' Shimon ben Yehuda** – as was seen in the Braisa quoted previously.
 - **B"S** – we see this in a Braisa where **B"S** darshen a pasuk to teach that the payment given to a zonah which then underwent a change (she was paid in wheat, and it was turned into flour) may still not be used for a Korbon. We see that they hold that it is still considered to be the original item, and would therefore not effect kinyan in our case either.
 - **R' Eliezer ben Yaakov** – we see this in a Braisa where he says that if someone steals wheat, grinds it into flour and makes bread, he cannot make a bracha on it, because it is considered to be a stolen item.
 - **R' Shimon ben Elazar** – we see this in a Braisa, explained by **R' Sheishes**, where **R' Shimon ben Elazar** says, if a ganav steals and the item then changes and depreciates, he may still return the actual item and be patur.
 - **R' Yishmael** – we see this in a Braisa where he says that although the mitzvah is to separate pe'ah while the produce is still attached to the ground, if pe'ah was not separated and the produce was already cut, ground and made into a dough, there would still be a chiyuv to separate pe'ah at that point. We see that physical change does not render the item as a different item.
 - **Q: R' Pappa** asked **Abaye**, did all these Tanna'im go and follow **B"S**? **A: Abaye** said, they held that **B"H and B"S** do not argue about this.
 - **Q: Rava** asked, why do you think all these Tanna'im must hold that a change does not effect kinyan? Maybe **R' Shimon ben Yehuda** only holds that way regarding dye, which can be washed off? Maybe **B"S** only hold that way regarding a korbon, because to bring that item for a korbon is considered to be disgusting? Maybe **R' Eliezer ben Yaakov** only holds that way regarding a bracha, because the mitzvah came about through an aveirah? Maybe **R' Shimon ben Elazar** only held that way regarding a depreciation that is reversible? Maybe **R' Yishmael** only held that way regarding pe'ah, because of the extra word "taazov" in the pasuk, as we see that **R' Yonason** thought that **R' Yishmael's** view may be based on this word of "taazov".
 - **R' Yehuda in the name of Shmuel** said, the halacha follows **R' Shimon ben Elazar**.
 - **Q:** We find that **Shmuel** says that we do not assess the loss of an item for a ganav to allow him to give back the item and the loss, rather he must keep the damaged item and give back the full value. Now, according to **Rava** we can say that **Shmuel** paskened like **R' Shimon ben Elazar** in a case of depreciation that is reversible, and in the case of the ganav he was talking about a change that was irreversible. However, according to **Abaye**, who says that **R' Shimon ben Elazar** was talking about depreciation that was irreversible, how can **Shmuel** pasken like him and also hold the way he does regarding a ganav!? **A: Abaye** will say as follows: **R' Yehuda in the name of Shmuel** said, they have said that the halacha follows **R' Shimon ben Elazar**, but **Shmuel** himself does not hold that way.
 - **R' Chiya bar Abba in the name of R' Yochanan** said, D'Oraisa, if a stolen item was changed, it is returned to the owner as is (a change does not effect a kinyan), as the pasuk says "v'heishiv es hagzeila asher gazal". If you will ask that our Mishna says that if the gazlan changed the wood into a keili he just pays for the value and does not give back the actual item, I will tell you that the reason behind the Mishna is a takana to help

the gazlan do teshuva, by not requiring him to give up the work he put into making the keili.

- **Q:** We know that **R' Yochanan** paskens like an anonymous Mishna, and there is an anonymous Mishna that says that a physical change *does* effect kinyan!? **A:** **R' Yaakov** said, **R' Yochanan** was talking about a reversible change. It is that type of change that does not effect kinyan D'Oraisa.
- A Braisa says, if a gazlan or one who lent with interest want to do teshuva and offer payment to the one they harmed, the person should not accept the payment from them, and if the person does take it, the **Chachomim** are not happy with such a person. This was done to assist those who want to do teshuva, and not have them hold back from doing so out of fear of the financial consequences.
 - **Q:** A Braisa says, if heirs inherit money that their father got by charging interest, they do not need to return the money to the person it was taken from. This suggests that this is a special halacha for heirs, but the people themselves would have to return the ill-gotten gains!? **A:** In truth their father would not have had to return the money either. It is just that the end of the Braisa discusses that if the interest was a recognizable item the heirs should return it so as not to embarrass their father, the beginning of the Braisa also talks in terms of the heirs.
 - **Q:** Why would they have to take pains to avoid embarrassing their father, when it was he who did the aveirah!? **A:** The case is that the father did teshuva but didn't have time to return the item before he died. In that case the children do have an obligation to respect him, to prevent further embarrassment.
 - **Q:** A Braisa says, gazlanim and lenders with interest [which the Gemara explains to be one case – gazlanim, who have lent with interest], must return it. This contradicts the earlier Braisa!? **A:** They must offer to return it, to discharge their chiyuv, but the people should not accept it back from them.
 - **Q:** A Braisa says that shepherds and tax collectors have a hard path to teshuva (because they steal from so many people) and they should return what they stole to those who they know they stole from. This contradicts the earlier Braisa!? **A:** They must offer to return it, to discharge their chiyuv, but the people should not accept it back from them.
 - **Q:** If so, why do they have a "hard path to teshuva"? Also, the Braisa then says that for the people they don't know, they should spend money for the tzibbur. We see the Braisa means that the money must actually be given back!? **A:** This Braisa is discussing before the enactment was made to assist the people in doing teshuva, and the earlier Braisa was done after the enactment. **A2:** Based on **R' Nachman**, who says that where the actual stolen item is in existence, even after the enactment it must be returned, we can say that both Braisos are discussing after the enactment. The earlier Braisa is discussing where the item no longer exists, and the later Braisa is discussing where it still exists.
 - **Q:** We have learned that the **Rabanan** enacted that if a beam was stolen and put into a house, it need not be removed and returned. We see that even when it still exists, it does not need to be returned!? **A:** Since removing the beam would cause a significant loss, the **Rabanan** considered the beam as if it no longer exists.