



Daf In Review – Weekly Chazarah

Maseches Bava Kamma, Daf ל – Daf גג

Daf In Review is being sent I'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen,

A"H vI'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

-----Daf ל---37-----

MISHNA

- An ox that is a muad to gore other oxen, but not other types of animals, or if it is a muad to gore people, but not for animals, or for small animals and not for large animals, if the animal damages the class that it is a muad for the owner would have to pay full damages. If it damages another class, the owner would only pay half damages.
 - They asked **R' Yehuda**, what would be the halacha for an animal that is a muad to gore on Shabbos, but not during the week? He answered, if it gores on Shabbos the owner will have to pay full damages, and if it gores during the week, he would only pay half damages. This animal can go back to being a tam when it goes by three Shabbosos without goring.

GEMARA

- **R' Zvid** said that the Mishna should be read as saying “an ox that is a muad to gore other oxen, but not other types of animals...” (the Mishna is giving the circumstances of the case). **R' Pappa** said the Mishna should be read as saying “an ox that is a muad to gore other oxen is not a muad for other types of animals” (the Mishna is giving a ruling).
 - According to **R' Zvid**, the Mishna is saying the ox is not a muad for animals, because we know it to be so, but if we didn't, it would be a muad for everything. According to **R' Pappa**, if we don't know it to be a muad for other animals, it is not a muad for other animals.
 - **R' Zvid** learns this from the end of the Mishna, where it says that “an animal that is a muad to gore small animals is not a muad to gore large animals”. According to **R' Zvid**, this would mean that it is known not to be a muad to gore large animals. The chiddush is, that if that was not known, we would assume that it is a muad for large animals, which is a chiddush, because an animal would more easily gore a small animal than a large animal, and would therefore not automatically be a muad for large animals. However, according to **R' Pappa**, the Mishna is ruling that an animal that is a muad to gore small animals is not a muad to gore large animals. That seems obvious! Rather, **R' Zvid's** understanding must be the correct one. **R' Pappa** would say that it is not obvious, because we would think that once it is established as a muad for a particular type of animal, it is a muad for all sizes of that animal.
 - **R' Pappa** learns his view from the earlier part of the Mishna, where it said that an animal that is a muad for people is not a muad for animals. According to **R' Pappa** this is issuing a ruling that being a muad for people does not make the animal a muad for animals, which is a chiddush. However, according to **R' Zvid**, this means that if he is a known muad to people we assume it is also a muad for animals. Now, this is unnecessary to say, because we have already said that being a muad for one type of animal creates an assumption of muad for all types of animals, so surely being a muad for a person will make the animal a muad for animals! Rather, **R' Pappa's** understanding must be the correct one. **R' Zvid** would say that that case of the Mishna refers to where the animal was a muad for people and for animals, and then it walked by 3 animals without goring, in which case it becomes a tam for animals again, but remains a muad for people. We would have thought that since it remains a muad for people it should also remain a muad for the animals. The Mishna therefore teaches that it has effectively reverted to a tam for animals although it remains a muad for people.
 - **Q:** According to **R' Zvid**, the result is that an animal that is a muad for people is assumed to be a muad for animals as well. However, a Braisa says that **Sumchos** says that a muad for people is a muad for animals based on a kal v'chomer – if it is a muad for people (who have mazal), then surely it is a muad

Daf In Review – Weekly Chazarah

for animals (who don't have mazal). Now, if **Sumchos** says this way, it must mean that the **Rabanan** argue and say not like him, which would mean that **R' Zvid** is arguing on the **Rabanan**!? **A: R' Zvid** will say that **Sumchos** is speaking about a case of the animal reverting back to being a tam while remaining a muad for people. It is about that case that the **Rabanan** say it can revert even if only for animals, and the **Sumchos** says it cannot. However, all may agree that a muad for people is assumed to be a muad for animals as well.

- **R' Ashi** said we can bring a proof for the view of **R' Zvid**. In our Mishna the talmidim asked **R' Yehuda** regarding an animal that is a muad to gore on Shabbos, but not to gore during the week. According to **R' Zvid**, the talmidim were giving the circumstances and were asking for a halachic ruling. However, according to the way that **R' Pappa** understands the rest of the Mishna, the talmidim here would be issuing a ruling to their rebbi, **R' Yehuda**! Also, how would we then understand the answer of **R' Yehuda**!? Therefore, it must be that **R' Zvid's** understanding is correct.
- **R' Yanai** said, we can also bring a proof from earlier in the Mishna. The Mishna says "if it damages the class that it is a muad for, it pays full damages, and if it damages another class, it pays half damages. Now, according to **R' Zvid**, the Mishna first gave the circumstances and is now giving the ruling. However, according to **R' Pappa**, the Mishna already gave the ruling, so why is it repeating it now? You can't say that now it means to give the ruling in terms of level of payment, because it has been well established that a muad pays for full damages and a tam pays for half. Again, it must be that **R' Zvid's** understanding is the correct one.
- Even if we want to say like **R' Pappa** (that a muad for one animal is not assumed to be a muad for another type of animal), if an animal gored an ox, then a donkey, and then a camel, it becomes a muad for all animals.
- A Braisa says, if an ox saw another ox and gored it, saw a second ox and did not gore it, saw a 3rd and gored it, saw a 4th and did not gore it, saw a 5th and gored it, and then saw a 6th and did not gore it, it becomes a muad to gore every second ox.
 - A Braisa says, if an ox saw another ox and gored it, saw a donkey and did not gore it, saw a horse and gored it, saw a camel and did not gore it, saw a mule and gored it, and then saw a wild donkey and did not gore it, it becomes a muad to gore every second animal (of any type).
 - **Q:** What is the halacha if an ox gored an ox, a second ox, a third ox, a donkey, and then a camel? Do we say that the 3rd ox completes its being a muad for oxen, and it is not a muad for anything else, or do we say that the third ox is included in a group of the last 3 animals, and therefore makes the goring ox into a muad for all animals? **Q2:** What about if the ox gored a donkey, a camel, an ox, a second ox, and then a third ox? This would be the first question in reverse. **Q3:** What about if the ox gored on Shabbos, and the following Shabbos, and the 3rd Shabbos, and then on Sunday, and then on Monday? Does the last Shabbos get grouped with the first two Shabbosos, so that it only becomes a muad for Shabbos, or does it get grouped with the Sunday and Monday and thereby become a muad for all days? **Q4:** What about where it gored on Thursday, Friday, Shabbos, the following Shabbos, and the third Shabbos? This would be the immediately previous question in reverse. **A: TEIKU.**
- If an ox gored on the 15th of this month, the 16th of the next month, and the 17th of the third month, there would be a machlokes between **Rav and Shmuel**. We find that regarding setting a pattern for purposes of niddah, **Rav** says that a woman who saw blood on the 15th of this month, the 16th of the next month, and the 17th of the third month is considered to have set a pattern, and **Shmuel** says that in order to set a pattern she would need to see blood again on the 18th of the following month (to have three periods of a month and a day in between). Presumably, the same machlokes would hold true regarding the ox as well.
- **Rava** said, if an ox heard a shofar and gored, heard it a second time and gored again, and then heard it a third time and gored again, the ox becomes a muad to gore when it hears a shofar.
 - **Q:** This seems obvious!? **A:** We would think that the first shofar it heard only sacred it, and should therefore not be counted in the count to become a muad. **Rava** therefore teaches that it does count for purposes of muad.

Daf In Review – Weekly Chazarah

MISHNA

- If an ox of a Yid gores an ox of hekdesch, or visa-versa, the owner is patur, based on the pasuk's use of the term "shor rei'ayhu", which we darshen to exclude a shor of hekdesch.
- If the ox of a Yid gores the ox of a goy, he is patur. If the ox of a goy gores the ox of a Yid, whether the goy's ox is a tam or a muad, the owner must pay for full damages.

GEMARA

- The Mishna does not follow **R' Shimon ben Mensya**, who says in a Braisa that if an ox of hekdesch gores it is patur, but if an ox of a Yid gores an ox of hekdesch it must pay full damages even if it is a tam.
 - **Q:** What is the reasoning of **R' Shimon ben Menasya**? If he darshens "rei'ayhu" then the Yid should be patur when his ox gores hekdesch!? If he doesn't darshen it, then even hekdesch should be chayuv!? If you say he darshens it, but says that a Yid must pay when his ox gores hekdesch based on a kal v'chomer – if he pays when he gores another Yid, he surely must pay when he gores hekdesch – then he should only pay half damages when he is a tam, because of the concept of dayo!? **A: Reish Lakish** said, for all cases of damages the mazik must pay full damages. The pasuk comes along and creates a leniency, that for a tam the mazik only pays half damages. However, that leniency is written with the term "rei'ayhu", which therefore teaches that the leniency only applies when the tam gores another Yid, not when it gores hekdesch. If "rei'ayhu" meant to fully exempt any payment to hekdesch, the word should have been written regarding an ox that is a muad. Since it was written regarding a tam, we learn that it only applies to the halacha of a tam.

-----Daf 38-----

SHOR SHEL YISRAEL SHENAGACH SHOR SHEL KNAANI PATUR

- **Q:** If we darshen the word "rei'ayhu" to exclude a goy, then a goy should be patur when his ox gores a Yid's ox, and if we don't, then a Yid should be chayuv when his ox gores the ox of a goy!? **A: R' Avahu** darshened a pasuk to teach that when Hashem saw that the goyim were not keeping the 7 mitzvos Bnei Noach, He released their money to the Yidden (in the sense that the goy has to pay when his ox gores the ox of a Yid, although based on "rei'ayhu" he should not have had to pay). **R' Yochanan** made this same drasha based on another pasuk. A Braisa brings both of these pesukim as the reason that a goy must pay when his ox gores the ox of a Yid. The Gemara says that the Braisa brought the second pasuk as well, because we find that others use the first pasuk for other drashos. Therefore, the second pasuk is certainly available for this drasha. We find that **R' Masna** uses the first pasuk to teach that when the goyim didn't keep their mitzvos Hashem put them into galus. **R' Yosef** uses the first pasuk to teach that when the goyim didn't keep their mitzvos Hashem released them from having to keep their mitzvos. This was a punishment, as **Mar the son of Ravina** explains, because it results in that even if they do the mitzvos, they will not get rewarded for it. Although a Braisa says that a goy does get rewarded, he will not get the greater reward of a person who does a mitzvah that he is commanded to do (whose reward is greater than someone who does a mitzvah that he was not commanded to do).
 - A Braisa says that the Roman government sent two officers to the **Chachomim** to learn Torah. The **Chachomim** taught it to them, reviewed it, and reviewed it again. As they were leaving, the officers told them, we have examined all of Torah, and it is all true and equitable, except for the halacha that a Yid does not have to pay when his ox gores the ox of a goy, and yet a goy must pay full damages when his ox gores the ox of a Yid! The officers said, if we darshen "rei'ayhu" then the goyim should also be patur, and if we don't, the Yidden should also be chayuv!? They said, although we have this inconsistency, we will not tell it over to the government.
- The Gemara tells how **Ulla** went to be menachem avel **R' Shmuel bar Yehuda** after the passing of his daughter. He darshened the pasuk where Hashem told Moshe Rabbeinu not to fight Moav. He explained that Hashem wanted Amon and Moav to remain in existence to allow for the birth of Naamah and Rus. **Ulla** said, you see, that if a person still has potential, Hashem would not allow them to be killed. If Hashem allowed your daughter to pass, it must be that her full potential was reached.

Daf In Review – Weekly Chazarah

- **R' Chiya bar Abba in the name of R' Yochanan** said, we learn from the story of Lot and his daughters that Hashem does not withhold reward even for one's use of finer speech. Regarding the son of the older daughter, who called her son Moav (meaning "from my father") and announced to all that he was the product of incest, Hashem told Moshe that the Yidden cannot fight a war with them, but this seems to allow the Yidden to harass them. Regarding the son of the younger daughter, Amon, whose name does not announce to all that he was the product of incest, Hashem told Moshe that the Yidden may not even harass the nation of Amon.
 - **R' Chiya bar Avin in the name of R' Yehoshua ben Korcha** said, a person should always try to do a mitzvah as soon as possible, because the older daughter of Lot, who did the "mitzvah" (in their minds it was a righteous act) one night earlier, merited to have her offspring join the Yidden four generations before the descendants of the younger daughter.
- A Braisa says, if the ox of a Yid gores the ox of a Kuti, he is patur. If the ox of a Kuti gores the ox of a Yid, a tam would pay half damages and a muad would pay full damages. **R' Meir** says if the ox of a Yid gores the ox of a Kuti, he is patur. If the ox of a Kuti gores the ox of a Yid, whether it is a tam or a muad it would pay full damages.
 - **Q:** This seems to say that **R' Meir** holds that Kutim are not considered to be Yidden. However, in another Mishna **R' Meir** says that the "dam nidah" of a Kuti is tamei, which means he holds they are Yidden!? **A:** **R' Avahu** said, in fact he considers them to be Yidden. However, he penalizes them to discourage regular Yidden from associating with them.
 - **Q: R' Zeira** asked, a Mishna says that if a Kutis is raped she is entitled to collect the penalty from the rapist. Now, according to **R' Meir** we should penalize her and not allow her to collect!? **A:** **Abaye** said, we allow her to collect so that the rapist not gain by not having to pay.
 - **Q:** Why don't we make the rapist pay, but take the money and give it to tzedaka, thereby making him pay but also not allowing her to collect!? **A:** **R' Mari** said, doing so would lead to no one feeling entitled to the money and therefore making that no one would claim and fight for the rapist to pay the money.

-----Daf 39-----

MISHNA

- If the ox of a competent person gored the ox of a deaf-mute, shoteh, or minor, the owner is chayuv. If the case was reversed, the owner would be patur.
- If the ox of a cheireish, shoteh, or katan gored, Beis Din appoints an apitrapis to watch over the ox, and testimony (about the goring) is then said in the presence of the apitrapis.
 - If the ox became a muad under the watch of the apitrapis, and the cheireish is then healed, the shoteh becomes sane, or the katan becomes an adult, **R' Meir** says the ox reverts to the tam status. **R' Yose** says it remains in its muad status.
- An ox that is trained to gore is not put to death if it kills a person. This is because the pasuk says "ki yigach" ("if it happens that an ox gores"), which excludes the case of an ox that is trained and gores when commanded to do so by the trainer.

GEMARA

- **Q:** The Mishna seems to contradict itself!? First it says that the if the ox of a cheireish, shoteh, or katan gored, they would not be chayuv, which would mean that we would not appoint an apitrapis to pay the half damages of a tam. However, the end of the Mishna then says that an apitrapis is set up to testify in his presence and to make the animal into a muad, which suggests that the apitrapis would pay the half damages as well!? **A:** **Rava** said, the Mishna means, that once the animal has been established as an animal that gores, at that time an apitrapis is appointed so that testimony can be said to make it into a muad, and to have it pay if it gores as a muad. However, the Mishna does not mean that any payment would be made while it is a tam.
 - **Q:** If the animal were to then become a muad and do damage again, who would be chayuv to pay? Would the incompetent owner have to pay or would the apitrapis have to pay? **A:** **R' Yochanan** said the owner would have to pay, and **R' Yose bar Chanina** said the apitrapis would have to pay.

Daf In Review – Weekly Chazarah

- **Q:** We find that **R' Yochanan** says the only time Beis Din makes minor orphans pay a debt is either when the debt is accruing interest or if the debt is for a kesubah, in which case the woman will be supported from the estate until it is paid. How can we say that he says the minors (or other incompetent owners) would have to pay for the damage!? **A:** We must reverse the shitos so that it is **R' Yochanan** who says that the apitrapis is the one would be chayuv.
- **Q:** **Rava** asked, although that would take care of the contradiction of **R' Yochanan**, it means that **R' Yose bar Chanina** holds that we make the children pay. This is difficult to say, because the halacha does not follow that, and **R' Yose** was a dayan, and would not hold that way!? **A:** Rather, do not reverse the shitos. **R' Yochanan** holds that the laws of damages are more stringent, and in such a case we would make the minors pay. He holds that if we were to make the apitrapis pay, no one would ever agree to serve as an apitrapis. **R' Yose** holds that we make the apitrapis pay, and when the minors get older he gets paid back from them.
- Whether an apitrapis is appointed to make payment for the damage done as a tam, is actuality subject to a machlokes among Tanna'im. A Braisa says, if the owner of an ox became a cheireish, or a shoteh, or if the owners went overseas, and the ox then gored, **Yehuda ben Nekusa in the name of Sumchos** said it remains a tam until testimony is given in front of the owners, and the **Chachomim** said we appoint an apitrapis and testimony is said in front of him. If the owners were then healed or returned, **Yehuda ben Nekusa in the name of Sumchos** said the ox reverts to being a tam until testimony is given in front of the owners, and **R' Yose** says it remains in its state of muad. Now, what does **Sumchos** mean in the beginning when he said it remains a “tam”? He can't mean that it never becomes a muad, because he later says that it “reverts back to a tam”, which means it had become a muad! Rather he uses “tam” in the sense that it remains “whole”, meaning that no payment is made as a tam. We see that he holds that we don't appoint an apitrapis to make payments for a tam. Whereas the **Chachomim** argue and say that we do.
 - With regard to the second case, the machlokes is whether the change of reshus changes the status from a muad to a tam. **Sumchos** holds that it does, and the **Chachomim** hold that it does not.
- A Braisa says, if the ox of a cheireish, shoteh, or katan gored, **R' Yaakov** says he must pay half damages.
 - **Q:** What animal is being discussed? If it is a tam, of course it should only pay half damages!? If it is a muad, then if it was guarded, it should pay nothing, and if it wasn't, it should pay for full damages!? **A:** **Rava** said, the case is where the animal was a muad, and where the owner did a low level guarding. **R' Yaakov** holds like **R' Yehuda** who says that a muad payment is made up of half payment of a tam and half for a muad, and he also holds like **R' Yehuda** that a low level guarding is enough to make a muad patur (but not for a tam, and that is why he only has to pay the tam portion, and not the muad portion). Finally, he holds like the **Rabanan**, that an apitrapis is appointed to pay for the damage done by a tam.
 - **Q:** **Abaye** asked, a Braisa says, if the ox of a cheireish, shoteh, or katan gored, **R' Yehuda** says he is chayuv, and **R' Yaakov** says he must pay half damages. We see that **R' Yaakov** argues with **R' Yehuda**!? **A:** **Rabbah bar Ulla** said, **R' Yaakov** is explaining, that when **R' Yehuda** says he is chayuv, he means for half damages.
 - **Q:** According to **Abaye**, who says that they do argue, what point do they argue about? **A:** The case would be where a muad was not guarded at all. **R' Yaakov** agrees with **R' Yehuda** that half the payment is for a tam, but he argues and says that an apitrapis is not appointed to pay for the damage of a tam. Therefore, he holds that only the half for the muad is paid.
 - **Q:** **R' Acha bar Abaye** said to **Ravina**, according to **Abaye**, who says that they argue, it makes sense why the Braisa must be discussing a case of muad (because according to **R' Yaakov** we would not appoint an apitrapis to pay for the damages of a tam). However, according to **Rava**, who said that they do not argue (and even **R' Yaakov** would agree that we appoint an apitrapis to pay for the damages of a tam), why doesn't the Braisa discuss a case of tam? It could either be talking where a low level guarding was done, and could follow **R' Yehuda**, who says that a muad is patur with such a guarding, but a tam would be chayuv, or it could be talking where no guarding was done at all and can follow **R' Eliezer ben Yaakov** (who says a muad and a tam would be patur with a low level guarding)!? The advantage of saying the Braisa discusses a tam

Daf In Review – Weekly Chazarah

is that it can then teach that **R' Yaakov** holds that we appoint an apitrapis to pay for the damage of a tam! **A: Ravina** said, by saying that the case is of a muad, he is actually teaching two things: that a muad is patur with a low level guarding and the tam piece remains in place, and that we appoint an apitrapis to pay for the damages of a tam.

- **Ravina** said, we can also say that **R' Yehuda** and **R' Yaakov** argue about a different point – whether a muad reverts back to a tam when it changes into a new reshus. For example, if the owner became healthy, or became an adult. In that case, **R' Yehuda** holds that the animal remains in its muad status, and **R' Yaakov** holds that this change in ownership status makes the animal revert back to being a tam.

-----Daf 70-----40-----

- A Braisa says, an apitrapis must pay for damages, but they do not pay kofer (if the animal kills somebody).
 - Presumably this is because the Braisa holds that kofer is paid to achieve a kaparah, and the minors do not need a kaparah. **R' Chisda** said, the Braisa follows the view of **R' Yishmael the son of R' Yochanan ben Broka**, as seen in a Braisa. The Braisa says, kofer is paid in the amount of the value of the nizek. **R' Yishmael the son of R' Yochanan ben Broka** says it is the value of the mazik. It seems that the **T"K** holds that kofer is a compensatory payment, which is why it is paid based on the value of the nizek, and **R' Yishmael** holds it is a kaparah, which is why it is based on the mazik.
 - **R' Pappa** said, it may be that they both agree that kofer is for kaparah, and the machlokes is only regarding the amount of the kaparah payment. The **T"K** learns from a gezeira shava that it is based on the nizek. **R' Yishmael** bases the value on logic, that the payment is to bring a kaparah for the mazik.
- **Rava** was praising **R' Acha bar Yaakov** to **R' Nachman**. **R' Nachman** told **Rava**, that he should bring **R' Acha** to him. When he came, **R' Nachman** told him “ask me a question”. **R' Acha** asked, if an ox that is owned by partners kills someone, do the partners pay kofer? They can't each pay a full kofer, because the Torah says that one kofer is paid, not two. They can't each pay half kofer, because only full kofer brings a kaparah!? While **R' Nachman** contemplated this question, **R' Acha** asked another question. A Mishna says that for eirechin obligations we take security for payment. We do not do so for a chatas or asham obligation. **R' Acha** asked, do we take security for a kofer obligation? On the one hand it is like a chatas obligation, since both bring kaparah, and therefore there is no need to take security, or maybe since the money goes to a person, and not to hekdesch, he doesn't feel the pressing need to pay, and we therefore do need to take security!? Also, maybe since he himself did not do the aveirah, rather it was his animal that did, he treats it more leniently, and therefore we have to take security to make sure he pays!? **R' Nachman** told **R' Acha**, “leave me alone, you have already quieted me with the first question!”
- A Braisa says, if a person borrowed an ox on the assumption that it was a tam, and it is found to be a muad, if it gored while in the possession of the borrower the owners must pay for half the damages and the borrower must pay for half. If an ox was borrowed and became a muad while in the possession of the borrower, and he then returned it to the owners and it gored there, the owners only pay for half the damage and the borrower is fully patur.
 - **Q:** In the first case of the Braisa, why is the borrower chayuv for anything at all? He should tell the owner that he only accepted to watch the ox as a tam!? **A: Rav** said, the case is that the borrower could tell that this ox had a tendency to gore. Therefore he should have watched it as such.
 - **Q:** Still, he should say that he borrowed a tam, not a muad, and therefore should not be responsible for a muad!? **A:** The owner can tell him, even if it was a tam you would be chayuv to pay for half damages. Therefore, now as well, you must pay for half damages.
 - **Q:** He should tell the owner, if it was a tam the damages would be paid from the body of the animal, and now that it is a muad I have to pay from my pocket!? **A:** The owner can tell him, even if it was a tam and was paid from the body of the animal, you would then have to pay me that value when you return the borrowed animal to me.

Daf In Review – Weekly Chazarah

- **Q:** He should tell the owner, if it was a tam I could have admitted the liability and been patur (this follows the view that payment for half damages is a penalty, and one who admits liability to a penalty is patur)!? Even according to the view that the half damages payment is not a penalty payment, he should say that he could have hidden the ox in the swamp, preventing any payment to be taken from its body, and therefore any payment at all!? **A:** The case is that Beis Din seized the ox for payment, at which time it was too late to admit liability, and too late to hide the ox.
 - **Q:** If so, the owners should not have to pay half the damages!? They should say to the borrower, you have given our ox to someone who we cannot litigate with, and therefore you must bear the burden of the full damages!? **A:** The borrower can tell the owners, if I would have given the ox back to you, Beis Din would have anyway seized it from you.
 - **Q:** They can tell him, if you would have returned the ox, we would have hidden it to prevent it being taken away from us!? **A:** He can tell them, the animal is a muad, and therefore you would have to pay from your pockets, irrespective of where the animal is.
 - **Q:** That is true if the owners have other possessions for Beis Din to collect from. What about if they have no possessions besides the ox? **A:** The borrower can tell them, the same way I am obligated to give the ox to you, I am also obligated to give it to the nizik, because you are responsible to give it to the nizik, and through the rule of **R' Nosson**, since I must give it to you, and you must give it to the nizik, I then must give it directly to the nizik.
 - **Q:** The Braisa said that when the ox is returned to the owners, it reverts to its tam status. That is based on the view that a change of reshus removes the muad status. However, the first case of the Braisa says that the muad status remains even though the ox went from the reshus of the owners to the reshus of the borrower!? **A:** **R' Yochanan** said, it must be that the Tanna of the first case is not the Tanna of the second case. **A2: Rabbah** said, the Braisa holds that a change in reshus does not change the muad status. The reason that it reverts to a tam in the second case is that the owners can say that the borrower is not fit to make the ox into a muad (because the borrower does not guard the ox like an owner would). **A3: R' Pappa** said, the Braisa holds that a change in reshus does change the muad status. The reason that it remains a muad in the first case is because the ox is never considered to fully leave the reshus of the owner, and therefore, going to the borrower is not a true change of reshus.

SHOR HA'ITZTADIN EINO CHAYUV MISAH...

- **Q:** An animal that killed a person is assur to be brought as a korbon. What about an animal like this, that was trained to gore, which is not put to death when it kills? **A: Rav** says it is valid to be brought as a korbon, because it is considered to be an oneis, which didn't kill by its own free will, and **Shmuel** says it is passul, because an aveirah was done with it.
 - **Q:** A Braisa says that **R' Shimon** says that a goring animal is not treated the same when it was done as an oneis or willingly. Presumably he means that if the goring was done as an oneis it may be brought as a korbon, and if done willingly it may not!? **A: R' Shimon** is referring to the animal being put to death. If it gored willingly, it is put to death. If it was done b'oneis, it is not.
 - **Q:** The Braisa quoted above said that the owner of an ox that gored and killed must pay kofer, whereas the owner of an animal that was mezaneh with a person does not need to pay kofer. If the case is that the animal was mezaneh with a woman and killed her, he surely would have to pay kofer!? If he didn't kill her, then of course he does not have to pay kofer, but that is not a leniency in the halacha of an animal that was mezaneh, rather it is because the animal didn't kill!? **A: Abaye** said, the case is where the woman was brought to Beis Din and put to death by Beis Din for the znus. We would have thought that it is as if the animal killed her. The Braisa therefore teaches that the owner does not have to pay kofer. **A2: Rava** said, the case is that the animal did kill her with the znus. The reason that the owner does not have to pay kofer is because the killing wasn't done by the animal with an intent to kill. It was done with the intent to pleasure himself.

Daf In Review – Weekly Chazarah

- The difference between **Abaye and Rava** would be where an animal trampled on a child and killed it (without intent to do so), while in the reshus of the nizik. According to **Abaye** the owner would have to pay kofer. According to **Rava**, since there was no intent to kill, the owner would not have to pay kofer.
- A Braisa says like **Rav**. The Braisa says, an ox that was trained to gore, and then gored and killed a person, the ox would not be put to death, and it would be valid to be brought as a korbon, because it is considered to have been forced to kill.

-----Daf נ"ד---41-----

MISHNA

- If an ox gored a person and killed him, if the ox was a muad, the owner must pay kofer. If the ox was a tam, the owner is patur from paying kofer. In either case, the animal is chayuv misah.
 - This is the halacha even if the victim was a young boy or girl.
 - If the ox gored and killed a slave, the owner of the ox must pay 30 sela'im to the owner of the slave. This is the case, whether the slave was worth 100 maneh, or just one dinar.

GEMARA

- **Q:** If we kill the ox when it is a tam, how can we ever have the case that it became a muad? **A: Rabbah** said, the case is that the ox tried to gore 3 people, but they were able to run away. Such an animal is treated as a muad, so that if it then kills somebody, it is put to death and the owner would have to pay kofer.
 - **Q: R' Ashi** asked, if the animal did not actually kill 3 times, it would not become a muad (just based on the fact that it tried to gore)!? **A:** Rather, the case is where it gored 3 people, severely injuring them, but not killing them, and all three people then died from the injuries after the 3rd goring. The ox would become a muad retroactively and would be put to death, and the owner would have to pay kofer.
 - **R' Zvid** said, the case would be where the ox killed 3 animals, in which case the ox would not be put to death, but would become a muad to kill even people.
 - **Q:** Would it become a muad for people just because it was a muad for animals!? **A:** Rather, **R' Simi** said, the case would be where the ox killed 3 goyim, for which it would not be put to death, but would become a muad.
 - **Q:** Would it become a muad for Yidden just because it was a muad for goyim!? **A:** Rather, **Reish Lakish** said, the case would be where it killed three people who were treifos, for which it would not be put to death.
 - **Q:** Would it become a muad for regular people just because it was a muad for treifos!? **A:** Rather, **R' Pappa** said, the case would be where the ox killed and ran away to the swamp (where Beis Din couldn't get it), and then killed again, and again ran away to the swamp, and then killed a third time.
 - **R' Acha the son of R' Ika** said, the case would be where the set of witnesses to each of the first two killings became eidim zomemim (so the animal was not put to death). The animal then killed again and a third set of witnesses came to testify. The witnesses who made the first two sets into eidim zomemim tried to do the same to the third set, but another set of witnesses came along and said that these witnesses (who made all the other witnesses into eidim zomemim) were themselves zomemim. That has the effect of reinstating the original two sets of witnesses, meaning that now there are witnesses to all three killings, making it a muad that was never put to death.
 - **Q:** This answer can work if we follow the view that the ox's killings must happen on 3 separate days in order for it to become a muad. However, according to the view that the testimonies for the killings must happen on different days, to better warn the owner to guard his ox, in this case the owner can tell Beis Din, "I didn't know that my ox killed

Daf In Review – Weekly Chazarah

anyone until now, and I had no way to know to guard him”!? **A:** The case is where the witnesses say that the owner was present by each of the killings.

- **Ravina** said, the case would be where witnesses testified that an ox belonging to this owner killed twice, but they don’t know which ox it was, and therefore the ox was not put to death. When it killed a third time, they recognized that this was the ox that killed the previous two times as well.
 - **Q:** What was the owner expected to do if he wasn’t told which animal to guard!? **A:** The witnesses tell him that he has a goring ox among his cattle, and he therefore should have guarded his entire herd of cattle, since he knows that there is a goring ox among them.

V’ZEH V’ZEH CHAYAVIN MISAH...

- A Braisa says, the pasuk regarding such an ox says “the ox shall be stoned and its meat may not be eaten”. Now, it seems obvious that it can’t be eaten if it was killed by stoning. The pasuk is teaching that even if it was shechted after being sentenced for stoning, its meat may not be eaten. The pasuk of “ubaal hashor naki” teaches that it is assur b’hana’ah.
 - **Q:** The Gemara asks, maybe if it was shechted after the sentence it is mutar to eat, and the pasuk of “its meat may not be eaten” teaches that it is assur b’hana’ah, as we find that **R’ Avahu in the name of R’ Elazar** says that an issur of “eating” written in the Torah is an issur to have hana’ah as well? **A:** The Gemara says, that is only true when we also learn the issur of eating from the words “do not eat”. However, in the case of the ox, we learn that he may not eat it from the words “the ox shall be stoned”. Therefore, the issur hana’ah can’t be learned from the “do not eat”. Or we can say that since the pasuk said “do not eat *the meat*”, instead of saying “do not eat *it*”. This teaches that even if it was shechted when it was alive, it is still assur to eat.
 - **Q: Mar Zutra** asked, maybe it is only assur if it was shechted with a stone (and is therefore a “stoned ox”), but if it was shechted with a knife after the sentence it would be mutar to eat? **A:** There is never a requirement to shecht using a knife. A Mishna teaches that any sharp and smooth object may be used for shechita.
 - **Q:** Since we can learn the issur of eating and of having hana’ah from “lo yei’acheil”, what does the pasuk of “baal hashor naki” come to teach? **A:** It comes to teach that not only is the meat assur, but rather even the skin is assur b’hana’ah as well.
 - **Q:** According to the Tanna’im who use this pasuk for another drasha, how do they know that the skin is assur as well? **A:** They learn it from the word “es bisaro” – that which is secondary to the meat – i.e. the skin.
 - The other view does not darshen the word “es”.
 - A Braisa says, the pasuk says “ubaal hashor naki”. **R’ Eliezer** says, this teaches that if a tam kills a person, the owner is patur from paying half kofer. **R’ Akiva** said to him, a tam only pays from the body of the animal, so it is obvious that there is no half kofer payment even without the pasuk, because the animal is put to death and therefore has no value!? **R’ Eliezer** said to him, do you think that I was referring to an animal that is condemned to die!? I was referring to a case where there was only one witness to the killing, or it is known only by the testimony of the owner, in which case the animal is not put to death.
 - **Q:** If the owner admitted to the killing he would be patur by having admitted to a penalty!? **A: R’ Eliezer** holds that kofer is a payment for kaparah, and not a penalty.
 - Another Braisa says that **R’ Eliezer** responded to **R’ Akiva** by saying, do you think that I was referring to an animal that is condemned to die!? I was referring to a case where the animal intended to kill an animal and instead killed a person, or intended to kill a goy and instead killed a Yid, or intended to kill a person who was not viable and instead killed a person who was viable. That is when the pasuk is needed.
 - **Q:** Each Braisa has a different response of **R’ Eliezer**. Which response was given first? **A: R’ Kahana in the name of Rava** said, he initially gave the answer of the second Braisa (which is a stronger, more encompassing answer), and then gave the other answer. This can be compared

Daf In Review – Weekly Chazarah

to a fisherman, who first takes the large fish that he caught, and then takes the smaller fish. **R' Tavyumei in the name of Rava** said, he first gave the answer of the earlier Braisa, and then followed it with the stronger answer given in the second Braisa. This can be compared to a fisherman who takes the small fish when that is all he has, but when he finds a larger fish, he throws away the small one and keeps the larger one.

-----Daf דל--42-----

- Another Braisa gives another drasha on the pasuk of “ubaal hashor naki”. The Braisa brings **R' Yose Haglili** who says that the pasuk teaches that the owner is patur for paying half the damages for a miscarriage that it causes if it attacks a pregnant woman. **R' Akiva** asked him, the pasuk says that if men are fighting and one causes a woman to have a miscarriage by hitting her, the man must pay the value of the unborn babies to the husband of this woman. The pasuk says “anashim”, which teaches that only men are chayuv for this damage, and oxen are not (so your drasha is not needed)!?
 - **Q: R' Akiva** asked a good question!? **A: R' Ulla the son of R' Idi** said, we would think that the pasuk teaches that men must pay for this, but not “oxen that are like men” – meaning oxen that are a muad. However, maybe a tam should have to pay. That is why **R' Yose Haglili** says that the pasuk is needed to teach that it does not pay.
 - **Q: Rava** asked, this seems backward to say that a tam would be treated more stringently than a muad, and to say that that is why a pasuk is needed!? **A:** Rather, the reason **R' Yose Haglili** says this pasuk is needed is because we would have thought to darshen that the pasuk says men are chayuv for this damage, which should teach that oxen which are like men – i.e. they are a muad, would be patur, and using a kal v'chomer we would then learn that a tam is patur as well. **R' Yose Haglili** therefore uses the pasuk to teach that only a tam is patur, but a muad would be chayuv.
 - **Q: Abaye** asked, if this is a proper drasha, we should also darshen that a muad ox is chayuv to pay for embarrassment. The pasuk says that *men* must pay for boshes, and we should say that oxen which are like men – i.e. they are a muad, would be patur, and using a kal v'chomer we would then learn that a tam is patur as well. We can then say that “ubaal hashor naki” teaches that only a tam is patur, but a muad is chayuv!? If **R' Yose Haglili** actually darshens this drasha, then he should add boshes to his drasha in the Braisa!? **A:** Rather, **Abaye and Rava** both say, the drasha of **R' Yose Haglili** must be understood as follows. We would think that the pasuk teaches that men are chayuv to pay for the unborn babies if the woman is not killed, but if the woman is killed they would be patur from paying (because the man himself must be killed), however, an ox should be chayuv to pay for the unborn babies whether the woman is killed or not. The pasuk of “ubbal hashor naki” therefore teaches that the owner of the ox would be patur from the payment for the unborn babies.
 - **Q: R' Ada bar Ahava** asked, the man who hit the woman will be patur from paying for the unborn babies not based on whether the woman is killed, but rather based on whether there was intent to kill the person he killed. If so, the pasuk does not teach that he would be patur based on the killing of the woman, and therefore would not lead to needing the pasuk of “ubaal hashor...” as you have said above!? **A:** Rather, **R' Ada bar Ahava** said, we would learn from the pasuk regarding the men that if the men intend to kill each other and mistakenly kill the woman they would still be chayuv to pay for the unborn children, but if they intended to kill the woman they would be patur from paying. We would learn that regarding an ox, even if it intended to kill the woman and killed her, the owner would still be chayuv to pay for the unborn babies. The pasuk of “ubaal hashor...” therefore teaches that the owner is patur from paying for the miscarriage.
 - **R' Chagai** of the South taught a Braisa that says like this as well.

Daf In Review – Weekly Chazarah

- Another Braisa gives another drasha on the pasuk of “ubaal hashor naki”. The Braisa says, **R’ Akiva** uses this pasuk to teach that a tam is patur from having to pay the 30 shekel if it kills a slave.
 - **Q: R’ Akiva** should ask himself (as he asked **R’ Eliezer** earlier), that this tam will be put to death, and therefore has no value. Since a tam only pays from the value of his body, it is clear that he will not pay the 30 shekel!? **A: R’ Shmuel bar R’ Yitzchak** said, **R’ Akiva** is referring to where the owner shechted the animal before it was brought to Beis Din. We would think to therefore use it for payment. The pasuk teaches that since it was supposed to be put to death, no payment is made.
 - **Q:** Based on this answer, why didn’t **R’ Akiva** realize that **R’ Eliezer** could have been referring to this case as well when he said that the pasuk is needed to teach that a tam does not pay half kofer!? **A: R’ Akiva** did realize this. However, he thought that **R’ Eliezer** may have another, better answer, and that is why he asked him.
 - **Q:** Why didn’t **R’ Eliezer** offer this answer earlier? **A: R’ Eliezer** felt that in the case (that he gave) where the animal intended to kill an animal and instead killed a person, where the animal is not chayuv misah, that is where I need the pasuk to say that he is also patur from kofer. However, in the case of **R’ Akiva**, where the ox is chayuv misah, but the owner quickly shechted it before it was sentenced, we don’t even need a pasuk to teach that it is patur from paying kofer.
 - **Q:** This seems to be logical, so why did **R’ Akiva** think that if not for the pasuk we would think this animal must pay the 30 shekel? **A: R’ Assi in the name of R’ Yose the son of R’ Chanina** said, since **R’ Akiva** holds that if a tam injures a person the owner must pay full damages, we would say that a tam must also pay the 30 shekel for the slave even beyond the value of the body of the animal. The pasuk therefore comes and teaches that he does not pay that.
 - **Q: R’ Zeira** asked **R’ Assi**, in a Braisa **R’ Akiva** clearly says that a tam only pays from the value of its body!? **A:** Rather, **Rava** said that the reason why the pasuk is needed according to **R’ Akiva** is, that since we find that we are more machmir for the killing of a slave than we are for a free man, because kofer for killing a free man is limited to the true value of the person, whereas payment for killing a slave is always 30 shekel, even if he was worth a lot less, we would think that we are also more machmir and therefore a tam would pay for the slave even beyond the value of the animal’s body. The pasuk therefore teaches that a tam does not pay the 30 shekel.
 - A Braisa says like **Rava** explained.
 - A Braisa says, the pasuk says regarding a muad “v’heimis ish oy isha”. **R’ Akiva** says, this can’t be teaching that the muad is chayuv for killing a woman just like for killing a man, because another pasuk already says “ki yigach shor es ish oy es isha”. Rather, the pasuk comes to teach a hekesh between a man and a woman, that just like the damages owed to a man will go to his heirs, so too the damages owed to a woman will go to her heirs, and not to her husband.
 - **Q:** In a Braisa **R’ Akiva** clearly says that a husband inherits a wife, so why does he say differently here? **A: Reish Lakish** said, **R’ Akiva** in the first Braisa was referring to a kofer payment. A husband does not get the kofer payment given for his wife who was killed, because a husband only inherits the assets that were actually possessed by the wife before she died. Kofer is not levied until after the actual death, as we learn from a pasuk.
 - **Q:** A Braisa says that even for payments of damages the husband does not inherit the wife, so how can **Reish Lakish** say that only applies to kofer!? **A: Rabbah and R’ Nachman** said, that Braisa is discussing a divorced woman. Although the Braisa also says that the money for any miscarriage goes to the husband, that is true even if they are then divorced, because **R’ Pappa** explained that the pasuk teaches that the father is always entitled to this payment for the miscarriage, even if the pregnancy came about through znus.
 - **Q:** Why couldn’t **Rabbah** say that the case is where they are still married, but that the mazik is paying damages to the wife after her death using money, in which case **Rabbah** holds that she is not considered to have been in possession of the money before she died, which would be why the husband doesn’t inherit this money? **R’ Nachman** could have said that the payment was

Daf In Review – Weekly Chazarah

made with land, because he holds that a payment of land is not considered to have been in her possession before her death!? **A:** They only said that these assets are considered not to have been in her possession according to the **Rabanan** of EY, who say that a loan is not considered to be in the creditor's possession. In the Braisa, where they discuss the divorced woman, they gave their answer according to **Rebbi**, who says that a debt is always considered to be in the possession of the creditor.

-----Daf ל"ג-----43-----

- **Reish Lakish** said, if an ox killed a slave unintentionally, the owner is not chayuv to pay the 30 shekel to the owner of the slave. This is based on the pasuk that says the 30 shekel must be paid “v’hashor yisakel”. This teaches that only when the ox will be put to death, must the 30 shekel be paid.
- **Rabbah** said, if an ox killed a person unintentionally, the owner is not chayuv to pay kofer. This is based on the pasuk that says “hashor yisakel, v’gam b’alav yumas, ihm kofer...”, which teaches that only when the ox will be put to death must the kofer be paid.
 - **Q: Abaye** asked, a Mishna says, if a person says “My ox killed a person”, he is chayuv to pay based on this admission. Presumably this is referring to kofer, and we see it must be paid even when the ox won't be put to death (it is not put to death unless there are 2 witnesses to the killing)!? **A:** The Mishna is not discussing kofer, it is discussing payment for damages.
 - **Q:** If it is referring to payment for damages, how are we to understand the next part of the Mishna, which says, if a person says “my ox killed someone's slave”, he does not pay based on this admission (because the 30 shekel payment is a penalty payment). Now, if the Mishna is discussing payment for damages, even though the 30 shekel payment will not be made, the payment for the damages should be made, so why does the Mishna say “he does not pay”? **A:** **Rabbah** said, I could answer that the first part of the Mishna discusses payment for damages, and the later part of the Mishna discusses payment for penalty. However, that is a forced answer. Therefore, I will answer that the entire Mishna is discussing payment for damages. Regarding kofer, where a person pays based on his own admission (for example, if witnesses say that an ox killed a man, but don't know if the ox was a tam or a muad, and the owner says it was a muad, he must pay the kofer), therefore even when there are no witnesses at all, which means the ox will not be put to death, the owner must pay for damages. Regarding the payment of 30 shekel for a slave, which a person does not pay on his own admission (for example, if witnesses say that an ox killed a slave, but don't know if the ox was a tam or a muad, and the owner says it was a muad, he does not pay the 30 shekel), therefore if there are no witnesses at all, which means the ox will not be put to death, the owner does not pay for damages.
 - **Q: R' Shmuel bar R' Yitzchak** asked, a Braisa says, whenever a person would be chayuv if his ox killed a Yid, he will also be chayuv if his ox killed a slave, whether in regard to kofer or to putting the animal to death. Now, this can't refer to kofer, because there is no kofer for the killing of a slave. Rather, it must refer to the damages to be paid, and we see that whenever they are paid in a case of killing a Yid, they must also be paid for in the case of the killing of a slave!? **A: Rabbah** answered, the Mishna should be understood as saying as follows: Wherever a person is chayuv kofer for an ox intentionally killing a Yid based on the testimony of witnesses, in that case he would be chayuv the 30 shekel for killing a slave. Wherever a person would be chayuv for damages for an ox killing a Yid unintentionally based on the testimony of witnesses, he would be chayuv for damages for the unintentional killing of a slave where there are witnesses. However, when there are no witnesses, only admission of the owner, the two cases would produce different results.
 - **Rava** asked **Rabbah**, according to what you just said, if a person killed someone unintentionally with a fire that he lit, and there were witnesses who testify, he

Daf In Review – Weekly Chazarah

should be chayuv to pay for damages!? The Gemara explains that **Rava** was actually uncertain himself whether a person's fire that unintentionally killed would make him chayuv to pay damages. Maybe we say that an ox which killed intentionally is chayuv kofer, and therefore is chayuv for damages when it is done unintentionally, but a fire that never pays kofer will also not pay damages when the killing was done unintentionally. Or, maybe we say that an ox that kills unintentionally will be chayuv to pay for damages even though he is patur from paying kofer, so a fire that is also patur from kofer will also pay for damages when it killed unintentionally? The Gemara remains with a **TEIKU**.

- **R' Dimi in the name of R' Yochanan** said, the pasuk could have simply said "kofer", but instead says "ihm kofer". This teaches that there is a kofer obligation for an intentional killing as well as for an unintentional killing.
 - **Q: Abaye** asked, if so, when the pasuk says "ihm eved" will you say that this teaches that the 30 shekel must be paid for an unintentional killing as well as for an intentional killing? Now, this can't be, because **Reish Lakish** says that if an ox kills a slave unintentionally, the owner is patur from paying the 30 shekel!? **A: R' Dimi** said, you can't ask a question from **Reish Lakish** onto **R' Yochanan**. It may be that they disagree. In fact, we find that **Ravin** said in the name of **R' Yochanan** that if an ox kills a slave unintentionally, the owner *is* chayuv to pay the 30 shekel.
 - **Q:** According to **Reish Lakish**, who does not darshen the extra word of "ihm" by the slave, does that mean that he will also not darshen the extra word "ihm" by kofer? **A:** It may be that he would darshen it by kofer (to teach that kofer is paid even for an unintentional killing), because it is written in the parsha that discusses payment, but he does not darshen it regarding the slave, because it is not written in the parsha of payment.