



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

Bechoros Daf Beis

MESECHTA BECHOROS

PEREK HALOKEI'ACH UBAR CHAMORO -- PEREK RISHON

MISHNA

- If one buys the fetus of a goy's donkey, or one who sells his donkey's fetus to a goy even though he is not allowed to, or if one enters into a partnership of a donkey with a goy, or one who accepts to care for a goy's donkey in exchange for a share of all its offspring, or one who gives his donkey to be cared for by a goy who will then share in its offspring, in all these cases the firstborn donkey is patur from the halachos of bechor. This is based on the pasuk that says "kol bechor *b'Yisroel*", which teaches that it does not apply to goyim.

GEMARA

- **Q:** Why does the Mishna have to give all these examples (they are all patur for the same reason – a goy owns a share of the firstborn)? **A:** If we would only have the case of the Yid who bought the fetus we would say that it is patur in that case because the donkey is being elevated in kedusha (it will no longer work on Shabbos) and the Yid should therefore not be penalized, but in the case where the Yid sold the fetus to a goy we would say that he should be penalized and the halachos of bechor should apply. That is why both of these cases are needed. The case of the partnership is needed to exclude the view of **R' Yehuda** who says that the offspring of such a partnership *is* chayuv in bechor. The case of the Yid who accepts to care for the donkey is given only because the case of the goy who accepts to care for the donkey of the Yid is needed. The reason that case is needed is because we would say that since the donkey itself is owned entirely by the Yid we should penalize him and make it subject to bechor to prevent people from getting mixed up between this donkey and any other donkey.
- A Mishna says it is assur to sell large animals to goyim. **R' Yehuda** says it is mutar to sell them a broken animal. **Ben Beseira** says it is mutar to sell them a horse.
 - **Q:** What would **R' Yehuda** hold with regard to selling a fetus to a goy? Does he allow a broken animal to be sold because it cannot do work, and since a fetus also cannot do work he would allow that sale as well, or maybe a broken animal is not "broken" as part of its normal development in life, but a fetus is "broken" now because of its normal development and it therefore is assur even now? **A:** Our Mishna said, "or one who sells his donkey's fetus to a goy even though he is not allowed to", and **R' Yehuda** does not argue. We see that he agrees that a fetus may not be sold to a goy.
 - The Gemara says this is not a proof. The Mishna's later cases of joint ownership say that they are patur from bechor. Now, we know that **R' Yehuda** argues and holds it would be subject to bechor, and yet the Mishna does not mention that he disagrees. Rather, although he disagrees the Mishna does not mention it. The same can be said regarding the selling of the fetus.
 - **Q:** Maybe we can answer from a Braisa. The Braisa says, **R' Yehuda** says, if one accepts to care for a goy's animal in exchange for a share of all its offspring and the animal then gives birth, we assess the value of the offspring and the Yid must give half that value to the Kohen. If one gives his animal to be cared for by a goy who will then share in its offspring, although he may not do so, we penalize him to buy the offspring back from the goy for up to 10X its value, and if it is a firstborn male the entire value must be given to a Kohen. Now, presumably this case is where there was a pregnant animal and the fetus is

being transferred to the goy and we are told that all say that it is assur! **A:** It may be that the case is where the goy is receiving a share in the animal itself, and that is why it is assur.

- **Q:** The Braisa says that he must buy it back for up to 10x its value (“damav” written using the masculine form), which seems to be referring to the fetus!? **A:** Change the word to “dameha” (using the feminine form, which therefore refers to the beheima).
- **Q:** The Braisa says that the full value must be given to the Kohen. This must be referring to the offspring, because the Kohen doesn’t get a share of the animal itself!? **A:** The case is where a Yid gave a goy a pregnant animal to be fattened for him. In that case he is penalized for giving a share in the animal and once he is so penalized on the animal he also gets penalized for the fetus as well. However, it may be that if it was only selling the fetus alone **R’ Yehuda** would allow it.
- **R’ Ashi** said we can answer the question from a Braisa which says that **R’ Yehuda** allows the sale of a broken animal to a goy because it cannot become healed. This implies that if it could be healed it would be assur. A fetus is like a broken animal that could be healed and therefore **R’ Yehuda** would hold that selling it to a goy would be assur.
- **Another** version has this above back and forth applied to our Mishna that says that one may not sell his donkey’s fetus to a goy. The Gemara asks that maybe the Mishna doesn’t follow **R’ Yehuda**, because he allows the sale of a broken animal. The Gemara then continues with the back and forth quoted above.
- **Q:** What is the halacha if a Yid sells an animal to a goy only for the rights in its future offspring? Do we penalize the Yid for doing so? This can be asked according to **R’ Yehuda** – maybe **R’ Yehuda** only allows sale of a broken animal because it won’t be confused with the sale of a healthy animal, but the sale of this animal for its fetuses can be confused and therefore it would be assur, or maybe he holds that since the animal itself remains with the Yid it is mutar? This can also be asked according to the **Rabanan** – maybe they only say that selling the broken animal is assur because it leaves the ownership of the Yid, but in this case the animal remains with the Yid and will therefore be mutar, or maybe we say that if they say that selling a broken animal is assur, even though it won’t be confused with selling a healthy animal, then surely they will say that selling this animal for its fetuses is assur!? **A:** Our Mishna said, “or one who gives his donkey to be cared for by a goy who will then share in its offspring” and didn’t follow that up by saying “although it is assur”. This seems to show that selling an animal for the rights to its offspring would be allowed.
- The Gemara says this is not a valid proof. The Mishna gave the case of one who enters into a partnership with a goy and did not say “although it is assur”. Does that mean it is mutar? It is definitely not, as **Shmuel’s** father said, it is assur to enter into a partnership with a goy because you may cause him to swear in the name of his avoda zara! Rather, although the Mishna only said “although it is assur” regarding the case of the sale, that phrase is meant to apply to all the cases – even the case of partnership and the case of taking care of the animal for a share in the offspring.
- **Q:** Maybe we can answer from a Braisa. The Braisa says, **R’ Yehuda** says, if one accepts to care for a goy’s animal in exchange for a share of all its offspring and the animal then gives birth, we assess the value of the offspring and the Yid must give half that value to the Kohen. If one gives his animal to be cared for by a goy who will then share in its offspring, although he may not do so, we penalize him to buy the offspring back from the goy for up to 10X its value, and if it is a firstborn male the entire value must be given to a Kohen. The **Chachomim** say, whenever a goy has some interest it is patur from bechor. Now, presumably the penalty is referring to the animal itself!? **A:** It may be that the penalty is only with regard to the offspring that is born. In fact, it must be that that is what is being referred to, as the Braisa says that the value must be given to the Kohen – which is only appropriate for the offspring that is a bechor.

- The Braisa that says that we penalize someone who sells large animals to a goy supports **Reish Lakish** who says that if one sells a large animal to a goy, we penalize him and make him buy it back for up to 10X its value.
 - **Q:** Is the number “10X” meant literally or not? **A:** We find that **R’ Yehoshua ben Levi** said that if one sells his slave to a goy we penalize him and make him buy the slave back for up to 100X times its value. Since there is a different amount here it shows that the number is to be understood literally.
 - The Gemara says this is not a valid proof. It may be that since the slave is prevented from doing mitzvos every day we impose this tremendous penalty, but that does not show that the number “10X” should be taken literally in another case.
 - **Others** say that **Reish Lakish** said that if one sells a large animal to a goy, we penalize him and make him buy it back for up to 100X its value. The Gemara asks, a Braisa says that if one gives his animal to be cared for by a goy who will get a share in the animal’s fetus, even though he is not allowed to do so, we penalize him to buy back the fetus for up to 10X its value. Why is it that here it is only 10X? The Gemara answers that selling removes the animal from the owner whereas this other arrangement does not.
 - **Q:** Is the “100X” to be understood literally? **A:** We find that **R’ Yehoshua ben Levi** said that if one sells his slave to a goy we penalize him and make him buy the slave back for up to 10X times its value. Now if for this the number is only 10X, then for selling an animal the number should not be more than that, and if so, the 100X number must not be understood literally.
 - It may be that the case of the slave is different, because when he is bought back he goes out to freedom, and that is why we don’t penalize for as much.
 - **Q:** If this is the reason, the owner of the animal should only be penalized for one more time its value (since he will keep the animal)!? **A:** Rather, selling a slave to a goy is uncommon, and the **Rabanan** are not goizer for uncommon cases.