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

Bechoros Daf Lamed Vuv

- **R' Illa'ah** said, if there is an animal which has not been established as a bechor and the owner who is a Kohen says it is a bechor but that it has a mum that came about on its own, he is believed.
    - **Q:** Is he teaching us the concept of "peh she'asar hu hapeh shehitir"? This is already taught in a Mishna that says that a woman who says, "I was married but I am now divorced" is believed because of "peh she'asar hu hapeh shehitir"!? **A:** We would think that the woman is believed in that case, because she could have simply not said anything and would have reached her desired result of being treated as an unmarried woman. However, in the case of the animal the Kohen can't say nothing, because he knows it is a bechor and needs an expert to examine the mum to make it mutar. Therefore, we would think that it is not a case of "peh she'asar hu hapeh shehitir". He therefore teaches that if that is the reason not to believe him it is not a valid reason, because there was no reason for him to lie like that, because he could have made a mum that is easily recognizable to all and eaten it without showing it to an expert.
        - **Q: Mar bar R' Ashi** asked, **Abaye** has said that we don't say "there was no reason to lie" when what was said goes against an accepted fact. Now, since it is an accepted fact that Kohanim make mumin on their bechoros, the logic of "there was no reason to lie" should not serve as a basis to believe him!? **A: Abaye** said that when the logic goes against a definite fact. In our case it is a *concern* that Kohanim inflict mumin in their bechoros, it is not a fact that they do.
- **R' Tzadok** was a Kohen and had a bechor. He gave it barley to eat in baskets made of peeled willows, and it split its lip on the basket. He went to **R' Yehoshua** and asked, shouldn't I be believed regarding this mum (that I did not intend to inflict it) since I am a chaver, and not an ahm haaretz? **R' Yehoshua** told him that he is believed. **R' Tzadok** then asked this same thing to **R' Gamliel**, who told him that here is no difference made between a chaver and an ahm haaretz and as a Kohen he is not believed. **R' Tzadok** said, "**R' Yehoshua** said we do make a difference!?" **R' Gamliel** said to wait until all have come into the Beis Medrash and then told **R' Tzadok** to ask the question. **R' Yehoshua** answered that we don't make a difference. **R' Gamliel** told **R' Yehoshua** to stand and explain his earlier ruling. **R' Yehoshua** said I retracted the ruling I gave to **R' Tzadok** earlier. **R' Gamliel** continued to darshen without allowing **R' Yehoshua** to sit down, and continued doing so until the people made him stop.

MISHNA

- A Kohen is believed to say that he showed a bechor to an expert who declared it a permanent mum (and mutar for shechita).

GEMARA

- **R' Yehuda in the name of Rav** said, a Kohen is believed to say "this bechor was given to me with this mum by a Yisrael" and need not prove that he did not inflict the mum. The reason is that people do not lie about something that is likely to be revealed.
    - **Q: R' Ashi** said, maybe we can prove this from our Mishna, where the Kohen is believed, presumably because it is something that is likely to be revealed!? **A:** The Mishna is different because a Kohen would not eat a bechor that did not have a confirmed mum. That is not a proof regarding the case of the animal that was given to him with a mum, because a Kohen is suspect of inflicting the mum himself.

- **Q: R' Shizbi** asked, a Mishna says that if a person asks a second person who is not trusted regarding maaser, to purchase produce for him (the first person) from someone who is trusted not to buy from an ahm haaretz or from one who gives maaser from what he buys from an ahm haaretz, he is not believed. Now, this is a case of something that is likely to be revealed and yet we see he is not believed!? **A:** That case is different, because he can always claim that he thought the person he purchased from was trustworthy.
    - **Q:** Maybe we can bring a proof to this concept from the end of this Mishna, which says that if the second person was instructed to buy the produce from a particular person, he is believed to say that he did so. Clearly, this is because he is afraid to lie since this is something that is likely to be revealed!? **A:** It may be that in that case he is afraid to lie, because the first person will surely follow-up to make sure that he did what was requested. However, in the case of the Kohen there is the possibility that noone will follow-up to ascertain that he is telling the truth.
- **R' Yirmiya bar Abba** asked, how does **R' Yehuda** know that the Kohen is believed to say this? I am the one who taught this ruling to **Gidal**, who then taught it to **R' Yehuda**. However, the ruling I taught was that a *Yisrael* is believed to say that he gave this bechor to the Kohen with the existing mum!
    - **Q:** It seems obvious that the Yisrael would be believed to say that!? **A:** This is needed for a case of where he gave the animal when it was small and it has since grown large. We would think that we can't be sure that he knows that it is the same animal. **R' Yirmiya bar Abba** therefore teaches that he is still believed.
    - In Sura they paskened like **R' Yirmiya bar Abba** and in Pumbedisa they paskened like **R' Yehuda**. The Gemara paskens even like **R' Yehuda**.
        - **Rafram**, who was from Pumbedisa, once caught a Kohen in a lie when the Kohen claimed that the bechor was given to him with the mum. Still, he did not change the Pumbedisa view of believing the Kohen and said this Kohen was especially brazen, but others are not.
    - There was a bechor that was a "seru'ah" (had one large eye and one small eye) that was brought to **R' Ashi** for a psak. Although he did not know whether the owner was a Kohen or a Yisrael he said that we can pasken based on this mum, because it is not of the type that can be inflicted by a person. **Ravina** asked **R' Ashi**, maybe the owner was a Yisrael and **R' Yehuda** has said that we do not pasken on a mum for a Yisrael if a Kohen is not there with him (for fear that if it is paskened as a permanent mum the Yisrael will keep the bechor for himself)!? **R' Ashi** said, the reason we normally would not do so is because we feel that the Yisrael would not eat kodashim outside the Azarah (which is why he is looking for a determination that the mum is a permanent one), but is suspect to steal from the Kohen. In our case, since it is a clear mum that all know is permanent, the only reason he came to ask the expert is to show honor to the expert. If a person is careful to show honor to the expert we can be sure that he is not one who will look to steal from the Kohen.

MISHNA

- All people (even the owner) are believed regarding the mum on an animal of maaser (to say that it was not intentionally inflicted).

GEMARA

- The reason he is believed is because if he wanted to he could have inflicted a mum in this maaser animal before it was separated as maaser.
    - **Q:** How could he know which animal would be the tenth one? **A:** Rather, the reason is, that if he wanted to he could have inflicted a mum in every one of his animals before separating the maaser.

MISHNA

- If a bechor has a blinded eye, or is missing a front leg, or has a broken back leg, this bechor can be shechted based on the psak of even 3 non-experts (it is an obvious mum). **R' Yose** says, even if there was a panel of 23 it could not be permitted for shechita without the psak of an expert.

GEMARA

- **R' Simlai and R' Yehuda Nesiah** both said in the name of **R' Yehoshua ben Levi** that with regard to a bechor born outside EY it may be permitted for shechita based on a psak of a panel of 3 non-experts.
    - **Rava** said, this is true when the mum is an obvious and unmistakable mum.
        - **Q:** This is already taught by our Mishna!? **A:** From the Mishna we would think that in chutz laaretz it is permitted even with a less obvious mum, and the reason the Mishna speaks of an obvious mum is to teach that **R' Yose** says it is assur even then.
    - **R' Yehuda in the name of R' Yirmiya bar Abba** said, either in the name of **Rav or Shmuel**, that when there is no expert, a bechor with an obvious mum can become mutar based on a psak of 3 non-experts. He is teaching that even with an obvious mum it may be paskened by non-experts only when there is no expert around.
    - **R' Chiya bar Avin in the name of R' Amram** said, when there is no expert, a bechor with an obvious mum can become mutar based on a psak of 3 non-experts, and when there is no expert a neder can be released based on a psak of 3 non-experts.
        - The ruling regarding bechor comes to exclude the view of **R' Yose**. The ruling regarding neder comes to exclude the view of **R' Yehuda** who says that there must be at least one expert on the panel.

R' YOSE OMER AFILU YEISH SHAM ESRIM USHLOSHA…

- **R' Chananel in the name of Rav** said that the halacha does not follow **R' Yose**.
    - **Q:** This is obvious, since we always pasken like the majority!? **A:** We would think that **R' Yose's** rulings are very thought out with reasons and therefore he should be followed.