



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

### Bava Basra Daf Kuf Chuf Zayin

- **R' Ami** said, if a firstborn was a tumtum (a person born with a membrane covering his private area, making it impossible to know if he is male or female) and the membrane was later ripped off and it was found that he was a male, he would not get a double portion. We learn this from the pasuk that says "v'haya haben habechor" – he is only a bechor for this purpose if he was known to be a son from the time of birth.
  - **R' Nachman bar Yitzchak** said, such a son can also never become a "ben sorer umoreh", based on the pasuk of "ki yihyeh l'ish ben sorer umoreh" – he must be known to be a son from the time of birth.
  - **Ameimar** said, if the tumtum was not the firstborn, the bechor's double portion will not be decreased by counting the tumtum as a brother. This is based on the pasuk of "v'yaldu lo banim" – a son only decreases the bechor's double portion when he was known to be a son at birth.
  - **R' Shizbi** said, such a tumtum will not get a bris on Shabbos if that is his 8<sup>th</sup> day, based on the pasuk of "v'yalda zachar".
  - **R' Shrivya** said, the mother of this tumtum does not become tamei from childbirth, based on the same pasuk brought by **R' Shizbi**.
    - **Q:** A Mishna says that if a woman miscarries a tumtum she becomes tamei as if she gave birth to a boy and a girl (the stringencies of each)!? **A:** This is a **TEYUFTA** of **R' Shrivya**.
      - **Q:** Should we say that this is a **TEYUFTA** of **R' Shizbi** as well? **A:** It may be that the Tanna of the Mishna was uncertain whether to treat a tumtum as a regular child for milah as well as tumah, and he paskened that way for tumah, l'chumra.
      - **Q:** If it was all based on a chumrah, the Mishna should have said that she becomes tamei as a nidah as well, to cover the possibility that the mother of a tumtum does not become tamei from childbirth at all!? **KASHYEH.**
  - **Rava** said, there is a Braisa that says like **R' Ami** said. The Braisa said, the pasuk regarding a bechor's double inheritance says "ben" which excludes a tumtum, and says "bechor" which excludes a questionable bechor.
    - **Q:** The teaching of "ben" is to teach the case of **R' Ami**. What is the case that is taught by "bechor"? **A:** It comes to exclude the case discussed by **Rava**, where a man's two wives gave birth in hiding, and we don't know which baby is the bechor, they may write a "harsha'ah" (a document giving each the power to collect on behalf of the other) and can collect the double portion. That is the view of **Rava**, but the Braisa teaches that in this case neither son can collect the double portion, because they are each a questionable bechor.
      - **R' Pappa** said to **Rava**, **Ravin** has sent from EY that **R' Yannai** said that if the two boys were initially separated and it was clear who was the bechor and they then became mixed, they would be able to write a harsha'ah. However, if it was never known which was the bechor, they would not be allowed to write the harsha'ah! Upon hearing this, **Rava** announced to all that he was mistaken, and told all of **R' Yannai's** psak.
- The people of Akra D'Agma sent to **Shmuel**, what is the halacha if there is a chazakah that someone is a bechor, and the father then goes and says that a different one of his sons is the bechor? **Shmuel** sent back, they should write a harsha'ah and can then divide the double portion.

- **Q:** If **Shmuel** holds like the **Rabanan** (who say a father is not believed against a chazakah) then he should say the father is not believed, and if he holds like **R' Yehuda** (who says that a father is believed against a chazakah) then he should have answered that the father is believed!? **A:** He was unsure whether to pasken like **R' Yehuda** or the **Rabanan**.
  - The shitos of **R' Yehuda and the Rabanan** are in a Braisa. The Braisa says, the pasuk regarding a bechor says “yakir”, from which **R' Yehuda** learns that a father is believed to say which of his sons is a bechor, and just as he is believed regarding bechor, he is also believed to say that his son is from a divorcee or a chalutza. The **Rabanan** disagree and say he is not believed.
    - **Q: R' Nachman bar Yitzchak** asked **Rava**, what do the **Rabanan** do with the word “yakir”? **A:** They use it for a case where the man had children somewhere else, and is therefore needed to identify which of his children are the bechor.
    - **Q:** Regarding what halacha is he believed to say so? It can't be that he is believed for purposes of giving him a double portion of his estate, because that would be obvious, since he can give it to him as a gift, he is believed to say he deserves it as a bechor!? **A:** The chiddush is that he is even believed for assets that the father gets after the time that he identified him as a bechor, which he therefore did not have the ability to give him at the time of identification, and yet he is still believed.
    - **Q:** According to **R' Meir** a person can be makneh something that he does not yet have, so why do we need the pasuk of “yakir”? **A:** It is needed for assets that he will get as he is dying. Even **R' Meir** agrees that a person cannot be makneh such assets.
- A Braisa says, if there was a chazakah that a person is a bechor and his father then said that a different son is the bechor, the father is believed. If there is a chazakah that a person is not a bechor and his father then said that he is the bechor, he is not believed.
  - The Gemara explains, we must say that the first part of the Braisa follows **R' Yehuda** and the second part follows the **Rabanan**.
- **R' Yochanan** said, if a man says about a person, “he is my son”, and he then retracted and said, “he is my slave”, he is not believed. If he first said, “he is my slave” and then retracted and said, “he is my son”, he is believed, because by referring to him as a slave he meant to say that “he serves me like a slave”. The halacha would be reversed if he made these statements and retractions to a tax collector (because a person is taxed on his slaves, but not on his sons). So, if a person was by the tax collector and said about another person, “he is my son” and then retracted and said, “he is my slave”, he would be believed. However, if he said, “he is my slave” and then retracted and said, “he is my son”, he would not be believed.
  - **Q:** A Braisa says, if a person was serving another person as a son would serve a father, and the one being served said, “he is my son” and then retracted and said, “he is my slave”, he would not be believed with his claim that the person is his slave. If a person was serving another person as a slave would serve a master, and the one being served said, “he is my slave” and then retracted and said, “he is my son”, he would not be believed with his claim that the person is his son. This contradicts **R' Yochanan** where he said that a person is believed with his retraction that a person is his slave instead of his son!? **A: R' Nachman bar Yitzchak** said, the Braisa is talking about a case where the one being served called the other person, “my slave who is worth 100 zuz”. By giving him a monetary value it shows that he means to call him an actual slave, and therefore his retraction cannot be believed.