

Bava Kama Kitzur Notes

Shiur 1/Pesicha (2a)

- 1) Definition of מלואה שאינה כתובה בתורה: **Tosfos Kiddushin 13b**: I would have known I'm chayav without the Torah telling me. **Rebbe's translation**: Hischayvus Mida'as.
- 2) Seven possible nafka minas of מלואה הכתובה/אינה כתובה בתורה:
 - a) **Minchas Chinuch 57:15** -- גז"ש on **5a** only applies to הכתובה בתורה; not בע"ח.
 - b) **Meiri BK 70b** (not accepted): התחייבות מדעת קם ליה בדרבה מיניה does not apply to קם.
 - c) Hoda'os vehalva'os don't require 3 semuchin, while gzeilos/chavos do.
 - d) **Rambam Malveh 26:10** -- קטן שהגדיל *is* chayav to pay if he borrows money.
 - e) התחייבות מדעת can be less than a ש"פ.
 - f) **Rabbeinu Chananel Kiddushin 13b**: שעבודא דאורי' is only true by a מלואה הכתובה.
 - g) **Tosfos 8a** may hold that, unlike by a הלואה, a שעבוד can't be created on a מלואה by writing a shtar afterwards.
- 3) Two Nafka Minas between Mamon and Knas:
 - a) Modeh Biknas is pattur, while by mamonos we say עדים דמי. **Rebbe**: This is because knas is a form of עונש and עצמו רשע אין אדם משים.
 - b) **Tosfos**: No reason to pay a knas if לצאת ידי שמים if ב"ד wasn't mechayev you.
- 4) Seven nafka minas between mamon and kapara:1
 - a) **Tosfos 43a + Kesubos 30b**: Mechila doesn't work on a Kapara, which is why no מחילה for Chomesh. (**Rash Terumos 6:1** thinks Kapara *could* be מחילה, but Chomesh is different since there's a specific פרעון defined.)
 - b) **BK 104b + Tosfos 43a**: Children don't pay Kofer for their father's sin.
 - c) No din of גזילות אשם if you swear falsely that you don't owe a kapara.
 - d) **41b**: Eid Echad is believed to be mechayev kappara
 - e) **Makkos 2b**: Eidim don't get זמם כאשר if they're mechayev a kaparah (kofer). **Nesivos 38:2** -- this is because a חיוב כפרה is created through just one eid, and the parsha of eidim zomemin is only written by a chiyuv created by two eidim.
 - f) **Tosfos Kesubos 30b + תוס' ר"פ on BK 43b**: קלב"מ isn't potter from a kaparah.
 - g) **Tosfos Kesubos 30b (+ Rambam Nizkei Mamon 10:5)**: Safek kaparah goes lechumrah, unlike safek mamonos.

Shiur 2

- 1) **Meiri**: Mishnah is intentionally written vaguely to preserve the two different traditions that רב + שמואל argue about. Rebbe Yehuda Hanassi himself wasn't sure which was correct. **Rebbe**: This also explains the machlokes Rav + Shmuel by בשבח.
- 2) What was gemara's shailah of תולדות כיוצא? **Nachalas Dovid**: Toldos in Shabbos means that they're in the same category as the אב, while Toldos by Tumah means that they're a *transmission from* the Av, making them less chamur. Which of those two types are Toldos of Nezikin like?
- 3) Are צורות א הלי"מ? **Everyone**: Yes. **Kidmas Ha'emek beda'as HaRambam**: No; הלכתא לה doesn't mean א הלי"מ, but that מפי השמועה למדו: we know the halacha but forgot the derivation.

- 4) Doesn't (חההכ"ח) הוא נחלל prove that Toldos of Tumah can be identical to the Av Hatumah? **Tosfos 2b**: No -- a חרב can't be metameh another חרב at the same level.
- 5) Which כלים can have a din of חההכ"ח? **Machlokes Rishonim** whether only metal or also non-metal. **One Rishon** incorrectly says it only applies to a sword that killed someone
- 6) Is חההכ"ח a problem for a Kohen? **Rabbeinu Tam Nazir 54b**: Yes. **R' Chaim Kohen** (and how we paskin): No. "איזה בית אשר תבנו לי."

 - a) **Rebbe**: It's a machlokes in whether the issur is to become tamei to טומאת מת or to עצמו. We should be meikil on טומאה לצאת as well, but we paskin lechumrah in **YD 371:4** since we have a minhag to be machmir.
 - b) Is טומאה לצאת a din deoraisah? **Stirah** in **Rashi Beitzah 10a + 38a** whether הלי"מ or derabanan.

- 7) **Rokeach** allows a pregnant kohenes to enter a cemetery only based on a ס"ס. Why not say it's muttar since there's טומאה סח on טומאה בלוע? **Rav Elchanan Wasserman + Rav Chaim Ozer**: **Rokeach** thinks the issur is to become tamei to mes atzmo (like R' Chaim Kohen above), not tumas meis.
- 8) If holding onto a חההכ"ח, is a kohen permitted to touch an actual מת? **Rav Goren**: Yes. **Rebbe**: No; it's being mossif tum'ah based on our Tosfos.
- 9) Which of the מדות י"ג is included in? **Rashi BK 63b**: Binyan Av. **Meiri**: ק"ו.
- 10) Why do we need a limud for Toldos of Shabbos, but not for Nezikin? **Shitah Mekubetzes beshem Mahari Katz**: Melachos of Shabbos are based on what was done in the Mishkan, so I would have thought Toldos aren't melachos since they weren't done.
- 11) Is lighting an incandescent bulb an issur deoraisah of hav'arah? **Maharsham**: No -- wasn't done in the mishkan. **Rav Chaim Ozer + accepted opinion**: Yes.

Shiur 3

- 1) Are we עונשין ממון מה"ד? **Tosfos 2a**: The **Mechilta** says not, but **BK** thinks we are. **Nimmukei Yosef in BB beshem Ritva** thinks we paskin like the mechilta. **Rashba** thinks mechilta thinks we only say אעממה"ד by bor, and not other nezikin.
- 2) Will Eidim Zomemin get malkus if they *succeeded* in giving someone malkus? What's the machlokes based on? **Rambam Eidus 20:2** -- Yes. **Ra'avad**: No.
 - a) **Rogotchover**: Ra'avad learned the petur of כאשר עשה was based on אעממה"ד, and that it applies to malkus. Rambam learned the general petur of כאשר עשה is just based on בזמן שאחיו קיים — לעשות לאחיו (since the punishment has to be "paid" to the defendant). By malkus, he's still kayam, so they get malkus.
 - b) **Beis Ha'otzar's** interpretation: **Rambam** learns like Ra'avad, but thinks אעממה"ד doesn't apply to מלקות:
- 3) Why do we say אעממה"ד? a) **Halichos Olam**: Maybe there's a pircha on our logic. b) **Maharsha Sanhedrin 64b based on Smag (by Molech)**: דלמא לא סגי ליה בכפרה, and we only give an onesh when it will give a kaparah.
- 4) Is there an issur to be mazik? If so, what's the source? Yes -- mashma in multiple gemaras. **Rav Soloveitchik**: לא תעמוד על דם רעך, which **Sifra** says refers to דמים.
- 5) Why are there 39 chata'os for doing 39 different melachos? **Rav Menachem Zamba**: Machlokes Rishonim (**Rashi Shabbos 72b + Tosfos Rid Shabbos 138a**) whether

they're שמות מוחלקין or שמות מחולקין. **Rav Soloveitchik** connected this to **Tosfos 2a** whether you need to be מתרה for a Toldah לשם אב דידה -- only if you say שמות מוחלקין

- 6) **Ran Shabbos (end of 14th Perek):** Even R' Yehuda would agree that a משאצליג on a Toldah is only an issur derabanan. Why?
- a) **Rav Tzvi Pesach Frank:** R' Yehuda holds a משאצליג is a Toldah. So a משאצליג is a Toldah of a toldah, which doesn't exist.
 - b) **Eglei Tal:** Rereads it since then our gemara should have said that difference between avos and toldos.
 - c) **Rebbe:** A toldah is a different ma'aseh than was done in the Mishkan, but with the same tachlis. But a משאצליג of a Toldah is neither the same action, nor the same tachlis. By definition, it's not a toldah, which is why it's muttar mideoraisah.
 - d) **Stiros in Rambam** whether משאצליג is deoraisah. **Rav Itzileh Ponovezh + Merkeves Hamishnah** both say he holds like this Ran. [From Chazara Shiur]
- 7) Is a ba'al keris an av hatumah or just the keris itself? **Rash:** ba'al keris is a rishon letumah based on **2a** saying only Shichvas Zera is the Av Hatumah. **Others** disagree. **Mei Naftoch + Chazon Yechezkel:** Machlokes Rishonim.

Shiur 4 (2b)

- 1) When you have a מצינו based on two avos, does the נלמד have both quirks? **Tosfos 3b:** Yes. **Rosh:** No -- just the din it's most similar to.
- 2) What's behind machlokes Rav and Shmuel by Bor Birshuso? **Shitah Mekubetzes:** They both agree it's learned from Bor and Shor; the question is just which it's most similar to.
- 3) What was the הוי"א of היוצי'ב לאו כיוצא'ב? **Rashi:** I'd be completely pattur. **Rif (lefi Griz Nizkei Mamon):** Of course I'm chayav -- it wouldn't be called a Toldah otherwise. The question was just whether the Av's quirks apply. Rif's understanding is like Rosh's that the quirks only apply if the toldah is fundamentally like the Av; gemara wasn't sure if Toldos are considered fundamentally the same as the avos.
 - a) This also explains why we would have thought Keren mechuberes is חייב נז"ש.
- 4) Etymology of "דברי קבלה": **Rashi Chullin + Malachi:** Words/ideas of נ"ך were mekubal lemoshe misinai. **Shitah here beshem רי"פ תלמיד:** From קבלה, to complain. Nafka Minah for whether Kesuvim are included.
- 5) Are fast days a חיוב nowadays? **Hagahos Maimoni Ta'anis 5:2 בשם רי"ת:** No, they're all a reshus nowadays, but שויהו עליהו כחובה. Therefore, a חשאב"ס can eat. If it were a שעת השמד, this would be assur, since they'd be מדברי קבלה and therefore דמי תורה דמי.
- 6) **SA 554:6** paskins like **Ramban** that ט' באב is קבלה and therefore a חשאב"ס can eat. **Taz OC 554:4** (mis)understood a gemara in Ta'anis to mean that it's midivrei kaballah, since we're machmir on both ביה"ש. **Rashba quoted by Avnei Nezer** says this is incorrect -- it's just because being meikil on both sides would be a תרתי דסתי.
- 7) What's the hagdara of keren? **2b** assumes it's based on כוונתו להזיק, but **Rav Soloveitchik** pointed out that lefi the maskana on **15b**, all that's necessary is משונה (e.g. cat eating sheep). **Rav Kotler** argued this was already true by **5b**.
- 8) According to ר"ל that אשו משום ממונו, is one chayav for אש if they didn't create it? **Rashi 22a:** no. **Tosfos there:** Yes. The term ממונך just means you're responsible for it.

Shiur 5 (2b-3a)

1. Examples of Tosfos' yesod on **3b** that ממונך = responsible for it: a) **Tosfos 22a** by אש א. b) **Tosfos 56b** that מעמד בהמת חבירו על קמת חבירו is chayav שן משום שן (cf. **Rashba** that it's (אדם המזיק), despite that it's not your animal. c) **Rav Soloveitchik's** understanding for why I'm not chayav for my eved's hezek: he's a bar da'as, so I'm not responsible for what he does (cf. **Meiri** that it's a petur miderabanan). d) **Tosfos 56b** that a גנב is chayav in the stolen animal's shmirah since he's the responsible party.
2. Is a shomer aveidah chayav in the animal's נזיקין? Young **Rav Moshe Soloveitchik**: No, based on **Tosfos 56b** that you're only chayav due to "responsible party" if taken from a מקום המשתמר.
3. Why doesn't מקדש באיסוה"נ work? 3 opinions: A) It's אינו שלו (see **Rashi 71b**) B) אינו ברשותו (**Ketzos**) or C) **Rashi Pesachim 6b + others** say it isn't worth a ש"פ.
 - o Rashi ibid. Is mashma an איסוה"נ שלי וברשותי; if so, why does **29b** call חמץ something which is אינו ברשותי? **Acharonim**: The chiyuf שריפה makes it hefker.
4. Is a kinyan issur inherited? Pashtus in **Gittin 40a**: Yes. **Chok Ya'akov**: No.
5. What was Tosfos 3a's מסקנה + הו"א by לחומרא? **Rebbe**: The הו"א was that this is a din in לחומרא לומר, and by mamonos we'd say המע"ה. Maskana is that it's a klal in darshining betoras vadai.
6. Is ודאי? **Tosfos 3a**: Vadai. **Pri Megadim כוללת** Safek. It's two deios in **Tosfos Shantz Pesachim 43a-b**: Do women get malkus for eating chametz, considering their issur is all based on למצה. היקש בין חמץ למצה.

Shiur 6 (3a - 3b)

1. Definition of פירות להנאתה: טנפתא פירות להנאתה: **Rabbeinu Chananel**: עשה צרכיה. **Rashi here + 18b**: No, that would be tzroros, not שן, since it's not לגופו. It means to roll in the fruit.
2. Examples of הרוב אחר בפ"נ: a) fence around a roof, despite that most people wouldn't go that close. b) Issur for pregnant/nursing woman to remarry before child is 24 months old, despite that חש that husband will starve child or that she'll nurse that long are very low.
3. Mishnah says אדם המזיק is chayav even be'ones. If so, why do many gemaras give peturim for adam hamazik? **Tosfos 27b**: One is chayav חס אבידה, but pattur חס אונס כעין גניבה, and definitely אונס גמור. **Ramban BM 82b**: Chayav חס אונס גמור unless the Nizak was poshe'a beforehand. **Ramban + SA**: Pattur חס אונס גמור, but chayav חס אונס גמור on all other onsim.
4. Is Garmi chayav mideoraisah or miderabanan? **Tosfos 54a, 62b, + 71b**: Derabanan. **Ramban**: MiDeoraisah.
 - a. Nafka Minah? Does there need to be a clear hagdarah between grama and garmi, which is why **Shach** chose not to write a דגרמי.
5. Examples of תורשבע"פ being more kal than שבכתב: A) Ayin tachas ayin. B) Kofer instead of actual misah. C) הלי"מ always goes lekula (**Rosh 2nd perek**) based on 3rd wall of sukkah and how we knew tzroros is really כגופו and the הלי"מ is being meikil.
6. Why is Rav Yosef always the Metargem? **Someone**: Since דברים שבכתב אי אתה רשאי. **Tosfos**: No -- it's muttar because of עת לעשות מזה and אין לך עת לעשות גדול מזה. לאומרן בע"פ.

7. Is an actual issur? **Rashi Brachos 54a** is mashma it just *appears* assur, since *isn't matir* real issurim. **Rav Ovadiah יח"ד ג'ע"ד** quotes **Yereim** that it's just an inyan of בשלימותה.
8. When is the above an issur? **Tosfos Termurah 14b + Gra there**: Only an issur to be motzi someone in Torah Shebichsav by reading it בע"פ. That's why you should say haftarah to yourself when the מפטיר isn't reading from a klaf.
9. Do our sefarim have קדושת ספרים? **Tosfos Shabbos 115b** has an opinion that paper has the status of a sefer. **Taz YD 271:8 + MA OC 284** both assume printing press sefarim may have a din of sefarim. **Chazon Ish + Rav Soloveitchik**: No -- the pages aren't connected to each other and the text is on two different sides of the page.

Shiur 7 (4a-4b)

1. Why is it a kula that there's no kofer for אדם ההורג if he's really chayav were it not for קלב"מ? **Tosfos**: a) He's pattur from kofer even in cases of shogeg. b) The petur isn't based on קלב"מ but a gzeiras hakasuv.
 - a. Why doesn't קלב"מ apply here? A) **Tosfos Rabbeinu Peretz 43b**: Kim Lei doesn't apply to mamonos. B) **Maharam**: Since the chiyuv kofer and chiyuv misah stem from the same hezek (killing the person), it's as if there's just one big chiyuv for your act -- קלב"מ only applies to two different היזקים. **Rebbe**: The answer is so good that we don't understand **gemara Makkos** that asks how לוקה ומשלם can be מוצש"ר.
2. Is כח גברא the same thing as כח אדם? **Dvar Avraham**: Yes. And a koach sheini isn't considered מעשה אדם, just like it's not כח גברא. **Tosfos 4b** holds the same thing. **Rav Soloveitchik/Rebbe**: No, and כח שני is still considered מעשה אדם, just not כח גברא.
 - a. Is there a possibility of כח שני when it's not המונע? **Dvar Avraham** assumes yes, but **Kozhoglover + Chazon Ish CM 1:5** based on **MA** both say no.
3. What's the definition of a grama? **Dvar Avraham + הרובם ככולם של האחרונים**: If I do an action whose result won't occur until after a time delay, the delayed outcome is a grama. **Rav Soloveitchik**: Any time I set a system in motion such that a result will inevitably occur, that's not grama, regardless of the time delay.
4. If you agree to fix something for me, don't, and I suffer damages because of it, are you chayav? **Rambam Sechirus 2:3** -- Yes. מטעם אדם המזיק. **Ra'avad**: No.

Shiur 8 (4b - 5a)

1. To which dinnim do we apply the petur of כאשר עשה? **Rambam**: Only Misah. **Tosfos 4b**: Misah and Malkus. **Nimmukei Yosef beshem Ritva**: Even on Mamon.
2. Explanation of **Riva** that אפשר בחזרה negates the issue of כאשר עשה? **Garnat**: Only relevant eidus accepted in court; if it's not independently meaningful, it's a כחי דבר [cf. Tosfos there]. As such, when an onesh was administered, we can't accept the eidus of the kas hamazimin, since it's impossible to undo the עונש. That's why כאשר עשה doesn't work. But if the psak can be reversed, the eidus is relevant, and the עדות של המזימים is accepted.
 - a. **R' (M.) Rosensweig שליט"א** "murderous" kashya: Isn't their eidus mo'il either way to be possel the first? **Rebbe**: Maybe the chiddush of believing the latter eidim was only נתחדש when it will affect one of the two בעלי דין.

3. Are bnei noach killed for violating a mitzvah בשב ואל תעשה? **Rambam** by Milah + Schem: Yes. **Ramban**: No
4. Which dinnei nezikin are בני נח chayavim in? **Ramban** by Shchem: All 24 avos.
Acharonim: This is against **Sanhedrin 56b** that only בני נח were given קנס (at Marah).
5. What does it mean that עדידיי pay from Iddis? **Tosfos**: Even if they were mechayev a zibboris or beinonis payment, they pay in iddis. **Meiri**: No; that's not כאשר זמן! Only if they were going to cause someone to pay in cash will the eidim pay in idis.
 - a. What's the yesod hamachlokes? **Rav Lichtenstein + Avi Ezri**: Is the chiyuv of meitav by the avos nezikin an integral part of the chiyuv or just a din in the פרוען?
6. Examples of above chakirah: A) **Tosfos** vs. **Meiri** (above). B) If you do a זקיפת מלוה on a chiyuv nezikin, are you chayav in iddis or beinonis? **Yerushalmi**: Iddis (din in chov; iddis transfers to the new Milveh); **Ra'avad Gittin 50a**: Beinonis (Din in piraon; was already paid).
7. Why do tannaim give you numbers for things if we can just count them? **Yerushalmi**: Memory device to remember how many. **Bavli**: Always teaches us a din.
8. Does mosser + mefagel pay meitav? **Rashi Kerisus 2b**: No. **Tosfos**: Yes.
9. Hezek beshev v'al ta'aseh is always grama, not garmi. Why is mefagel chayav then?
Ramban: The machsheves piggul labels the *avodah* as an *avodas piggul*. **Tosfos Pesachim 63a**: You need to speak in order to be mefagel. So we can say בדיבורו עביד מעשה -- like by Chasmah Bekol and Temurah. This is also why Edim Zomemin is considered a מעשה.
10. If I tell government bandits which Jews have money to take from, which issur have I violated? Mesirah. What if I'm being mosser a Jew who deserves the חיוב they want to impose on him? Not מסירה, but could be an issur of עכו"ם if no chillul hashem involved.
11. Which of the the דברים are knas? R' Oshaya's list on **4b** is mashma boshes *isn't* knas. **Rashi 27b** assumes boshes *is* knas. [See **Tosfos 27b** who disagrees.] **Rambam Chovel 5:7** assumes boshes, tza'ar and nezek are all knas.
 - a. How can nezek be knas? **Rambam leshitaso in Moreh** that the literal reading of the pesukim tell you a chovel is really chayav to lose a limb for what he did; the monetary payment isn't really "כמה שהזיק."

Shiur 9 (4b-5a)

1. Is מדאורי או מדרבנן chayav היזק שאינו ניכר (הש"י)? **R' Yochanan in Gittin 53a**: Miderabanan when done bemeizid. **Chizkiyah ibid.**: Mideoraisah; Rabanan were poter a shogeg though. **Gemara Gittin there** paskins like R' Yochanan.
2. What does Menasech mean by הש"י? **Rav ibid.**: מנסך ממש. **Shmuel**: מערב יין נסך. **Rashi here 4b**: Shmuel's pshat is untenable since you didn't cause a loss (*this is כהלכתא*). How is Rashi taking a stand on a machlokes Amoraim? **Pnei Yehoshua**: Shmuel's opinion only makes sense according to R' Yochanan that לאו שמיה היזק, but since R' Chiyah considers it an Av, he must hold like Chizkiyah that שמיה היזק, and so Rav's pshat is the only possible one.
3. Why does **Rashi** call מפגל לשם שלמים a מפגל? **Pnei Yehoshua**: Mefagel mamash would be no different than מטמא since they also passul the korban, so you have to say מפגל

means something where the korban is still kosher. He changes the girsa to שלמים לשם חטאת is how **Menachos 49a** refers to chatas since it's a chatas with *intent to eat in the same zman as shlamim* (an extra day). If so, Rashi was explaining כפשוטו.

4. Which three chiddushim of Tosfos regarding Garmi does Ramban disagree with? a) You're pattur on garmi done בשוגג since לא קנסו שוגג אטו מזיד (Tosfos BB 2a). b) גרמי (b) is pattur. c) If mazik dies, nizak doesn't collect from yorshim, since it's a knas, and לא קנסו בנו אחריו.

Shiur 10 (6a)

1. Can Lishmah be imparted by one who isn't דבר אותו? **Ritva Pesachim 40**: No.
2. Examples of Ko'ach Acher Me'urav Bo:
 - a. We say you're chayav misah for murder בו ע"י כח אחר מעורב בו.
 - b. By Kinyanim, whistling to a beheimah to make it come is a kinyan Meshicha and having an elephant jump by waving food above it is a kinyan hagbahah [**Tosfos Kiddushin 23a**].
 - c. By Nezikkin, we say משום חציו, that whatever the fire does is considered my ma'aseh. Similarly, chayav for ומשאו אבנו סכיניו which hit someone due to the wind.
 - d. On Shabbos, zoreh in the wind is chayav. Same thing if you make a machine do a melacha nowadays.
3. only works if the process of the כח אחר begins immediately; not if there's a delay (**Nesivos 273:3** that fisherman isn't koneh the fish that come into his net, and there's only an issur of hasagas gevu' for another fisherman to set his net nearby.)
4. A human can't be considered a כח אחר מעורב בו based on **Kiddushin 22b** by kinyan avadim.
5. Which kinyanim are koneh mideoraisah? Yad and Chatzer. Also, machlokes ר"ל and R' Yochanan in **BM 46b** whether מעות קונות or מפורשת מה"ת. By a Matanah, **Tosfos** says even R' Yochanan agrees that משיכה is koneh mideoraisah, but **Ramban** disagrees.

Shiur 11 (6a)

1. If a mazik utilizes someone else's item to cause a hezek, who is chayav? **Tosfos 6a**: If the mazik isn't a bar da'as or was done beshogeg, the two split the chiyuv. If he's a bar da'as and it was intentional, he pays in full. Why? **Rebbe**: A Bar Da'as can't be considered my כח אחר מעורב בו, like by קראו לעבד ובא אצלו in **Kiddushin 22b**.

Shiur 12 (6b-7a)

1. Why does a בע"ח collect beinonis? Machlokes on **Gittin 49b** whether דינו בזיבורית and they bumped him up שלא תנעול דלת קט, or דינו בעידית and they bumped him down to prevent "אקפוץ ואלוהי". **Yerushalmi**: דינו בביונית מדאורי.
2. What's the source for המע"ה? **Gemara 46b**: Sevarah. **Pnei Yehoshua**: That's only acc. to Rav that מוציאין ממון ע"י רוב, but according to Shmuel (how we paskin) that אין מוציאין ממון ע"י רוב, this is more than just a sevarah, but uses the גזיה"כ of דברים. This explains **Rashi in Gittin 48b**.
 - a. **שיטה מקובצת on Kesubos 15b** already assumes this: he says we are מוציאין ממון ע"י רוב [גזיה"כ since only the סברא applies to him, and not the גזיה"כ]

3. Gemara requires a drasha to tell you hekdesch is pattur from damages. What was the הו"א that they'd have to pay, considering whatever money they'd give the nizak would be an issur me'ilah? 2 possible answers:
 - a. **Tosfos Gittin**: Item becomes chulin automatically any time hekdesch gives it away כד"ן.
 - b. **Ramban BB 79 + Ritva BM 57b** (מיוחס לו): Hekdesch can own money which is קדושת הקדש without having ממון הקדש.
4. **[BB 79a**: The water in hekdesch's bor isn't a problem of me'ilah. Why? **Tosfos**: Hekdesch doesn't have a kinyan chatzer. **Ramban**: Kinyan chatzer (and other secular kinyanim) work to make it mamon hekdesch, but don't impart קדושת הקדש.]
5. There's a petur of damaging hekdesch from שור רעהו; how do we know you're pattur on other types of mazik hekdesch?
 - a. **Rashi**: It's an uncommon case; also מעילה בקרקעות, and מחובר לקרקע כקרקע
 - i. Two Chiddushim: 1) He applies this concept by הנאה/הוצאה to mean you also don't owe money if you're mazik, which is a chiddush. 2) Even if my animal rips off the fruit before eating it, Rashi considers this מחובר לקרקע.
 - b. **Tosfos**: Learned out from Keren, Adam, and Bor's petur by פסוה"מ.
6. **Zera Avraham 10-א**: If I'm Tolesh something before eating it, is that considered מחובר לקרקע? **Rashi here + Sanhedrin 15a** (by hair ליגזז) thinks yes, while **Tosfos BB 79** assumes not -- ripping out a clod of dirt would have an issur me'ilah. **ר"ח Sanhedrin ibid.** Also holds like Tosfos.

Shiur 13 (6b-7a)

1. Two (possible) nafka minas of פסולי המוקדשין still being considered הקדש: a) **Rav Moshe Soloveitchik**: kavana bishchitah is required. **Rogochover**: Could shecht them in the Azarah without it being בעזרה חולין בעזרה.
2. Is the issur hana'ah of a mes מדאורי' or מדרבנן? **Tosfos 10a** assumes דאורי'. **Mishnah Lemelech Avel 14:21** isn't sure.
 - a. Assuming like Tosfos, are מדאורי' או מדרבנן אסור בהנאה מדאורי' או מדרבנן? **Shu"t RAE 1:45** -- derabanan.
 - b. Is a מת עכו"ם assur behan'ah? **Rema**: Yes. **Gra**: No, just a chumrah. **Tosfos 10a** assumes not, as well.
 - c. Does an עבד כנעני's body have the status of a Jew or non-Jew? **Tosfos 10a**: non-Jew. [**Rebbe** pointed out this was strange.] Similarly, **Tosfos Nazir** says an eved kenani isn't mekabel tum'ah, which **RAE** points out is against gemaras.
3. How do we assess the value of an object you damage? Klal based on **Arachin**: אין לו אלא מקומו ושעתו. Furthermore, **Nesivos** points out you don't pay for sentimental value.
4. What's the drasha of לו והמת יהיה לו teach regarding the chiyuv bor? **Rav Soloveitchik**: **Tosfos 10a** ד"ה שהשור assumes it's a petur for issurei hana'ah, since he applies the drasha to אדם, while **Tosfos 7a** assumes it's a din in hekdesch. [Cf. main notes.] Nafka Minah for Pesulei Hamukdashin in Bor while they're still alive [See **Rambam 12:17**].

Shiur 14 (7a)

1. What's the pshat in Rashi that we're mashlim an עני בתשרי ועשיר בניסן to 200 zuz? **Rebbe**: It's a tarti desasri whether he's an עני or an עשיר (despite that we regularly follow

(אותו מקום ואותו זמן), so we give him just enough to get him out of the safek. Tarti Desasri has a din safek based on **Ritva Yomah 47b** by bein hashmashos.

2. What's the status of corporations in halacha? **Rav Moshe CM 2:15 + OC 4:54**: We accept the concept of shibud nechasim without shibud haguf (limited liability), but reject that there are no ba'alim -- the ba'alim are the shareholders (nafka minas for chametz bapesach, tevillas keilim, ribbis, and much more).
3. How does shibud Nechasim work? **Ritva Kiddushin 13b + Nesivos**: a kinyan lechatzain.
4. Why is the rich person in Rashi's 2nd pshat considered an עני? **Rif**: Based on **Mishnah Peah 5:4** says הולך בדרכים is considered an עני even if he's wealthy.
5. If someone is poor due to their own peshiah, are you required to be מפרנס him? **Rashi**: Yes. **Tosfos 7a**: No.

Shiur 15 (7b)

1. Can a nizak demand to get a beinonis property? **Rashi**: Yes. **Rebbe**: Rashi means only in a מצרא דבר מוצרא case. **Rosh**: No -- the mazik can push him off to Iddis.
2. How does a Nizak get paid? Cash and meitav are definitely good. Machlokes whether metaltelin is just as good as meitav (ר"י בריה דרב יהושע + ר"פ) or if it's a bedieved payment (ר"ב הונא on 9a). **Rabbeinu Tam** paskins like 9a, while **Rif** paskins like 7b.
3. Min HaTorah, what should I return when I'm loaned metaltelin? **Nesivos**: Ideally, pay back in the same type of item you took.
4. What's a sachir paid in? Always כסף. Exception based on **Maharam's** dream: If he works in a food store, he can be paid in food.
5. Why doesn't gemara ask כחו הורעת כחו בע"ח case like it did by nezikin? **Tosfos**: by Nezikin, the Torah is מייפה כחו, but by בע"ח, Torah isn't מייפה כחו (he gets מדאורי זבורית מדאורי).
 - a. **Pnei Yehoshua**: Why can't he say (אאבתק"ח) ¹ Rather, our gemara assumes דינו בעידית מדאורי. **Nachalas Dovid** points out this doesn't fix the problem.
 - b. 3 examples of אאבתק"ח: a) Being Mochel peiros during eirusin (Kesubos 83a) b) Being mochel yerushas haba'al c) Being Mochel takanas lekuchos on **8b**.
6. Can you be mochel something you own? **Kiddushin 16a** by Eved Ivri: No.

Shiur 16 (7b-8a)

1. Is Shibuda Deoraisah or derabanan? **Kiddushin 13b**: Deoraisah. **BB 175b**: Derabanan. **Tosfos beshem Rabbeinu Chananel in Kiddushin ibid.**: Chiluk between מלוח הכתוב מלוח שאינה כתובה בתורה + בתורה. **Shach CM 39:2**: Sfeika Dedina.
2. Nafka Minas whether שיעבודא דאורי או דרבנן? a) **Kidd. ibid.**: If a woman owed a קרבן יולדת and died, do we collect from her nechasim to bring a korban? b) **Shitah Lo Nodah Lemi** has another 5 complicated ones. c) **Shivas Tzion** says this will impact whether a shtar which changes a מלוח על פה into a מלוח בשטר is a shtar kinyan or ra'ayah.

¹ See **Shitah beshem Rosh** who answers you can't say אאבתק"ח to be motzi mamon, only to be מחזיק. Alternatively, **מהר"ם מרוטנברג** answers the takana of לפני לווין שלא תנעול דלת בפני לווין isn't a takana for the malveh's benefit, but for the loveh's benefit (that he'll be lent to), and the מלוח can't be mochel a takana which isn't for his benefit!

3. Two לקוחות between מלוה בשטר (or tenai beis din) + בע"פ a) Can you collect from and b) Is loveh believed to say פרעתי.
4. If שעבודא דרבנן, what creates the Shibud -- the שטר ראייה (acting as a shtar kinyan for the (שעבוד נכסים) or the chov itself? Talui on 2 girsaos quoted by **Tosfos Gittin 3b וגובה** ד"ה.
5. 3 minhagim we have לאפוקי the Karaites: a) We use shaveh kesef (a ring) for kiddushin, b) we use knife, not scissors for milah, c) **Ba'al Hame'or**: have chulent on Shabbos day.
6. Machlokes חתימה כרתי או חתימה כרתי. When's the machlokes exist? **Rav Soloveitchik (+ Tosfos Rid)**: Only by shtarei kinyan, but by shtarei ra'ayah, all agree חתימה כרתי עדי.
7. How does a shtar kinyan work? **R' Meir (עדי חתימה)**: handing over a shtar ra'ayah. **R' Elazar (עדי מסירה)**: My da'as, strengthened by eidim seeing me give a shtar, is makneh.
8. According to R' Meir, if two shtaros on the same piece of land are given on the same day, when does the kinyan take place? **Rashi/Tosfos Kesubos 94b**: At the end of the day, since it needs to be מוכח מתוכו. **Ramban Gittin 46a/86b [?]**: Doesn't like this.

Shiur 17 (8a)

1. Why does Nizak on **8a** collect from Meshubadin if it's על פה כמלוה? **Tosfos**: There was a ha'amada badin or that מלוה הכתובה בתורה ככתובה בשטר דמיא. **Nimmukei Yosef**: He wrote a shtar creating a shibud nechasim after the hezek. Why didn't Tosfos give the "נימוק" answer? **Rav Soloveitchik**: Tosfos holds that by a מלוה הכתובה בתורה, you can't create a שעבוד נכסים if there wasn't one originally.
2. If a nizak has an earlier shibud than a malveh/kesubah, but the mazik sold all his property, and the last property he sold was זבורית, what does the nizak collect from? **Riva**: Forced to take from zibboris. **Rosh**: If he convinces the בעל עידית to say אאבתק"ח, he can collect כדינו from the עדיית.
3. Is chiyuv to feed one's wife derabanan or דאורי? **Rashi Shemos 21:10 + Rambam Ishus 10:2 --** Deoraisah. **Ramban (Shemos 21:9)**: Derabanan.
4. Assuming mezonos is derabanan, what does husband get in return? מעשי ידיה. Machlokes whether he gets *everything* she makes (even if she's a paralegal) [**most Rishonim**] or just the amount equal to the cost of mezonos [**Rabbeinu Yeshayah**]
5. Why can't a woman be mochel on the takana that she gets married on Wednesday night, if the takana is for her benefit? **Shitah Kesubos 2a beshem Ri Halavan**: You can only be mochel a ממן זכות ממן, and this is a takana without a zechus mamon.

Shiur 18 (8a-8b)

1. Is Kesubah deoraisah? Machlokes Tannaim in **Kesubos 110b**; Machlokes Rishonim; we paskin derabanan, but pay in כסף דאורייתא (צורי) ח.
2. Is a shtar which transfers a מלוה על פה into a מלוה בשטר a shtar ra'ayah or shtar kinyan? **Shivas Tzion**: Depends whether שעבודא דאורי. **Rav Soloveitchik** didn't like this.
3. Is Yerushas Haba'al deoraisah or derabanan? **Ramban Nachalos 6:8**: Derabanan. **Ra'avad**: Deoraisah. **Rogotchover**: they're leshitasam that **Ramban Avel 2:7** thinks Kohen can be metameh to his wife only due to עשאוה כמת מצוה, while **Ra'avad** thinks it's muttar מדאורי. The machlokes is whether the husband's connection to his wife is cut off at death.
4. Through אי שתקת, what will the בע"פ + ניזק get? Rashi/**Tosfos**. בימונית. **Rosh, Rashba**: Everyone gets zibboris (as if you actually returned the properties).

Shiur 19 (8b-9a)

1. Is an automatic din or a ta'anah that has to be expressed by the ba'al din?
Rosh, Rashba: Din. **Milchamos:** Ta'anah/legal loophole.
2. Can a ba'al chov demand to be paid in zibboris? **Tosfos 8b + most Rishonim:** Yes.
Rosh: No, just like he can't demand a specific beinonis.
3. Do we apply טענין on a מלתא דלא שכיח? **Tosfos BB 70b:** No, but the ta'anah of מזויף is an exception **Ramban:** Yes
4. What's the nature of טענת מזויף if שחוקר בב"ד דמי? **Many Acharonim:** Chakirah whether this din means the shtar is meaningless miderabanan until proven kasher, or that the shtar is good, but the loveh has the ability to cast doubt on its kashrus since it's ממונו. להחזיק ממונו. Nafka Minah for malveh's טענת מזויף against a שובר. This seems to be a machlokes Rishonim in BM 20b.
5. Two nafka minas Tosfos gives for Reuven's involvement at bottom of 8b: a) Bringing a ra'ayah after Shimon says he has none. b) Reuven can demand to go to a higher court.
6. What's dayish amitzri do in 9a? **Rashi:** Koneh the karka. **Tosfos:** You were already koneh; די ש אמצרי is when the minhag establishes you can't back out anymore.
7. In assikin case, why are you able to be chozer after already doing a kinyan? **Nimmukei Yosef + Rambam:** Assikin is a form of טעות מקח. [**Rosh BM 1:38:** מנהג הסוחרים]

Shiur 20 (9a)

1. What's the difference between an Apotiki Stam + an מפורש? **Maharam:** In first, the loveh is just establishing the *first* thing to be collected from; מסלק בזוזי יורשים can be יורשים. By the latter, that's the *only* thing malveh can collect from, and מסלק בזוזי יורשים can't be יורשים.
2. How do we paskin by Breirah? **Ran Nedarim 45b:** Yes by derabanan; no by deoraisahs
3. Why (according to Rashi's first pshat) does רב אסי seem to ignore the rule of המע"ה?
Rashi: ממון המוטל בספק יחלוקו (like Sumchus). **Tosfos BB 62b:** Special takanas chachamim in certain cases that we do יחלוקו rather than the המע"ה of דין דאורי'.

Shiur 21 (9b)

1. How much money do you have to give up for mitzvos? What are exceptions? **Rema based on Kesubos 50a:** 20%, or tza'ar equal to that (**Rav Moshe**). Exceptions:
 - a. **Shitah Mekubetzes:** Supporting Yeshivos is an exception.
 - b. **Rambam:** Mitzvos of פרסומי ניסא require more than shlish.
 - c. **Rambam Shekalim 1:1:** Machatzis Hashekel, based on לא ימעט.
 - d. **Kiddushin 29b + Arachin 22a** are mashma pidyon haben and ba'al chov mitzvah (if פריעת בע"ח מצוה) both seem to be exceptions. **Chazon Ish + Reb Chaim** explain the rule doesn't apply to mitzvos accomplished by giving money.
2. What do you have to give up to avoid violating a lav? **Rema YD 157:** כל הון ביתו. **Gra ibid.:** Just 20%, like for Assehs.
3. Examples of עשה שיש בו כרת being viewed as a lav/issur asseh: a) **Minchas Chinuch** is mesupak if you have to pay 20% or all money to avoid it. b) **Tosfos Megilla** that this is why I would have thought women are chayavos in Milah despite it being a מעשה ז"ג. c) **Sfas Emes** points out **Pesachim 90's** סברא חצונה was that women would be chayavos in פסח קרבן for this reason.
4. How much money to give up for Issurim derabanan? **Rav Yosef Engel:** Only 20%.

5. Is one yotze כתיבת ס"ת by buying one? Machlokes Acharonim; **Rashi 9b** is mashma yes.
6. For hiddur mitzvah, is the extra $\frac{1}{3}$ מלבר או מלגו? Teiku in Gemara. **Rosh**: 33% since it's a din derabanan (**Pilpula Charifta**); **Rebbe** thought this was surprising.
7. What does "עד שלישי" mean? **Rashi**: $\frac{1}{3}$ more in price of the non-mehudar one. **Tosfos**: Have to pay for something $\frac{1}{3}$ bigger than the minimum shiur.
- 8.

Chazara Shiurim

1. There's two deios in **Tosfos** whether there's a chiyuv for a husband to get a job to support his wife, or if the chiyuv is just that some of the money he makes must be given to his wife's mezonos. The kesubah's lashon is mechayev him to work either way.
2. **Shach**: You see from פרוטה דרב יוסף that you need to be salaried a perutah at minimum to make someone into a שומר שכר.
3. **Or Sameach** thinks the שערבדיה svarah in **56b** is added by Saboraim, as that answer isn't given in shvuos.
4. Chateh Bishvil Sheyizkeh is quoted in **SA** based on a **Teshuvos HaRashba**: If a father's child is captured with intent to be converted, the father has a chiyuv to break shabbos to save the child. **Rebbe**: That's not because it's a sort of פיקוח נפש, but because of חטא חבירך. בשביל שיזכה חבירך. The ends justify the means.
5. Tzloshon Uva'ushon: Targum used these words by בחרבי ובקשתי. **Rav Soloveitchik** explained a חרב can only be used to fight the person right near you, while a bow and arrow is a long-range weapon. Apparently חרבי/צלוחה are tefillos about the immediate future, while קשתי/בבעותי is a prayer about the future (like Mashiach).
6. **R' Efraim Miregenzburg** thinks Grama and Garmi are exactly the same and those who hold one is chayav hold both are chayav; same if you hold one is pattur. Everyone rejects this.
7. **Beiur HaGra** thinks **Rambam** distinguishes between shogeg and meizid by garmi, but not for the same reason as Tosfos. He thinks that's exactly the difference between Grama and Garmi!
8. Are the melachos based on only that which was done to build the mishkan, or also the הקרבת קרבנות? **Machlokes Rishonim** pointed out by **Eglei Tal**; **most Rishonim** hold just building, while **Geonim** hold both.