



## OVERVIEW of the Daf

### 1) Stealing an animal that matured (cont.)

The Gemara continues to present the debate between Beis Shammai and Beis Hillel whether a thief acquires an item that changes.

The Gemara summarizes the point of dispute between R' Illa and R' Chanina and notes that the Baraisa that supports the point they agree upon seemingly refutes Rav's earlier position.

Rava defends Rav's position.

### 2) Acquisition by means of change

Rabbah asserts that a verse and a Mishnah support the assertion that a change to a stolen object effects its acquisition.

### 3) Acquisition by means of יאוש

Rabbah begins to teach that יאוש effects acquisition but is uncertain whether this is a Biblical or Rabbinic law.

Rabbah elaborates on the uncertainty regarding the origin of יאוש effecting acquisition.

R' Yosef argues that יאוש does not effect acquisition even Rabbinically.

R' Yosef unsuccessfully challenged Rabbah's position.

Abaye unsuccessfully challenged Rabbah's position.

Abaye challenges R' Yosef's position.

R' Yosef defends his position but that defense is successfully challenged by Rabba bar R' Chanan.

Rava reports the defense that R' Yosef offered for this challenge.

### 4) Acquisition by means of a change of name

R' Yosef's assertion that a change of name effects acquisition is challenged. ■

## Distinctive INSIGHT

### The outcome of different types of שינוי

אמר רבה שינוי קונה כתיבא ותנינא

Rashi explains that the rule of Rabba that "a change in the object effects a change in ownership" is only speaking about a type of change which is done to the object directly (שינוי בידיים), rather than a change which occurs on its own.

Ketzos Hachoshen (354:3) notes, however, that it seems clear that even a change which occurs on its own is enough to effect a קנין. The Mishnah (later, 96b) teaches about a thief who steals an animal or slave which matures into being an adult. The Mishnah rules that the thief may not simply present the aged animal to its owner, but he must rather pay the value of the original theft. The thief has acquired the animal with the change (שינוי קונה). We see that the effect of שינוי is functional even with a change which occurs on its own.

אמרי שואל ומשיב answers that the concept of a שינוי effecting a transfer of ownership is found in two contexts. In one respect, a thief acquires the stolen object via a change in the object. Here, the change must be one which is done to the object (בידיים), and the thief must even intend to acquire the object with his actions. This is the ruling of Rabba in our Gemara, and this accounts for the comment of Rashi in our case. The other situation is in reference to when a thief can no longer tell the owner הריניך and fulfill the directive of the Torah that he return the stolen object to its owner (והשיב את הגזילה). Here, any substantial change in the object can preclude fulfillment of this halacha. The verse states that the original object be returned as long as it is still intact (אשר גזל), and this situation is altered even if the animal ages on its own, as is indicated in the Mishnah on 96b.

Rabeinu Chaim HaLevi on Rambam suggests an inquiry regarding the underlying reason why a thief cannot say "here is your object" once the object has changed. Is it because a change results in the object's being transferred to the ownership of the thief, and the thief cannot say, "here is *your* object," or is the issue that the object itself has changed, and the thief can no longer say, "*here* is your object." Reb Chaim concludes that both aspects of change seem to be correct. The Gemara (66b) states that after יאוש,

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## REVIEW and Remember

1. What is the point of dispute between R' Illa and R' Chanina?  
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2. Is יאוש an effective acquisition for stolen property?  
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3. To what case does the Torah refer when it prohibits offering a stolen korban?  
\_\_\_\_\_
4. When did R' Yosef merit to resolve Rabbah's challenge?  
\_\_\_\_\_

# HALACHAH Highlight

## Returning a stolen esrog after Sukkos

גזל חמץ ועבר עליו הפסח אומר לו הרי שלך לפניך

If one stole chometz and Pesach passed over it [the thief can] say to him, "Behold your property is before you."

In the course of the Gemara's discussion related to whether *יאוש* effects acquisition, the Gemara mentions the case of one who steals chometz before Pesach. The Gemara's ruling is that although the chometz lost value over Pesach as a result of the prohibition against using chometz that remained over Pesach, nevertheless, the thief can return the original chometz that he stole and thereby fulfill his obligation of returning the stolen property. The rationale that permits him to return the chometz even though it lost its value is that he can claim, *הרי שלך לפניך*—Behold I am returning to you your property. Interestingly, in the same paragraph where Shulchan Aruch<sup>1</sup> cites this halacha he mentions a similar case. Someone stole money from his friend but by the time the thief decides to return the stolen money the government has taken those coins out of circulation the thief cannot claim *הרי שלך לפניך*. What is the rationale to distinguish between these seemingly parallel cases?

Pischei Teshuvah<sup>2</sup> cites Teshvas Beis Shmuel who explains that when the government takes a coin out of circulation it is evident to anyone who looks at the coin that it has lost all its value. In contrast, when someone looks at chometz that passed over Pesach one cannot see that it is prohibited. Even though in both cases the item has not changed physical-

(Insight. Continued from page 1)

if *יאוש* is *קונה*, the thief cannot say "here is your object." This indicates that the issue is that the object, although intact, does not belong to the original owner. On the other hand, R' Chisda (65b) teaches that the physical change of a stolen animal which matures (*גדי ונעשה איל*) is not enough to affect a *קנין*, but yet the thief can no longer declare *הרי שלך לפניך*. We see that even without a *קנין*, a thief cannot declare that he is returning the original object when it has undergone a physical change. ■

ly, nevertheless, the allowance to declare *הרי שלך לפניך* is limited to where one cannot detect that the value of the item has changed, as is true in the case of chometz but not in the case of the coin. Based on this distinction he answers another related question. Reuven stole a two-hundred dollar esrog the week before Sukkos. After Sukkos he regrets his transgression and returns the esrog to the esrog dealer. The esrog dealer refuses to accept the esrog as reimbursement for the stolen esrog since after Sukkos the esrog is almost worthless. Reuven claims that the principle of *הרי שלך לפניך* allows him to return the stolen esrog even though it has lost value. In light of our discussion we would say that since everyone can see that the esrog has lost value, once Sukkos is over, it is similar to returning stolen currency that is no longer in circulation. Just as the thief cannot return the coin, since everyone can discern that it lost value, so too Reuven cannot return the esrog since everyone can discern that it lost almost all of its value. ■

1. שו"ע ח"מ סי' שס"ג סע' א

2. פת"ש שם סק"א ■

# STORIES Off the Daf

## A significant change

עד דיתב רב יוסף ברישא ופירקה

Rav Yitzchak Betzalel Morgenstern, zt"l, told over the following exchange regarding his grandfather the Alexander Rebbe, zt"l:

Someone once approached the Rebbe and asked, "In Bava Kama 66 we find that Rav Yosef had a question for twenty-two years but it was only on the day that he became Rosh Yeshiva that he finally understood the answer. On that very day, he finally grasped that a

change in the name of the object can also be an instrument of acquisition since this is likened to a physical change. I don't understand something, though. Why did this answer only occur to Rav Yosef when he became Rosh Yeshiva? And why specifically did he only come to understand this on the day he was appointed?"

The Rebbe replied, "It was only when Rav Yosef saw that when he became Rosh Yeshiva there was a substantial change in him that he finally grasped that a name change is like a physical change."<sup>1</sup>

Rav Chaim Shmuelevitz, zt"l, explained this somewhat more fully.

"When someone is appointed a leader he is granted spiritual powers above and beyond the natural limitations of his personal level. The purpose of this gift is to enable him to lead effectively.

"This explains why Rav Yosef was able to grasp that day what was hidden from him for twenty-two long years. This is also what is behind the surprising statement of Nadav and Avihu, 'When will these two elders die so we can lead the generation?' They yearned for the extra degree of heavenly closeness that leadership would have afforded them." ■

1. אור פני יצחק ע' מ"ב