



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

Bechoros Daf Yud Ches

R' TARFON OMER HAKOHEN BORER LO ES HAYAFEH

- **R' Tarfon** holds that the healthier animal is the one that must have emerged first and that is why the Kohen gets the better animal.

R' AKIVA OMER MISHAMNIN...

- **R' Chiya bar Abba in the name of R' Yochanan** said, this means that the Kohen takes the weaker animal. **R' Chiya bar Abba** asked **R' Yochanan**, the Mishna says that they split the difference between the two animals that are born so how can you say that it means that the Kohen just gets the weaker animal? **R' Yochanan** said, in the later part of the Mishna it says that if one of the animals died **R' Akiva** said the Kohen doesn't get anything, because hamotzi meichaveiro alav haraya. If in the earlier part he means the difference gets divided between them why doesn't he say that in later case also? Rather, in the earlier part of the Mishna he means that the "issue" between them is the difference in value between the two animals, but the Kohen is not entitled to any of that, because hamotzi meichaveiro alav haraya.

V'HASHEINI YIR'EH AHD SHEYISTA'EIV...

- **Q:** Why does **R' Meir** say that this safek bechor is subject to the gifts? We should say hamotzi meichaveiro... and the Kohen should therefore not get them!? **A:** **R' Yochanan** said, the Kohen comes at the owner from two sides – if this animal is a bechor he deserves the entire animal and if it is not he deserves the gifts. Therefore, at the very least he is entitled to the gifts.
 - **Q:** Why does **R' Yose** say he is patur from the gifts? **A:** **Rava** said, the **Rabanan** treated the Kohen as if he was koneh the animal as a bechor even though he was not koneh it, and it is then treated as if it was sold to the Yisrael with its mum in exchange for the other animal. That is why it is patur from the gifts.
 - **R' Elazar** said, all agree that in the case of a single safek bechor, where we cannot treat it as having been given to the Kohen and then exchanged with the Yisrael, that it would be chayuv in the gifts.
 - **Q:** Presumably the "all agree" is meant to refer to **R' Yose**. However, this would seem obvious based on the logic of **R' Yose** as explained above!? **A:** We would think to say that if we make this animal chayuv in the gifts it may lead to the owner working with or shearing the animal. **R' Elazar** therefore teaches that it would still be chayuv in the gifts.
 - **Q:** The next Mishna clearly says that **R' Yose** holds that whenever we can treat it as having been given to the Kohen and then exchanged with the Yisrael it is patur from the gifts. This implies that when there is only one animal it would be chayuv! Obviously he is not concerned for the mentioned gezeira, so why did **R' Elazar** have to state his teaching!? **A:** We would have thought that **R' Yose** was talking to **R' Meir** and saying, "According to me the animal is patur from the gifts even when it is just a single animal, because of the concern that if it was chayuv in the gifts it would lead him to work with or shear the animal. However, you **R' Meir** should at least agree with me that in a case where we can treat it as having been given to the Kohen and then exchanged with the Yisrael it is patur from the gifts!" To that, **R' Meir** responded that he does not agree and it is chayuv.
 - **R' Pappa** said, all agree that in the case of a safek maaser animal it would be patur from the gifts.
 - **Q:** Presumably, the "all agree" is meant to refer to **R' Meir**. However, this would seem obvious based on the logic of **R' Meir** that he is chayuv

in the case of bechor only because the Kohen comes at the owner from both sides. This doesn't apply in the case of maaser and it is obvious that he would therefore agree and say that it is patur!? **A:** We would think to say that the reason **R' Meir** says the safek bechor is chayuv is so that the concept of the gifts not be forgotten. That logic would equally apply to the case of safek maaser.

- **Q:** The next Mishna says that the logic of **R' Yose** for the safek bechor is that it is treated as having been given to the Kohen and then exchanged with the Yisrael. This logic does not address the concern that the concept of the gifts may be forgotten, rather it addresses the concern that the Kohen comes at the owner from both sides. It must be that **R' Meir's** logic is that the Kohen comes at the owner from both sides and that is what **R' Yose** is trying to address!? **A:** We would think to say that **R' Meir** says that even a safek maaser is chayuv in the gifts, and the reason the Mishna states the logic as being that the Kohen comes at the owner from both sides is to teach that even there **R' Yose** says he is patur. Therefore, **R' Pappa** had to teach that according to **R' Meir** a safek maaser will be patur from the gifts.

MEIS ACHAD MEYHEN R' TARFON OMER YACHLOKU

- **Q:** Why do they divide it? We should determine – if it was the healthier animal that died we can know that it was the Kohen's that died (based on **R' Tarfon's** logic above), and if it was the weaker one that died we can know that it was the owner's that died!? **A:** **R' Ami** said, **R' Tarfon** retracted from that line of thought (rather, it is not always the healthier one that is born first).

R' AKIVA OMER HAMOTZI MEICHAVEIRO ALAV HARAYA

- **R' Chiya bar Abba in the name of R' Yochanan** said, **R' Tarfon's** view can be explained with a mashal – it is like two people who each gave their animal to be watched by a shepherd and one of the animals died (but they don't know whose it was), in which case the shepherd "places the animal between them" (it is divided between them). The view of **R' Akiva** can be explained with a mashal as well – it is like a person who gave his animal to a baal habayis to watch, who placed the animal among his herd and an animal was later found to have died (but they don't know whose animal it was), in which case we would say hamotzi meichaveiro alav haraya and the baal habayis would keep the animal.
 - **Q:** If **R' Tarfon** and **R' Akiva** are discussing different cases, in what case do they argue? Presumably they would each agree with the other in the other's case!? **A:** **Rava** (or **R' Pappa**) said, they would agree in the case of the two people who gave animals to a shepherd and in the case of the person who gave an animal to a baal habayis. They argue in the case where the twins were born in the chatzer of the owner and where the shepherd is a Kohen. In that case **R' Tarfon** holds that the owner surely gives the Kohen rights to his chatzer to effect a kinyan on a bechor that is born, because he is happy to have a mitzvah done with his possessions. Therefore, this is similar to the case of the two people who each give an animal to the shepherd to watch. **R' Akiva** says, since giving rights in the chatzer would cause a loss to the owner, he would not give rights to the Kohen. Therefore, this is similar to the case of the one person who leaves an animal with the baal habayis and the halacha is that hamotzi meichaveiro alav haraya.

MISHNA

- If someone has two sheep that have never given birth and they give birth to two males (one each), both are given to the Kohen. If one male and one female were born, the male must be given to the Kohen. If two males and one female were born, one male is kept by the owner and one is given to the Kohen. **R' Tarfon** says the Kohen chooses the better of the two males and **R' Akiva** says the difference in value between the two males is "between them" (the Gemara earlier explained this to mean that the owner keeps the better of the males for himself), and the one kept by the owner is left to graze, get a mum, and may then be shechted and eaten. The animal kept by the owner is chayuv in the gifts. **R' Yose** says it is patur from the gifts. If one of the males died, **R' Tarfon** says the remaining one is divided between them, and **R' Akiva** says hamotzi meichaveiro alav haraya. If two females and one male are born, or if two females and two males are born, the Kohen does not get anything.

- If someone has two sheep – one of which has already given birth and the other of which has not yet given birth – and two males are born (one each), one is given to the Kohen and one is kept by the owner. **R' Tarfon** says the Kohen chooses the better of the two males and **R' Akiva** says the difference in value between the two males is “between them” (the Gemara earlier explained this to mean that the owner keeps the better of the males for himself), and the one kept by the owner is left to graze, get a mum, and may then be shechted and eaten. The animal kept by the owner is chayuv in the gifts. **R' Yose** says it is patur from the gifts, because **R' Yose** says that anytime the Kohen gets one of two animals that are a safek, the one kept by the owner is patur from the gifts. **R' Meir** says it is chayuv in the gifts. If one of the males died, **R' Tarfon** says the remaining one is divided between them, and **R' Akiva** says hamotzi meichaveiro alav haraya. If they gave birth to one female and one male, the Kohen does not get anything.

GEMARA

- Although the general rules of this Mishna are the same as those of the last Mishna, both Mishnayos are necessary. If we only had the first Mishna we would say that it is only there that **R' Akiva** says the Kohen doesn't get the better animal, because since they are both coming from one animal we have no reason to assume that the better one is the bechor. However, in our Mishna, where one animal had twins and one didn't, we would think to say that the one born alone is certainly the better one and therefore **R' Akiva** would agree with **R' Tarfon** that the better one should be given to the Kohen. If we only had the second Mishna we would say that only in the case where there were two animals that had never given birth can we say that we don't know for sure which one is the bechor. However, when we have one animal that had given birth and one that had never given birth we would think to say that the one that had never given birth produces a superior animal and therefore **R' Akiva** would agree with **R' Tarfon** that the better one should be given to the Kohen. This is why it was necessary to teach both Mishnayos.