



## Daf In Review – Weekly Chazarah

### Maseches Bava Metzia, Daf לז – Daf טז

Daf In Review is being sent l'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen, A"H  
vl'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

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- The pasuk says that the bread should be made using “kemach” (an inferior quality) and then says it was “soles” (a superior quality). **R' Yitzchak** said, it was Sarah who suggested to use kemach and Avrohom who said to use soles, which teaches that a woman is stingier with regard to what she gives her guests than a man is.
- The pasuk later says that Avrohom took the butter, the milk, and the meat, and doesn't say that he took the bread. **Efraim Maksha'ah in the name of R' Meir** said, that Avrohom even ate his chullin only when it was tahor, and Sarah had become a niddah that day, making the bread tamei.
- The pasuk says that the Malachim asked Avrohom where Sarah was, and he answered “she is in the tent”. This teaches that Sarah was very modest.
  - **R' Yehuda in the name of Rav (or R' Yitzchak)** said, the Malachim knew where Sarah was. They asked Avrohom only so as to endear her to him. **R' Yose the son of R' Chanina** said that they asked, because they wanted to send her wine from the “kos shel bracha”. It was taught in the name of **R' Yose**, that there are dots on the word “eilav” to teach that it is proper for a guest to ask his host about the welfare of his wife.
    - **Q: Shmuel** has said that one should not ask about the welfare of a woman at all!? **A:** One may do so through her husband.
- The pasuk says that Sarah said (upon hearing that she will have a child) “after I have withered will I again have good skin?” **R' Chisda** said, that is exactly what happened – Sarah's wrinkled skin became smooth and beautiful again.
- The pasuk says that Sarah laughed upon hearing the news and said “my husband is old!” When Hashem repeated this to Avrohom, He told him that Sarah said that she herself was old. **R' Yishmael** taught, peace is so great that even Hashem changed from what was actually said so as to preserve the peace.
- The pasuk says that after Yitzchak was born Sarah said “who could have told Avrohom that Sarah would nurse children (plural)”. Why is it written in the plural? **R' Levi** said, when Yitzchak was weaned, Avrohom made a banquet. All the people said it was impossible for Yitzchak to be the son of such old people. Rather, they must have found a baby on the street and called it their own. Hashem made a miracle and Sarah was able to nurse all the children that were brought by the people to the banquet (proving she had given birth). Another miracle was done by making Yitzchak look exactly like Avrohom, so that people not be able to say that he was not the father.
  - Avrohom was the first person to appear to age. This was done, because people would mistaken Yitzchak for him and visa-versa. He davened to Hashem to make him appear older so that this would not happen.
  - Yaakov was the first person to get sick. Until then, people would just die suddenly. He davened that he should get sick before he died.
  - Elisha was the first person who became sick and then recovered. He got sick, davened, and recovered.
    - A Braisa says that Elisha was stricken with 3 sicknesses – one for totally rejecting Geichazi, one for sending the bears onto the children, and one from which he died.

ELAH AHD SHELO YAS'CHILU BIMLACHA...

- **R' Acha the son of R' Yosef** asked **R' Chisda**, did the Mishna say bread made of beans, or beans *and* bread? **R' Chisda** said, it clearly means beans *and* bread.

R' SHIMON BEN GAMLIEL OMER...

- **Q:** What does the word “hakol” come to include? **A:** It comes to include the case of an employer who promises to pay a rate equal to one or two of the residents of the city, where **R' Yehoshua** says he may give the lowest rate paid in the city, and the **Chachomim** say he must pay an average rate.

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## MISHNA

- The following workers may eat from the employer's food based on a right D'Oraisa: a worker who is working on produce attached to the ground at the time that the last work is being done to the produce; a worker that is working on produce detached from the ground before its work is complete. This is all with things that grow from the ground.
- The following workers do not have a D'Oraisa right to eat from the employer: a worker who works on produce attached to the ground when the work is not yet complete (he is weeding a field of growing onions); a worker who works with produce detached from the ground after its work is complete (and the maaser obligation has taken hold); and one who works with something that does not grow from the ground.

## GEMARA

- **Q:** How do we know that a worker may eat from attached produce when he is picking it? **A:** The pasuk says, "ki savo b'kerem rei'echa v'achalta".
  - **Q:** That teaches regarding a vineyard. How do we know that this applies to other types of produce as well? **A:** We learn other produce from the case of the vineyard – just as a vineyard grows from the ground and a worker may eat from them if he is working to pick the grapes, the same is true for other produce as well.
    - **Q:** We can ask that the vineyard is different in that it is subject to the halacha of "oleilos" (unformed clusters of grapes which must be left for the poor)? **A:** We learn other produce from standing grain, regarding which the pasuk says "ki savo b'kamas rei'echa v'katafta melilos b'yadecha".
    - **Q:** We can ask that standing grain is different in that it is subject to the laws of challah? You can't say that the "kama" refers even to standing grain that is not chayuv in challah (e.g. rice), because a gezeira shava teaches that the kama refers to standing grain that is chayuv in challah!? **A:** We can answer that the vineyard shows that even without being subject to challah, the halacha is that the worker may eat from it. We would then ask that the vineyard is subject to oleilos, but we would answer that standing grain shows that oleilos is not the determining factor. The "tzad hashava" is that they both grow from the ground and a worker may eat from them if he is working with them at the end of production (the harvesting), and the same is true for other produce as well.
      - **Q:** We can ask that grapes and standing grain are unique in that they are brought on the Mizbe'ach, but produce that is not brought on the Mizbe'ach should not be subject to this halacha!? **A:** **Shmuel** said, we learn other crops from the word "chermeish" in the pasuk, which teaches that anything that is cut with a sickle is subject to this halacha.
      - **Q:** This word "chermeish" is needed to teach that at the "time of the sickle" (when the produce is being cut) the worker may eat, but at any other time he may not!? **A:** That can be learned from the words "v'ehl kelyicha lo sitein" ("he may not put the produce into his basket").
      - **Q:** This only teaches regarding things that are cut with the sickle. How would we learn other things? **A:** **R' Yitzchak** said, the pasuk says "kamah", which teaches that anything standing – i.e. attached produce – is subject to this law.
        - **Q:** We said that "kamah" was needed for a gezeira shava for challah!? **A:** Once the word "chermeish" comes to teach that even things not subject to challah are subject to this law, we can say that the word kamah teaches that any type of produce is included.
      - **Q:** If we learn everything from "chermeis" and "kamah", why do we need the pasuk of "ki savo b'kerem rei'echa"? **A:** **Rava** said, it is needed for the additional laws taught in that pasuk, as is taught in a Braisa. The Braisa says, "ki savo" teaches that only a worker has the right to eat from the produce. "B'kerem rei'echa" teaches that only in a Yid's

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field can the worker not take produce to put in his basket, but when he is working in the field of a Kuti, he may.

- **Q:** This would only be needed according to the view that stealing from a Kuti is assur, and the pasuk is therefore needed to teach that a worker can take and put in his basket. However, according to the view that one may steal from a Kuti, why would we need a pasuk to teach that a worker may put in his basket?  
**A:** That view will darshen that “b’kerem rei’echa” teaches that this law only applies to the field of a friend, and not to the field of hekdesch (a worker on a field of hekdesch may not eat from the produce).
- The Braisa continues, the word “v’achalta” teaches that the worker may eat the grapes, but may not suck out the juice and throw the rest away (it doesn’t fill him up as much and he will end up eating more of them). The word “kinafshicha” teaches, that just as the owner could eat from the produce at that stage without first giving maaser, the worker may also eat from it without first giving maaser. The word “savecha” teaches, that the worker may not eat beyond the amount he needs to be satiated. The words “v’ehl kelyicha lo sitein” teach, that while the worker is busy putting the produce into the basket of the owner – i.e. while he is picking the produce – he may take and eat, but if he is not hired to do that, but is rather at an earlier stage, he may not eat from the produce.

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- **R’ Yannai** said, tevel is not chayuv in maaser until it sees the face of the house (until it enters through the main entrance), based on the pasuk of “bi’arti hakodesh min habayis”. **R’ Yochanan** said, even the courtyard of the house would make tevel chayuv in maaser, based on the pasuk of “v’achlu bisharecha v’savei’u”.
  - **Q:** What does **R’ Yochanan** do with the pasuk of “min habayis”? **A:** That teaches that for a chatzer to make the tevel chayuv in maaser, the chatzer must be like a house – just as a house is guarded, so too the chatzer must be guarded.
  - **Q:** What does **R’ Yannai** do with the pasuk of “bisharecha”? **A:** This teaches that it only becomes chayuv if it is brought in through the main entrance, which excludes when it is brought in through the roof or the backyard.
  - **Q:** **R’ Chanina Choza’ah** asked, the Braisa (quoted last daf) said that a worker is like an owner in that he need not give maaser before he eats from the produce that he is picking. This would seem to suggest that one who purchased the produce, even in the field, would be chayuv to give maaser first, even though it was not brought into the house or the chatzer!? **A:** **R’ Pappa** said, the Braisa is discussing a fig tree that stands in the garden, but whose branches reach into the chatzer, or reach into the house. Therefore, as soon as it is picked it is already in the chatzer or in the house.
    - **Q:** If so, why is the owner patur from giving maaser before he eats it? **A:** The owner’s mind is on the tree as a whole, and the process is therefore not considered to be complete until all the fruit has been picked and brought inside. The buyer focuses on what he has purchased, and since that is inside, he is chayuv to give maaser.
  - **Q:** From the Braisa quoted earlier it would seem that a worker would be patur from maaser, but a purchaser would be chayuv at that point, D’Oraisa (because the Braisa learned the exemption from a pasuk). Is that true that D’Oraisa the purchase creates a maaser obligation? A Braisa seems to say that it is only D’Rabanan!? **A:** It is truly D’Rabanan, and the pasuk is brought as an asmachta.
    - **Q:** If so, what does the pasuk of “kinafshicha” actually teach? **A:** It teaches the halacha taught in a Braisa, that a person would not be chayuv malkus for muzzling his worker and preventing him from eating as he picked the produce.

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- **Q: Mar Zutra** asked, a Mishna says that the maaser obligation on cucumbers begins when the blossom falls off. This seems to be even if it was not yet brought into the house or the chatzer!? **A:** The Mishna means, when the blossom falls off after having been brought into the house or the chatzer.
- **Q: Mar Zutra the son of R' Nachman** asked, a Braisa says that the maaser obligation on produce begins when the produce is gathered. This seems to be even if it was not yet brought into the house or the chatzer!? **A:** The Braisa means that the gathering of the produce into the house (or the chatzer) is when the maaser obligation sets in. **A2:** We can also answer that **R' Yannai** only requires the produce to be brought into the house when the produce is grapes or olives, which don't have a "goren" stage to them. However, other produce becomes chayuv in maaser when it reaches the various goren stage for that type of produce.
- **Q:** We now have a source that a worker may eat from produce that is attached to the ground, and that an animal may eat from produce that is detached (as explicitly said in a pasuk). How do we know that a worker may eat from detached produce as well? **A:** We learn it from a kal v'chomer from the animal. The animal may not eat from attached produce, and yet it may eat from detached produce, so a worker, which may even eat from attached produce can certainly eat from detached produce.
  - **Q:** We can ask that the animal is different because there is a lav against muzzling it as it works. So, maybe, with regard to a worker, where there is no such lav, he may not eat from detached produce!?
    - **Q:** Maybe we should make a kal v'chomer and say, if one is over a lav for muzzling an animal, for which he has no obligation to help live, then certainly there should be such a lav for muzzling a person, for whom there is an obligation to help live!? **A:** We have learned from the pasuk of "kinafshica" that there is no lav against muzzling a worker.
  - **Q:** Based on the above, we are back to the question – how do we know that a worker may eat from detached produce? **A:** The pasuk says the word "kamah" twice. One is extra, and therefore teaches that a worker may even eat from detached produce as well. **A2: R' Ami** said we don't need a pasuk to teach that he may eat from detached produce, because the pasuk says "ki savo b'kerem rei'echa", which can be said to be talking about where the worker was hired to carry detached grapes, and still the pasuk says that he may eat from the grapes.
- **Q:** How do we know that an animal is allowed to eat from the produce attached to the ground? **A:** We have a kal v'chomer from a worker – a worker may not eat from detached produce, and yet he may eat from attached produce, so an animal, which may eat from detached produce may surely eat from attached produce!?
  - **Q:** We can ask that a person is different, because there is an obligation to help him live, whereas there is no such obligation for animals!?
  - **Q:** We should say that there is an obligation to help an animal live, based on a kal v'chomer – if there is such an obligation for a person, who may be muzzled when he works, then surely there should be such an obligation for an animal, who may not be muzzled when he works!? **A:** The pasuk says "v'chai achicha imach", which teaches that this obligation only applies to other Yidden, and not to animals.
  - **Q:** Based on the above, we are back to the question – how do we know that an animal may eat from attached produce? **A:** The pasuk says the word "rei'echa" twice. One is extra, and therefore teaches that an animal may even eat from attached produce as well. **A2: Ravina** said that no pasuk is needed to teach that a worker may eat from detached produce or that an animal may eat from attached produce, because the pasuk that gives the lav against muzzling writes the word "shor" for no apparent reason. We darshen this word to compare the muzzler (the person) to the muzzled (the animal) – just as the person may eat from attached, the animal may as well, and just as the animal may eat the detached, the person may as well.

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- A Braisa says, the pasuk of "dayish" teaches that just as threshing is something done to things that grow from the ground, and the worker may eat from the produce, so too anything that grows from the ground may be

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eaten by a worker. This excludes one who milks animals, makes butter, or cheese, which items don't grow from the ground, and a worker therefore may not eat from them.

- **Q:** We said that we learn this from the pasuk of “ki savo b'kerem rei'echa”!? **A:** We would think that the word “kama” comes to include anything that stands, even if it did not grow from the ground. The pasuk of “dayish” therefore teaches that that is not the case.
- A Braisa says, the pasuk of “dayish” teaches that just as threshing is something done at the end of the process, and the worker may eat from the produce, so too anything that is at the end of the process may be eaten by a worker. This excludes one who weeds garlic and onions. Since it is not the end of the process, the worker may not eat from it.
  - **Q:** We said that we learn this from the pasuk of “v'elh kelyicha lo sitein”!? **A:** The pasuk of “dayish” is needed for a case where the worker is pulling out edible onions to make room for other onions, and what he takes out is being collected for the employer. Even so, he may not eat from them.
- A Braisa says, the pasuk of “dayish” teaches that just as threshing is something which is not considered to complete the produce for purposes of maaser, and the worker may eat from the produce, so too anything that is not considered to complete the produce for purposes of maaser may be eaten by a worker. This excludes one who separated dates or dried figs, which is considered to complete the produce for purposes of maaser, and therefore cannot be eaten by the worker.
  - **Q:** A Braisa says that a worker who separates dates or dried figs may eat from it!? **A: R' Pappa** said, this is referring to unripe dates, which are not yet chayuv in maaser.
- A Braisa says, the pasuk of “dayish” teaches that just as threshing is something which is not considered to complete the produce for purposes of challah, and the worker may eat from the produce, so too anything that is not considered to complete the produce for purposes of challah may be eaten by a worker. This excludes one who kneads, one who shapes, and one who bakes dough, which is considered to be complete for purposes of challah and the worker may therefore not eat from it.
  - **Q:** Even before the kneading, etc., the grain and flour is considered complete for purposes of maaser, so the worker should not be allowed to eat from it!? **A:** The Braisa is discussing chutz laaretz, where there is no maaser.
    - **Q:** If we are discussing chutz laaretz, there should be no challah either!? **A:** The Braisa is discussing a case in EY, but during the 14 years that it was being conquered and divided. During these years there was a challah obligation, but not a maaser obligation.
      - **Q:** It is not the maaser obligation that prevents the worker from eating, it is the completion of the process!? **A: Ravina** therefore said, the two Braisos should be read together as saying - the pasuk of “dayish” teaches that just as threshing is something which is not considered to complete the produce for purposes of maaser and challah, and the worker may eat from the produce, so too anything that is not considered to complete the produce for purposes of maaser and challah may be eaten by a worker.
- **Q:** They asked, may the worker toast the produce in fire and then eat it? Is it like him eating the produce together with something else, which is not allowed, or is this allowed? **A:** A Braisa says, an employer may give the workers wine to drink so that they will not eat a lot of grapes, and the workers may dip their bread into brine to give them an appetite to eat a lot of grapes. We see that as long as they are not eating something with the grapes it is allowed. Therefore, toasting would be allowed (even if it has the result of increasing their appetite).
  - **Q:** That case is where the *person* is preparing himself to eat, and that is why it is allowed. Our question was whether the *produce* may be prepared to help increase his appetite!? **A:** A Braisa says, workers may wait to eat the grapes at the front of the row (which are the best grapes), but they may not toast them in fire.
    - **Q:** That Braisa doesn't allow it, because he is wasting time during working hours. Our question was where he had his wife or children there to toast it for him!? **A:** A Braisa says, a worker may not toast the produce and eat it.

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- **Q:** That Braisa is also referring to the problem of wasting time during working hours!? **A:** A Braisa says, a worker who picks figs, dates, grapes, or olives may eat them and is patur from maaser, based on a right D'Oraisa. However, they may not eat it with bread unless they are given permission to do so, and they may not dip it in salt. We can see from here that it would be assur to toast it as well.
  - **Q:** This is no proof, because dipping into salt is like eating the grapes with something else, which we have learned earlier, is assur.
- **Q:** The Braisa quoted above said that the worker may not dip the produce in salt and eat it. Another Braisa says that a worker may dip the produce in salt and eat it!? **A:** **Abaye** said, the first Braisa is discussing in EY, where dipping into salt creates a maaser obligation, and the second Braisa is discussing in chutz laaretz, where dipping into salt does not do so.
  - **Q:** **Rava** asked, can it be that in EY the dipping creates an obligation of maaser D'Oraisa, and yet in chutz laaretz it would be mutar to eat l'chatchila? **A:** Rather, **Rava** said, in EY and in chutz laaretz, dipping one piece at a time in salt does not create the obligation, but dipping two at a time does. Therefore, he may take one at a time and dip it into salt, but may not do so with two at a time. If he does, it becomes chayuv in maaser.
    - **R' Masna** explained, we learn that dipping and eating two at a time creates a maaser obligation based on a pasuk.

### -----Daf 90-----

- **Q:** A Braisa says, if one has cows walking on dried grain, or threshing terumah and maaser, he is not oiver if he muzzles them. However, for "maris ayin" he should take this same type of produce that is being worked on and put it in the feeding basket around the animal's feed bag. **R' Shimon ben Yochai** says, he can even put a different type of food in the bag, as long as it is of a type that is superior for the animal than the produce that the animal is working with. However, another Braisa says, if one has cows walking on dried grain he is not oiver if he muzzles them, but if they are threshing terumah and maaser, he would be oiver for muzzling them!? The Braisos contradict regarding terumah and maaser!? Now, with regard to terumah we can say that the first Braisa is dealing with actual terumah and the second Braisa is dealing with produce that grew from terumah (it is only terumah D'Rabanan). However, how can we answer the contradiction regarding maaser? You can't say that the second Braisa is discussing produce that grew from maaser, because such produce is considered to be completely chulin!? **A:** We can say that the first Braisa refers to maaser sheini, whereas the second Braisa is dealing with maaser rishon. **A2:** We can also say that both Braisos are discussing maaser sheini, but the first Braisa follows **R' Meir**, who says that maaser sheini is considered hekdes, and the second Braisa follows **R' Yehuda**, who says that maaser sheini is considered to be private property.
  - **Q:** How can it be that a cow would be threshing terumah or maaser? **A:** The case must be where one separated terumah or maaser early, before threshing.
  - **Q:** Even according to **R' Yehudah**, how would we allow a cow to eat maaser sheini outside of Yerushalayim!? **A:** The case is where the threshing was done in Yerushalayim.
  - **A:** We can also answer that the first Braisa is discussing definite maaser, and the second Braisa is discussing maaser of demai.
    - Once we say this, we can say the same for the case of terumah as well.
      - **Q:** There was never a gezeira made to separate terumah from demai!? **A:** The Braisos are talking about terumas maaser, which there was a gezeira to take from demai.
  - **Q:** They asked **R' Sheishes**, if an animal that was threshing was suffering from a stomach ailment, and eating the produce it is threshing would not be good for it, can he muzzle the animal? Do we say that the Torah allows the animal to eat, because it is good for the animal, and in this case it is not good for the animal, so a muzzle may be put on it, or do we say that the Torah doesn't allow a muzzle, because not being able to eat makes the animal suffer, and in this case too, the animal would suffer? **A:** **R' Sheishes** said, the Braisa said that **R' Shimon ben Yochai** allows a different type of produce to be placed

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in the feedbag if it is better for the animal. We see that the main consideration is whether it will be good for the animal. **SHEMA MINAH.**

- **Q:** May a Yid ask a goy to muzzle his animal for him and thresh with it? Do we say that telling a goy to do something that is assur for the Yid to do is only assur by Shabbos, which carries the skila penalty, but the issur of muzzling is only a lav, and therefore it would be allowed, or maybe there is no difference? **A:** The Braisa quoted earlier said that if a goy threshes with the animal of a Yid, he would not be oiver for muzzling. This suggests that he is not oiver, but it would be assur.
  - **Q:** This is no proof. It may be that there is not even an issur. However, since the next part of the Braisa says that if a Yid threshes with the cow of a goy he would be oiver if he muzzles, the earlier case also uses the term of “oiver” instead of “assur”.
  - **Q:** Maybe we can answer from the father of **Shmuel**, who said that it was assur for a Yid to tell a goy to castrate an animal for him, and therefore, certain Yidden who allowed goyim to do it for them would be penalized and have to sell these animals. The same would presumably hold true for muzzling!? **A: R' Pappa** said, it may be that he held it was assur in that case, because he followed the view that even a goy may not castrate an animal, and therefore, asking a goy to do it for you would be assur as “lifnei iveir”.
    - **Rava** thought to say that the animals had to be sold to be shechted. **Abaye** told him, it is a sufficient penalty to make him sell, even if it won't be shechted.
    - **Q:** It is obvious that selling to his adult son is like selling to someone else. What about if he sells to his minor son? **A: R' Achai** said it is assur, and **R' Ashi** said it is mutar.
      - **Mareimar and Mar Zutra** would exchange castrated animals with each other (they were castrated by goyim and they therefore had to sell them).
- **Q: Rami bar Chama** asked, if a person puts a thorn in the animal's mouth, making that it can't eat when it threshes, is he oiver for muzzling? [The Gemara asks, that is surely the same thing as putting on a muzzle!? Rather, the question is, if a thorn got stuck in the animal's mouth, does the person have to remove it or not?] What if he put a lion near it, making it afraid to eat? What if he put its baby nearby, so that it be too distracted to eat? What if he doesn't give the animal to drink, and it therefore can't eat? What if he covered over the produce that was being threshed? **A:** The Gemara says, we can at least answer one of these questions. A Braisa says that the farmer may spread straw out over the produce so that the animal will not eat it. We see that he may cover the produce.
  - **Q:** This is no proof, because in that case the animal at least has the straw to eat, and that is why it may be mutar. Or, we can say that the Braisa means that he may spread out hay before it begins to thresh, so that it will eat a lot of hay and not be hungry for the produce when it threshes.
- **Q: R' Yonason** asked **R' Simai**, what is the halacha if the person muzzled the animal away from the threshing floor and then brought it to the threshing floor? Do we say that the issur stated in the pasuk is “shor b'disho” (an ox in its threshing) and this was not done in its threshing, or do we say that the Torah means one may not thresh with an animal that is muzzled? **A: R' Simai** said, just like when the Torah says that a Kohen may not drink wine when coming to the Ohel Moed, it means that he also may not drink somewhere else and then walk in, the same would be true with the muzzle, and it cannot be put on somewhere else and then be brought to the threshing floor.
  - A Braisa supports this. The Braisa says that if one puts a muzzle on an animal and another person then threshes with that animal, the second person is chayuv.
  - We learned that **R' Yochanan** said, if one prevents the animal from eating by yelling at it every time it bent down to eat, he is chayuv malkus, because the bending of his mouth is sufficient of an action to make him chayuv malkus, and **Reish Lakish** said he is patur, because his voice alone is not considered to be an action.
    - **Q: R' Yochanan** asked **Reish Lakish**, a Mishna says that one is chayuv malkus for temurah, even though that lav is accomplished only through speaking!? **A: Reish Lakish**

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said, that Mishna follows **R' Yehuda**, who says that one is chayuv malkus for a lav even if he didn't do an action.

- **Q:** The Gemara on that Mishna says that the earlier part of that Mishna does not follow **R' Yehuda**, so how can **Reish Lakish** say that this part of the Mishna follows **R' Yehuda**!? **A:** The Tanna of the Mishna holds like **R' Yehuda** regarding one halacha (that an action is not needed to make one chayuv in malkus), and argues with him regarding another halacha (the subject that is inferred from the earlier part of the Mishna).

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- A Braisa says, if a person muzzles an animal and threshes with it, he is chayuv malkus and he must pay the owner of the animal 4 kavs if the animal was a cow and 3 kavs if it was a donkey.
  - **Q:** We have learned that one does not get malkus and have to pay for the same action, so how does the Braisa say he gets malkus *and* has to pay? **A:** **Abaye** said, the Braisa follows **R' Meir**, who holds that one can get malkus and have to pay money for the same action. **A2:** **Rava** said, the Braisa can even follow those that argue on **R' Meir**. Although that view holds that Beis Din cannot enforce a payment for an act for which one received malkus, there is still an obligation to pay, and if the actor wants to fulfil his Heavenly obligation, he must pay. **A3:** **R' Pappa** said, he is chayuv to give the animal the amount of food from the time that he does meshicha on the animal. He is not chayuv malkus until he begins threshing. Therefore, the two obligations are not coming at the same time.
    - **R' Pappa** said that he was asked two questions in the Yeshiva of **R' Pappa bar Abba**, and he answered that both are assur – one was truly assur according to halacha, and the other was truly mutar, but he felt the need to rule l'chumra. The first question asked was whether one may knead dough with milk, and he said it is assur. This is in fact the halacha, as can be seen in a Braisa, that making milchig or fleishig bread is assur. The second question was whether it is assur as kilayim to put two species of animals (with one being a male and the other a female) in the animal pen together, and he said that was assur as well. However, in truth, **Shmuel** has said that one is only oiver the issur of klayim if he actually forces the mating to happen (actually placing the organs together).
      - **Q:** **R' Achdivoi bar Ami** asked, a Braisa seems to say that even holding the animal by the horns to prevent it from moving away from the other animal would be assur as klayim!? **A:** When the Braisa says “holding”, it actually means putting the organs together, but wanted to use less explicit verbiage.
      - **R' Yehuda** said, with a male and female of the same species one may even be involved in putting the organs together and it is not even considered to be an issue of “pritzus”, because he is involved in his work (of trying to get the animals to mate) and will therefore not come to have improper thoughts.
        - **Q:** **R' Achdivoi bar Ami** asked, the Braisa seems to suggest that only holding the animal by the horns to prevent it from moving away from the other animal is mutar, but not touching the organs!? **A:** When the Braisa says “holding”, it actually means putting the organs together, but wanted to use less explicit verbiage.
      - **R' Ashi** said that he was asked by the people of the house of **Rabana** the Reish Galusa, what is the halacha for one to take an animal (e.g. a male) of a certain species and put it into a pen with two (female) animals – one of its own species and one of another species? Do we say that since there is an animal of his species he will not bother with the other species, and it is therefore mutar to put them all together, or not? **R' Ashi** paskened l'chumra even though the halacha does not say to be machmir in this case,



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because he was concerned with conduct of the slaves of the Reish Galusa, and therefore felt the need to be machmir.

### MISHNA

- If the worker is only working with his hands and not with his feet, or if he is only working with his feet and not his hands, or even if he is only working with his shoulder and not his hands or his feet, he may eat from the produce that he is working with. **R' Yose the son of R' Yehuda** says, he may only eat if he works with his hands and his feet.

### GEMARA

- The **T"K** holds that the pasuk of "ki savo b'kerem rei'echa" refers to any work done, whether with the hands, feet, etc. **R' Yose the son of R' Yehuda** holds that the worker may eat only if he is working like the ox mentioned in the pasuk – just as the ox works with his hands and feet (his front and back legs), so too a worker must work with his hands and feet in order to be allowed to eat from the produce.
  - **Q: Rabbah bar R' Huna** asked, according to **R' Yose**, what would be the halacha if one threshes with geese or chickens (which only have two legs)? Would he be oiver if he were to muzzle them? Do we say that the animal must be like the ox in that it uses all its energy, and these birds are also using all their energy, and it would therefore be assur, or do we say that it must be like the ox in that it must use its hands and feet, and the birds are therefore not included in the issur? **TEIKU**.
- **R' Nachman in the name of Rabbah bar Avuha** said, with regard to workers who were hired to trample on grapes in the press, if they have not yet walked the entire length and the entire width, they may only eat grapes. Once they have gone the entire length and width, they may even drink from the wine as well.

### MISHNA

- If a worker was working on figs, he may not take from the grapes, and visa-versa. However, he may hold himself back from eating the inferior produce until he gets to the superior produce, and eat there.
  - In all cases the worker may only eat while he is actually working. However, to prevent a loss to the employer, the **Chachomim** said that the workers may eat while they go from one row to another, and on their way back from the winepress, and that the donkey may eat while it is being unloaded.

### GEMARA

- **Q:** If the worker is working on one grapevine, may he eat from the grapes of another grapevine? Do we say that a worker may only eat from the type of produce he is currently picking for the owner, and therefore this would be mutar, or do we say he may only eat from what he is actually putting into the basket of the owner, and therefore he may not go to another vine? And, if you will say that he must eat from the actual vine being worked on, how can an ox ever eat from attached produce (presumably he is pulling a wagon for workers who are working on a vine behind him, and therefore, the vine he can reach is not the vine being worked on)!? **A:** With regard to the proposed proof from the ox, **R' Shisha the son of R' Idi** said, that is not a proof, because the case can be with a very long vine, which can reach to where the ox is standing.
  - **Q:** With regard to the main question, maybe we can answer from our Mishna. The Mishna says, if a worker was working on figs, he may not take from the grapes. This suggests, that in a case of "figs and figs" which is like a case of "figs and grapes" (i.e. they are from different trees or different vines) he would be allowed to take!? **A: R Shisha the son of R' Idi** said, the Mishna can be discussing a case where the second vine hangs over the vine that is being worked on, and only in that case may the worker eat from that second vine.
  - **Q:** Maybe we can answer from the next part of the Mishna. The Mishna said, the worker may hold himself back from eating the inferior produce until he gets to the superior produce. Now, if he may eat from another vine, why does he have to wait until he gets there? Why can't he go immediately and eat from there? **A:** The Mishna there means that he would have to wait so as not to waste time during the time that he is supposed to work. Our question is where his wife or children are available to bring grapes

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from another vine to him, so there would be no issue of wasting time from work. The question is whether he may have them take from another vine.

- **Q:** Maybe we can answer from the next part of the Mishna. The Mishna said the **Chachomim** said that the workers may eat while they go from one row to another, and on their way back from the winepress. It was presumed that walking from one place to another is considered to be actual work, and yet the Mishna says they may eat as a Rabbinic enactment, not D'Oraisa. We see that D'Oraisa eating from a vine other than the one being worked on would not be allowed! **A:** It may be that a worker may eat from another vine, and the reason the workers in this part of the Mishna may not eat D'Oraisa is because walking from one assignment to another is not considered to be actively “working”, and as such they have no right to eat from the produce.
  - **Others** say that the proof sought to be brought was, that it was presumed that walking is not considered to be “working”, and that is why the Mishna says he may not eat based on D'Oraisa. This suggests, that if he was working he would be allowed to eat D'Oraisa even from a vine that he is not currently working on! To that, the Gemara says, it may be that a worker may *not* eat from another vine, and walking from one assignment to another is considered to be doing actual work. That is the reason the Rabbinic enactment was needed.

### UVACHAMOR KISHEHI POREKES

- **Q:** From what can the animal eat as it unloads? The produce is too far for it to reach!?! **A:** The Mishna should be read as saying “until it unloads” (it may eat from the load on its back).
  - According to this understanding, our Mishna is a proof to a Braisa that says that a donkey and camel may eat from the load on their backs as long as the owner does not take from the load and feed them by hand.

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### MISHNA

- A worker may eat a cucumber (if that is what he is working on) even if it is worth a dinar, or a date even if it is worth a dinar. **R' Elazar Chisma** says, a worker may not eat more than the value of his work, but the **Chachomim** say it is mutar. However, we teach a person not to be a glutton, because that would close the door on any future employment opportunities.

### GEMARA

- **Q:** The **Chachomim** seem to be saying the same thing as the **T”K**!?! **A:** The difference between them is whether we teach him not to be a glutton – the **T”K** says we don't do that, and the **Chachomim** say that we do. **A2:** We can also say that the difference between them is the halacha of **R' Assi**, who said that even if a worker was hired to pick one cluster of grapes, he may eat the grapes (the **T”K** would agree with this and the **Rabanan** would disagree).
  - **R' Assi** also said, even if the worker has so far only picked one cluster of grapes, he may eat it.
    - Both these rulings are necessary. If we would only have the first ruling, we would say in that case he may eat, because there are no more clusters that will be picked, and therefore, if he doesn't eat this one now, he will not get to eat anything. However, when he will be picking additional clusters we would think that he must put the first one in the owner's basket and then may take for himself. That is why the second ruling is necessary. If we would only have the second ruling, we would say that in that case he may eat immediately, because there will be other clusters for the owner. However, in the first case, where there are no more cluster that will be picked, we would think to say that the worker may not eat it. That is why both rulings were necessary to be said.
  - **A3:** We can also say that the difference between them is the halacha of **Rav**, who said that he found in the hidden writings of **R' Chiya** that the pasuk of “ki savo b'kerem rei'echa” allows any person to go and

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eat from the field at that time. The **T”K** would argue and say this pasuk only refers to a worker, whereas the **Rabanan** agree with **Rav**.

- **Q:** Is the entitlement to the produce that the worker gets considered to be his own food (is it additional wages) or is it considered to be Heaven’s food, which Hashem then gives him as a gift. The difference would be where he tells the employer to give this right to his wife or children instead. If the right is truly his, he has a right to give it away. If it is given to him from Heaven, he would not have a right to give it away to someone else. What is the halacha? **A:** We can bring a proof from our Mishna, which says that the worker can eat even more than the value of his work. Now, this must mean that it is a gift from Hashem, because if it is additional wages, how does it make sense for the additional wages to be more than the actual wages?
  - **Q:** It doesn’t make sense in the same way to say that it is given to him from Heaven in an amount more than his wages. Rather, just as there we will say that it is given to him in that amount, we can also say that it may be additional wages even though it is more than the base wages!?
  - **Q:** Maybe we can bring a proof from the later part of the Mishna, which brings the machlokes between **R’ Elazar Chisma and the Rabanan**. Presumably we can say that the machlokes between them is that **R’ Elazar** holds that it is considered to be additional wages of the worker, and the **Rabanan** hold it is a gift from Heaven. **A:** It may be that all hold that it is considered to be additional wages, and the machlokes is in how to darshen the word “kinafshicha” – **R’ Elazar** says it limits the amount he may eat to the amount of wages he is entitled to get, and the **Rabanan** say it teaches that just as the owner may muzzle himself to prevent himself from eating produce in the field, if he does so to a worker he would be patur as well.
  - **Q:** Maybe we can bring a proof from a Braisa. The Braisa says, if a nazir does work in a vineyard and says to give his entitlement to eat grapes to his wife or children (because he may not eat grapes himself), we do not listen to him. This must be because the entitlement is considered to be a gift from Heaven! **A:** It may be that that case is different because we take away the entitlement from the nazir as a penalty for having accepted work in a vineyard (and having tempted himself with the grapes).
  - **Q:** Maybe we can bring a proof from a Braisa. The Braisa says, if a worker says to give his entitlement to his wife or children, we do not listen to him. This must be because the entitlement is considered to be a gift from Heaven! **A:** When the Braisa says “worker” it is referring to a nazir.
    - **Q:** The other Braisa already specifically discusses a nazir!? **A:** These Braisos were taught at different times, and therefore the language of one has no bearing on explaining the language of the other.
  - **Q:** Maybe we can bring a proof from a Braisa. The Braisa says, we learn that we don’t listen to the worker who says to give his entitlement to his wife or children, from the pasuk of “v’ehl kelyicha lo sitein”. This can’t refer to a nazir, because the reason we would not listen to a nazir is as a penalty, not based on this pasuk! **A:** It may be that the Braisa refers to a nazir as well. However, since it refers to him as a “worker”, the Braisa brings a pasuk that has to do with a worker.
  - **Q:** Maybe we can bring a proof from a Mishna. The Mishna says, if a worker is hired to spread figs to dry, he may eat from them and is patur from maaser. If the worker makes a condition that he should be allowed to eat and his son should be allowed to eat, or that his son should eat by taking the entitlement due the worker, the worker can eat and is patur from maaser, and the son can eat but must give maaser. Now, if the worker’s entitlement is part of his wages, why does the son have to give maaser? It must be that it is considered to be a gift from Heaven. **A:** **Ravina** said, it may be that it is his own additional wages, and still we make the son give maaser, because it looks like the produce was purchased for the son.
  - **Q:** Maybe we can bring a proof from a Mishna. The Mishna says, if a worker was hired to work on “netah revai” (produce of a tree in its 4<sup>th</sup> 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. Now, if we say that the entitlement is a gift from Heaven, why would he have to redeem it to give it to the worker? In a case where an issur is involved (like netah revai) the gift is simply not given to him from Heaven! **A:** It may be that the entitlement comes from

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Heaven. Still, we make the owner redeem the produce for the worker, because it looks like a case of “mekach ta’us”.

- **Q:** Maybe we can bring a proof from the end of this Mishna, which says, if a worker was hired to put back together cakes of figs or to reclose barrels of wine that were opened, he may not eat from them (because they were already chayuv in maaser). If the worker did not know this beforehand, the owner must give maaser for this produce and give the produce to the worker to eat. Now, if we say that the entitlement is a gift from Heaven, why would he have to redeem it to give it to the worker? In a case where an issur is involved the gift is simply not given to him from Heaven! **A:** It may be that the entitlement comes from Heaven. Still, we make the owner redeem the produce for the worker, because it looks like a case of “mekach ta’us”.
  - **Q:** In the case of a cake of figs that fell apart, it is possible to say that the worker did not realize that they were already chayuv in maaser. However, when a barrel of wine was opened, he surely knew that it was already chayuv in maaser, so how can we say that there is a mekach ta’us? **A: R’ Sheishes** said, the case is that the barrel of wine opened up back into a wine storage pit.
    - **Q:** A Braisa says that wine in the storage pit is already chayuv in maaser!? **A:** The Mishna follows **R’ Akiva** who says that it does not become chayuv in maaser until one removes the foam from the top of the wine, and the worker claims that he did not know that the foam was already removed.
      - **Q:** Why can’t the owner tell the worker that he should have thought that the wine already had the foam removed!? **A:** They are in a place where the one who removes the foam is also the one who puts the wine into barrels (since it wasn’t in barrels, he has no reason to think that the foam was already removed).
      - Now that **R’ Zvid** taught that **R’ Akiva** said that wine becomes chayuv in maaser after the foam was removed from the wine in the barrel, we can say that the worker was hired to reseal the barrels (the wine was still in the barrel) and he can tell the owner that he had no idea that the foam was already removed. Although the owner can say that he should have thought that it was, the worker can answer that they are in a place where the person who seals the barrel is the one who removes the foam, and therefore, since the barrel was not sealed, it must be that the foam was not removed either.
- **Q:** Maybe we can bring a proof from another part of that Mishna. The Mishna says, 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 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. Now, we assumed that the case is where he is supporting his children, slaves, and wife. Based on this, this would make sense if we say that this right is a gift from Heaven, because that is the reason why he cannot make this deal for the minors, because they don’t have the capacity to waive the right. However, if it is really part of their wages, since he is entitled to their wages (because he supports them) he should be able to waive the right to eat and take more money instead! **A:** This is no proof, because the case is where he is not supporting his children, slaves, and wife.
  - **Q:** If he is not supporting them, why is he allowed to make his adult children waive their right to eat the produce? **A:** The adults fully waive their right at the request of their father/master, and that is why it can work there.
    - **Q: R’ Oshaya** taught a Braisa that says that a person can make a deal to waive the rights of his minor slaves in exchange for more pay. This contradicts the last Braisa!? Presumably, both Braisos are discussing where he supports them, and the machlokes between the Mishna and the Braisa is that the Mishna holds the entitlement is a gift from Heaven, whereas the Braisa holds it is part of his additional wages!? **A:** It may be

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that they both agree that the entitlement is considered to be extra wages, and there is no machlokes at all. The Mishna is discussing a case where the master does not support them, and the Braisa is discussing a case where he does.

- **Q:** If the Braisa is talking about where he supports his minor slaves, why does that same Braisa say that he would not be able to make that deal for his minor children? If the case is that he supports his minors, he should be able to make the deal for them as well!? **A:** Although the wages belong to the father (because he is supporting them), he does not have the right to waive their entitlement to eat, because that would cause them tzaar, and he has no right to cause them tzaar.
- **Q:** The explanation that the Mishna is discussing a case where the master is not supporting the slave, and that is why he cannot make a deal to take away his entitlement, only fits according to the view that a master may not tell a slave that he must work for him (the master will keep the earnings) and the master will also not support him. However, according to the view that a master may say that, why would the fact that he is not supporting the slave prevent the master from making the deal to waive his entitlement? **A:** Rather, we must say that the Mishna and the Braisa are both discussing cases where the master is not supporting the slaves. The machlokes is whether a master who is not supporting his slave may have the slave work and keep the wages for himself (i.e. the master).
- **Q:** This would mean that **R' Yochanan** (who holds that a master may do so) argues on a Mishna and follows a Braisa!? **A:** Rather, we can say that the Mishna and the Braisa both hold that the entitlement to eat produce while the worker works is a gift from Heaven, and therefore he may not waive the right of the minors. When the Braisa says that the master may make a deal, it means that the master may accept money to feed the slaves before they go work, so that they should not be hungry and not eat a lot as they work.
- **Q:** If this is what the Braisa means, why does the Braisa say it is assur to do so for an animal!? **A:** Rather, we must say that the machlokes between the Mishna and the Braisa is as follows – the Mishna holds that the entitlement of a worker to eat produce is a gift from Heaven, and the Braisa holds that this entitlement is considered to be his, as part of his wages.

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### 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 4<sup>th</sup> 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.

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## 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

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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

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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.