



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

Bava Metzia Daf Tzaddik Gimmel

MISHNA

- A worker may make up with the owner that he waives his entitlement to eat the produce, and will instead get more wages. He may also do so for his adult children, his adult slaves, and for his wife, since they have the mental capacity to waive their right. However, he may not do so for his minor children, his minor slaves, or for his animals, because they don't have the mental capacity to waive a right.
- If a worker was hired to work on "netah revai" (produce of a tree in its 4th year, which must be eaten in Yerushalayim), he may not eat the produce. If he wasn't told beforehand that he would be working on netah revai, the owner must redeem the produce and give it to the worker to eat. If a worker was hired to put back together cakes of figs or to reclose barrels of wine that were opened, they may not eat from them (because they were already chayuv in maaser). If the workers did not know this beforehand, the owner must give maaser for this produce and give the produce to the worker to eat.
- One who guards produce may eat from the produce based on an established minhag, but not based on a halacha D'Oraisa.

GEMARA

- With regard to the Mishna's halacha of a shomer of produce, **Rav** says the Mishna is referring to a shomer of gardens and orchards (the produce is attached to the ground, which is why they have no entitlement to eat the produce), but a shomer of a wine press and of piles of produce would have an entitlement D'Oraisa. This is because **Rav** holds that guarding is considered to be actual work. **Shmuel** says the Mishna refers to a shomer of a wine press and of piles of produce, but a shomer of gardens and orchards would not have an entitlement to the produce D'Oraisa or based on minhag. This is because **Shmuel** holds that guarding is not considered to be actual work.
 - **Q: R' Acha bar R' Huna** asked, a Braisa says that the one who guards the parah aduah (from the time of the shechita to the time of gathering the ashes) has his clothing become tamei (like all the other people involved in the preparation of the parah adumah). Now, if guarding is not considered to be actual work, why does his clothing become tamei!? **A: Rabbah bar Ulla** said, this is a gezeira D'Rabanan out of concern that he may unknowingly move one of the limbs of the cow.
 - **Q: R' Kahana** asked, a Braisa says, if someone is guarding 4 or 5 fields, he may not eat his fill from one of the fields, rather he must eat his fill from all the fields proportionately. Now, if guarding is not considered to be actual work, why does he get to eat at all? **A: R' Simi bar Ashi** said, the case is that he was guarding uprooted produce. That is why he may eat from them.
 - **Q:** If the produce is uprooted, it is considered completed for maaser, and as such a worker no longer has the right to eat from it!? **A:** The case of the Braisa is where the blossoms were not yet removed, and therefore they were not considered to be completed for purposes of maaser.
 - **R' Ashi** said, an earlier Mishna can be brought as support for **Shmuel**. The Mishna said "these people have a right to eat the produce D'Oraisa...". This suggests that there are those who don't have a right D'Oraisa, but do have a right based on minhag. The Mishna then says "these people have no right to eat from the produce..." Now, this must mean that there are workers who may not eat the produce either D'Oraisa or based on minhag. Those workers are described in the Mishna as being workers who work with

attached produce not at its stage of completion. Surely one who guards attached produce would also have no right to eat, whether D'Oraisa or based on minhag.

MISHNA

- There are 4 types of shomrim: a shomer chinam, a sho'el (borrower), a shomer sachar, and a socher (a renter).
 - A shomer chinam swears regarding everything (on everything that the other shomrim would be chayuv on, he swears and is patur). A sho'el pay for everything (for theft, loss, and oneis). A shomer sachar and a socher swear regarding an animal that broke a limb or that was captured or that died, and pays for loss and for theft.

GEMARA

- **Q:** Who is the Tanna that says there are 4 types of shomrim? **A: R' Nachman in the name of Rabbah bar Avuha** said it is **R' Meir**.
 - **Q: Rava** asked **R' Nachman**, does anyone hold that there are not 4 types of shomrim? **A: R' Nachman** said, what I meant to say is that our Mishna that says a socher is treated like a shomer sachar, follows **R' Meir**.
 - **Q:** A Braisa says that **R' Meir** says a socher is treated like a shomer chinam and **R' Yehuda** says it is treated like a shomer sachar!? **A: Rabbah bar Avuha** had a version that was the reverse.
 - **Q:** If a socher is treated like one of the other shomrim, there are in fact only 3 types of shomrim!? **A: R' Nachman bar Yitzchak** said, there are 4 types of shomrim, but there are only 3 different sets of halachos.
- There was a shepherd who was walking the animals along the banks of the Pappa River, and one of the animals slipped into the river and drowned. **Rabbah** said the shepherd was patur, because he watched the animals in the same way that people generally do. **Abaye** asked, based on this logic, if the shepherd went into the town and left the animals on their own, as people generally do, and something happened to the animals, would he be patur? **Rabbah** said, yes he would be. **Abaye** asked, if the shepherd took a nap, like people generally do, and something happened to the animals, would he patur then too? **Rabbah** said, yes he would be. **Abaye** asked, a Braisa darshens a pasuk to teach that the oneis that a shomer sachar is patur for is something as serious as having his life threatened!? **Rabbah** said, that is referring to the night guards of a city, who are obligated to watch on a much higher level. **Abaye** asked, a Braisa says that a shomer sachar is chayuv to guard as Yaakov Avinu did, when he said that he watched in the heat of the day and the cold of the night. This suggests that every shomer sachar must have a high level of watching!? **Rabbah** said, this too refers to watchmen who have accepted a higher level of watching upon themselves. **Abaye** asked, Yaakov was not such a watchman, and yet he watched in that way!? **Rabbah** said, in the pasuk Yaakov was telling Lavan that he went over and beyond, and guarded to a higher degree than he had to. **Abaye** asked, a Braisa says, if a shepherd left the flock and entered the town, and a wolf or lion came and killed an animal, we do not say he is chayuv because had he been there he could have prevented the damage, rather we assess the situation. If he would have been able to save the animals, he is chayuv, and if not, he is patur. Presumably this is referring to where he entered the town and left the animals alone in the same way that people do, and we see that he still may be chayuv!? **Rabbah** answered, the Braisa is referring to where he left them at a time when it is not normal to have left them. **Abaye** asked, if so, he should be chayuv in any case!? **Rabbah** said, the case is that he heard a lion and ran into the town to protect himself. **Abaye** asked, if so, what else could he have done to save them? **Rabbah** said, he should have banded together other shepherds and chased the lion with their sticks. **Abaye** asked, you (**Rabbah**) say that even a shomer chinam would be chayuv if he would have been able to save them by getting other shepherds and their sticks!? **Rabbah** said, a shomer chinam need not pay the other shepherds to join him. A shomer sachar must even pay them up to the value of the animals to come and join him.
 - **Q:** If he must spend his own money to prevent this attack, we are in essence saying he is chayuv for an oneis!? **A:** He fronts the money, but is reimbursed by the owner of the animals.
 - **Q: R' Pappa** asked **Abaye**, how does the owner benefit by preventing the attack if he must pay up to the value of the animals themselves? **A:** The owner prefers

his old animals so that he not have train new animals, and not have to spend the effort looking for new animals.

- **R' Chisda and Rabbah bar R' Huna** disagreed with **Rabba**. They said an owner can tell a shomer sachar, "I paid you so that you watch the items for me at a higher level than people usually do!"
 - Bar Adda was taking animals over a bridge when one pushed another and sent the animal into the river. **R' Pappa** said he was chayuv to pay for the animal. Bar Adda asked, I did as people do!? **R' Pappa** said, you should have taken them across single file. Bar Adda asked, "no one takes animals across single file!?" **R' Pappa** said, that logic was advanced in the past (by **Rabbah**), but no one agreed to it.
 - Eivo gave flax to Runya to watch for him (as a shomer chinam). The flax was stolen by Shabu, and it was later known that Shabu was the one who stole it. **R' Nachman** said that Runya must pay Eivo and then go and seek to be made whole by Shabu.
 - **Q:** We find that **R' Huna bar Avin** says that a shomer chinam need not pay and seek to be made whole, but can rather swear and be patur!? **A:** **Rava** said, in the case of Runya there were police there when it was stolen, and he could have yelled and prevented the theft. Because he didn't, he now must go through the bother of being made whole.

MISHNA

- If one wolf comes to attack, that is not considered to be an oneis. If two come to attack, that is considered to be an oneis. **R' Yehuda** says, at a time when animals are being sent by Heaven to attack (which can be seen when even a lone wolf will attack people), even one attacking wolf would be considered an oneis.
- If two dogs come to attack, it would not be considered an oneis. **Yadua Habavli** says, if they come from one direction, it is not an oneis. If they come from two directions, it is an oneis.
- If a bandit attacks, it is considered to be an oneis. If a lion, bear, leopard, bardeles, or snake attacks, it is considered to be an oneis. However, this is only if they came on their own to the sheep. But, if the shepherd took the animals to a place where wild animals and bandits normally hang out, it would not be considered an oneis.
- If an animal died of natural causes, it is an oneis. If it died after being stressed by the shepherd (by starving it, or making it stay out in the heat or the cold), it would not be an oneis. If it went up to the top of a steep mountain and fell and died, it is considered to be an oneis. If the shepherd brought it up there and it fell and died, it would not be considered an oneis.

GEMARA

- **Q:** A Braisa says that one wolf *is* an oneis!? **A:** **R' Nachman bar Yitzchak** said, that Braisa is talking about a time when wild wolves were sent by Heaven, and follows the view of **R' Yehuda**.

HALISTIM HAREI ZEH ONEIS

- **Q:** When there is one bandit, why can't the shepherd be expected to go up against him, and therefore not be considered an oneis? **A:** **Rav** said, the case is where the bandits are armed.
 - **Q:** What would be the halacha where the bandits are armed, but the shepherd is also armed? Do we say it is one against one, and therefore no longer an oneis, or do we say that the bandit is willing to risk his life, but the shepherd need not do so? **A:** It would make sense to say that the bandit is willing to risk his life, but the shepherd need not do so.
 - **Q:** **Abaye** asked **Rava**, what if the shepherd incited and challenged the bandit to go and steal, and the bandit then did so? **A:** **Rava** said, it would be considered like if the shepherd led the animals to a place where the bandits hang out, and he would therefore be chayuv.