



## OVERVIEW BAVA KAMA DAF 13

### Section 1: Which Kodshim Kalim Are Considered Personal Property?

#### The Debate:

**Beraisa - R. Yosi ha'Glili:** "He transgressed against God" includes Kodshei Kalim, which are a person's property.

**Ben Azai says:** This includes Shelamim (peace offerings).

**Aba Yosi ben Dostai says:** Ben Azai said "only a Bechor" (firstborn animal).

#### Version #1 - What Did Ben Azai Exclude?

**Question:** Ben Azai said "this includes Shelamim" (meaning but not all Kodshim Kalim). What did he exclude?

**Suggestion:** He excludes a Bechor.

**Rejection:** Shelamim requires Semichah (pressing on the neck), accompanying flour and wine offerings, and waving the chest and foreleg - and still we say it's the owner's property. A Bechor (which requires none of these) is certainly the owner's property!

**Answer (R. Yochanan):** He excludes Ma'aser of animals (animal tithe).

#### Beraisa explains:

- About Bechor it says "Lo Sipadeh" (it won't be redeemed) - it may be sold unblemished when alive, and if blemished, alive or slaughtered
- About Ma'aser it says "Lo Yiga'el" (it won't be redeemed) - it may NOT be sold, alive or slaughtered, blemished or unblemished

Therefore, Ma'aser isn't considered the owner's property.

#### Version #2 - What Did Ben Azai Exclude?

**Aba Yosi said** Ben Azai said "only a Bechor." What did he exclude?

**Suggestion:** He excludes a Shelamim.

**Rejection:** A Bechor is holy from the moment it's born, yet it's the owner's property. A Shelamim is certainly the owner's property!

**Answer (R. Yochanan):** He excludes Ma'aser.

**Question:** Aba Yosi said "only a Bechor" (implying nothing else)!

**This is left difficult.**

#### Rava's Understanding:

**Rava:** The Mishnah says "property in which there's no Me'ilah" - this refers to property the law of Me'ilah doesn't apply to, i.e., a person's property.

**Question:** If so, the Mishnah should have said so explicitly!

**This is left difficult.**

### Section 2: Kodshim That Damage

#### R. Aba's Teaching:

**R. Aba:** If a Shelamim damaged, we collect from the MEAT, not from the Eimurim (parts offered on the altar).

**Question:** This is obvious! The Eimurim belong to God!

**Answer:** One might think we collect full damage from the meat, even though the Eimurim were partners in the damage. He teaches that we don't.

#### According to Which Tanna?

**Suggestion:** It's like Chachamim.

**Rejection:** This is obvious! Chachamim say when we can't collect from one of two damagers, we don't collect extra from the other.

**Suggestion:** It's like R. Nasan, who says when we can't collect from one damager, we collect extra from the other!

**Answer:** It can be like either Tanna:

- **Like Chachamim:** They said one damager doesn't pay the other's share only when there are TWO damagers. When there's ONE damager (the animal), perhaps we collect from wherever we can!
- **Like R. Nasan:** He said his law only about a pit, where the victim can claim "my ox is in your pit - what I can't collect from the ox that pushed it, I'll collect from you." Here, one can't say the meat without the Eimurim caused all the damage!

#### The Todah Case:

**Rava:** If a Korban Todah (thanksgiving offering) damaged, we collect from the meat, not from the bread brought with it.

**Question:** This is obvious!

**Answer:** The new teaching is: The victim eats the meat, and the one obligated to bring the offering brings the bread.

**Question:** This is also obvious!

**Answer:** One might think since the offering is invalid without bread, whoever eats the meat must bring the bread. He teaches this isn't so - the bread is the obligation of the offering's owner.

## Section 3: For Which Property Must Damages Be Paid?

### "Members of the Covenant"

**Mishnah:** Property of members of the covenant.

**Question:** What does this exclude?

**Answer:** It excludes non-Jews. A later Mishnah exempts a Jew's ox that gores a non-Jew's ox - that Mishnah explains ours.

### "Specific Property"

**Mishnah:** Specific property.

**Question:** What does this exclude?

**Answer #1 (Rav Yehudah):** It excludes when we don't know WHICH animal damaged. A later Mishnah teaches this - our Mishnah explains it.

**Answer #2 (Beraiisa):** It excludes Hefker (ownerless) property.

**Question:** What's the case?

- If a man's ox gored a Hefker ox → He's exempt (no one can claim damages)
- Rather, a Hefker ox gored a man's ox

**Question:** He can take the ox that damaged!

**Answer:** Someone else already took it.

**Answer #3 (Ravina):** If Reuven's ox damaged, and Reuven made it Hekdesh (holy) or Hefker after it damaged, he's exempt.

### Support from Beraiisa:

**Beraiisa - R. Yehudah:** Even if the owner made his animal Hekdesh or Hefker after it damaged, he's exempt.

We learn from "the owner was warned, and it killed" - the killing and bringing to trial must be like one (the animal had one owner the entire time).

**Question:** We should also require the final verdict in the same status!

**Correction:** Indeed, the killing, bringing to trial, AND final verdict must be like one.

## Section 4: Where Is One Liable for Damage?

### "Except in the Damager's Premises"

**Mishnah:** Except in the premises of the damager.

This is because he can say "your ox had no right to be on my property."

### Joint Property:

**Mishnah:** And the joint property of the damager and victim.

**Rav Chisda:** One IS liable for Shen and Regel in joint property.

The Mishnah means: "except in the damager's premises (where he's exempt). In joint property, when he damages, he must pay."

**R. Elazar:** One is EXEMPT for Shen and Regel in joint property.

The Mishnah means: "except in the damager's premises OR joint property (where he's exempt). 'When he damages, he must pay' comes to include Keren."

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### What About Shomrim?

**Beraisa:** "When he damages, he must pay" includes a Shomer Chinam (unpaid guardian), a borrower, a Shomer Sachar (paid guardian), and a renter, when an animal in their possession damaged.

A Tam pays half-damage, a Mu'ad pays full damage.

If the wall broke down at night, or robbers made an opening and the animal went out and damaged, the Shomer is exempt.

**Question:** What case does this discuss?

**Answer:** The lender's animal damaged the borrower's animal. The borrower accepted only to guard the lender's animal from BEING damaged, but not from DAMAGING.