Daf In Review – Weekly Chazarah

Maseches Bechoros, Daf כט – Daf לה

This week's Week In Review is being sent l'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen, A"H vl'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

----------Daf כט---29----------

MISHNA

- If someone takes payment for judging, his psak is batel. If he takes payment for testifying, his testimony is batel. If he takes payment for sprinkling or making the parah adumah waters, the water has the status of water of a cave and his ashes have the status of regular ashes from burning something. However, if the person was a Kohen and someone needed him to do one of these things and by doing so the Kohen had to pass through a place where he became tamei and could not eat his terumah, the person may give the Kohen food to eat and drink and oil to anoint himself with. If the person needed for these things was an older person, the person who needs him may provide him with a donkey to ride on. Also, the person may be paid as a worker.

GEMARA

- **Q:** How do we know that one may not take payment to pasken or to teach Torah (Rashi)? **A: R' Yehuda in the name of Rav** said, the pasuk says "re'ei limadti eschem…", where Moshe Rabbeinu was teaching that just as he was taught the Torah by Hashem without payment, so too must Torah always be taught without payment.
    - A Braisa says this idea as well. The Braisa says, the pasuk says "kasher tzivani Hashem Elokay", which teaches that just as Moshe was taught the Torah by Hashem without payment, so too must Torah always be taught without payment. How do we know that if one can't find someone who is willing to teach him for free, that he must pay to learn Torah? The pasuk says "emes kinei" (purchase Torah). How do we know that this person should not then say that just as he had to pay to learn so too he will only teach for a fee? The pasuk says "emes kinei v'ahl timkor".

LIHAZOS ULIKADESH MEIMAV MEI ME'ARA EFRO EIFER MAKLEH

- **Q:** A Mishna says that if one is mekadesh a woman with the parah adumah water or the ashes, it is an effective kiddushin even if the man is a Yisrael. Now, this shows that a fee may be taken, because if not, what is he being mekudeshes her with!? **A: Abaye** said, that Mishna is referring to a fee for bringing the ashes or the water. Our Mishna is referring to a fee for the act of sprinkling or making it kadosh.

IHM HAYA KOHEN V'TIMAHU MITRUMASO…

- **Q:** If going to do this function will make the Kohen become tamei meis, how is the Kohen allowed to go and do it!? **A:** The Mishna is discussing where the Kohen must pass through a "beis hapras" which is only tamei D'Rabanan, and as **R' Yehuda in the name of Rav** said, a person may blow on the ground to uncover any bones and then walk through the beis hapras, or as **R' Yehuda bar Ami in the name of R' Yehuda** said, that a beis hapras which has been trampled by many people is tahor (and that is the case the Mishna refers to). **A2:** The Mishna is referring to other tumos (not tumas meis).

IHM HAYA ZAKEIN MARKIVO AHL HACHAMOR

- A Braisa explains, he is paid like a laborer who is not working. **Abaye** said, this means he is paid like a laborer who is not working the particular work that he would have otherwise done.

MISHNA

- If someone is suspect regarding bechor (e.g. he is suspected of inflicting a mum on a bechor) we may not even buy deer meat (which is not subject to bechor) from him, or unworked animal skins. **R' Eliezer** says, we may buy the skins of a female animal from him. We may also not purchase wool from him, whether it is whitened or dirty, but we may buy spun woolen threads and woolen garments.

GEMARA

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- The reason we may not buy deer meat from him is that it is easily confused with calf meat (which is subject to bechor).
- The Mishna implies that we may buy from him animal skins that were worked out. The reason is, if it was of a bechor he would not have spent the effort to work out the skins on the fear that he would be caught and have the skins confiscated from him.

R' ELIEZER OMER LOKCHIN MIMENU OROS SHEL NIKEIVA

- **R' Eliezer** permits female skins, because they are recognizable and not confused with male skins. The **T"K** holds that if we permit female skins the person will cut off the skin around the area of the male eiver and will pass off the rest of the skin as that of a female, claiming that the missing piece was simply eaten by mice. **R' Eliezer** holds that it would be noticeable and people would not be fooled.

V'EIN LOKCHIN MIMENU TZEMER MELUBAN V'TZO'I

- **Q:** If we may not buy whitened wool from him (even though he went through the effort of whitening it) it is obvious that we can't buy dirty wool from him!? **A:** It should be read as one statement in the Mishna – we may not even buy from him wool that was whitened from its dirtiness.

AVAL LOKCHIN MIMENU TAVI UBEGADIIM

- **Q:** If we may even buy spun threads from him, it is obvious that we may buy garments from him!? **A:** The Mishna is referring to felt garments (that are not made from spun threads).

MISHNA

- If one is suspect regarding shmitta, we may not buy even flax from him, even if it has been combed. However, we may buy flax that was spun into linen threads and woven linen material.

GEMARA

- **Q:** If we may buy spun threads from him, it is obvious that we may may buy woven material from him!? **A:** The Mishna is referring to braided chains that are made from unspun flax.

MISHNA

- If one is suspected of selling terumah as chullin, **R' Yehuda** says we may not even buy water and salt from him. **R' Shimon** says, anything that has a connection to terumos and maaseros may not be purchased from him.

GEMARA

- **Q:** What is **R' Shimon** coming to include? **A:** He comes to include fish innards, which are mixed with olive oil and the olive oil is subject to terumah.
- There was a butcher who was suspected of selling cheilev as mutar fats. **Rava** penalized him and said it was assur for him to even sell nuts. **R' Pappa** asked **Rava**, you seem to be following the view of **R' Yehuda** in the Mishna. If so, it should even be assur for him to sell salt and water!? **Rava** said, I actually follow **R' Shimon**, and therefore I only say that related items are assur. However, since he used nuts to entice the children to bring him the assur fats that he would then pass off as kosher fats, the nuts are considered to be related items and I therefore said it is assur for him to even sell nuts.

----------Daf ל---30----------

MISHNA

- If one is suspect regarding shmitta he does not automatically become suspect regarding maaser. If one is suspect regarding maaser he does not automatically become suspect regarding shmitta. If he is suspect regarding both of these he is considered suspect regarding taharos as well. There is a person who is suspect regarding taharos and not suspect regarding shmitta and maaser.
- The rule is, when one is suspect regarding something he may neither judge that matter nor testify about it.

GEMARA

- One who is suspect regarding shmitta is not suspect regarding maaser, because shmitta can be eaten anywhere whereas maaser must be eaten within the wall of Yerushalayim, therefore people treat it more stringently.

HECHASHUD AHL HAMAASER…

- One who is suspect regarding maaser is not suspect regarding shmitta, because maaser can be redeemed whereas shmitta produce cannot and therefore people treat it more stringently.

HECHASHUD AHL ZEH V'AHL ZEH…

- Since we see that he is suspect regarding things that are D'Oraisa (shmitta, maaser) he is definitely suspect regarding things that are only D'Rabanan.

V'YEISH CHASHUD AHL HATEHAROS

- The reason is, that just because he is suspect regarding a D'Rabanan does not make him suspect regarding a D'Oraisa.
    - **Q:** A Braisa says that one who is trusted regarding tahoros is trusted regarding shmitta. That seems to suggest that one who is suspect regarding tahoros is suspect regarding shmitta!? **A: R' Illai** said, our Mishna is discussing a case of where we see the person keeping the halachos of shmitta and maaser in the privacy of his home. **R' Yannai the son or R' Yishmael** said, the case of the Braisa is where a person was suspect regarding shmitta and tahoros, and in front of the Rabanan then accepted upon himself to be trustworthy for both these things, and we then found him to be suspect regarding tahoros. In that case we say that since he is suspect for one of the things he accepted upon himself, he is also suspect regarding the second thing as well.
- **Rabbah bar bar Chana in the name of R' Yochanan** said, our Mishna reflects the view of **R' Akiva**, but the **Chachomim** hold that if one is suspect regarding shmitta he is also suspect regarding maaser. The view of the **Chachomim** is the view of **R' Yehuda**, because in his locale the people treated shmitta very stringently.
    - **Some** say that **Rabbah bar bar Chana in the name of R' Yochanan** said, our Mishna reflects the view of **R' Akiva Sitimta'ah**, but the **Chachomim** hold that if one is suspect regarding maaser he is also suspect regarding shmitta. The view of the **Chachomim** is the view of **R' Meir**, who says that if one is suspect regarding one thing he is suspect for everything in the Torah.
    - **R' Yonah and R' Yirmiya** the talmidim of **R' Ze'eira** argued – one said that the **Chachomim** argue on our Mishna and say that if one is suspect regarding shmitta he is also suspect regarding maaser, and their view is the view of **R' Yehuda**, the other said that the **Chachomim** argue on our Mishna and say that if one is suspect regarding maaser he is also suspect regarding shmitta and their view is the view of **R' Meir**. We see this in a Braisa which says that if an ahm Haaretz accepts to be a chaveir and then becomes suspect to one thing, **R' Meir** says he becomes suspect for the entire Torah. The **Chachomim** say that he only becomes suspect for that one thing. If a ger accepts the Torah on himself and then becomes suspect regarding one thing, he is suspect regarding the entire Torah and is treated as a Yid who is a mumar – which is important, because this means that if he is mekadesh a woman it is a valid kiddushin (not like the kiddushin of a goy, which has no affect).
    - A Braisa says, if a person comes to accept to be a chaveir except for one thing, we do not accept him as a chaveir. If a goy comes to accept all of the Torah except for one thing, we do not accept him as a ger. **R' Yose the son of R' Yehuda** said, this is true even if he doesn't want to accept one chumra of the **Rabanan**. Also, if a Levi comes to accept the halachos regarding a Levi except for one thing, we do not accept him. Also, if a Kohen comes to accept the halachos regarding a Kohen except for one thing, we do not accept him. The pasuk of "hamakriv es dam hashelamim…" teaches that the Avodah was given to the Kohanim, and any Kohen who does not accept it fully does not get a share of the Kehuna.
    - A Braisa says, if a person comes to accept to be a chaveir and we see that he has been practicing the rules of chaveiros in the privacy of his home, we accept him and then teach him the rules. If we haven't seen that, we must first teach him the rules and can then accept him as a chaveir. **R' Shimon ben Yochai** says, in either case we can accept him immediately and he can then learn the rules as he goes along.
    - A Braisa says, we accept a chaver in stages – first with regard to "wings" (i.e. netilas yadayim) and then for all other matters of taharos. If he says he only accepts the rules of "wings" we may accept him for

that. If he says he only accepts the other rules of taharos but not of "wings" we don't accept him as a chaveir for anything.

- A Braisa says, for how long must one be practicing as a chaveir before we may accept him as a chaveir? **B"S** say, for drinks it is 30 days and for clothing it is 12 months. **B"H** say that for both it is 12 months.
  - **Q:** This would then be another case where **B"S** is more meikel than **B"H**!? **A:** Rather, say that **B"H** say for both it is 30 days.
- A Braisa says, if a person comes to accept to be a chaveir he must make the acceptance in front of 3 chaveirem, but his sons and family need not accept in front of 3 chaveirem. **R' Shimon ben Gamliel** says that even his sons and family need to do so, but we can't compare someone who accepted to be a chaver on his own and someone who is the son of someone who accepted to be a chaver.
- A Braisa says, if a person comes to accept to be a chaveir he must make the acceptance in front of 3 chaveirem, and even if he is a talmid chochom he must do so. However, if he is a "zakein" who sits in yeshiva (on the Sanhedrin) he need not accept in front of 3 chaveirem, because he has already accepted this when he began to sit in yeshiva. **Abba Shaul** says that even a talmid chochom does not have to do so, and even more than that, others can accept to be a chaver in front of a talmid chochom even if he himself had never accepted to be a chaver.
  - **R' Yochanan** said that this Braisa that says that a talmid chochom must accept chaveiros in order to be treated as a chaver, was taught in the days of the son of **R' Chanina ben Antignus**. He then related a story of how the son of **R' Chanina ben Antignus** didn't trust anybody with his taharos – even talmidei chachochim of the caliber of **R' Yehuda and R' Yose** – unless they accepted chaveirus on themselves.
- A Braisa says, when a chaver dies, his wife, children and household continue to be treated as chaveirem until they become suspect. Similarly, a chatzer in which they sell techeiles continues to be considered as reliable until we have reason to believe that they are selling blue wool that is not proper techeiles.
- A Braisa says, if the wife or daughter of an ahm haaretz married a chaver, or if the slave of an ahm haaretz was sold to a chaver, they must accept the rules of being a chaver in order to be considered a chaver. However, if the wife or daughter of a chaver married an ahm haaretz or if the servant of a chaver was sold to an ahm haaretz, they do not need to accept the rules of chaveirus in order to be trusted as a chaver. **R' Meir** says that they do. **R' Shimon ben Elazar in the name of R' Meir** said, there was a woman who when married to a chaver would tie his tefillin on his hand for him, and yet when she then married an ahm Haaretz she should tie his tax collector papers onto his hand for him.

----------Daf לא---31----------

- A Braisa says, if ahm haaratzim say they have changed with teshuva and want to now be trusted, **R' Meir** says we can never accept them as being trusted. **R' Yehuda** says, if they did teshuva privately, we can't trust them. If they did teshuva publicly, we can trust them. **Others** say that **R' Yehuda** meant, if their aveiros had been done privately, we can trust them, if not, we cannot. **R' Shimon and R' Yehoshua ben Korcha** said, in all cases we accept them, as the pasuk says "shuvu banim shovavim". **R' Yitzchak of Kfar Akko in the name of R' Yochanan** said, the halacha follows this pair (i.e. **R' Shimon and R' Yehoshua ben Korcha**).
- A Braisa says, initially they said that if a chaver was appointed as a tax collector he loses his status as a chaver, and even if he is no longer a tax collector we don't accept him as a chaver again. They later said that if he is no longer a tax collector we treat him like every other person and he may be accepted again.
  - **R' Huna bar Chiya** was needed as the Rosh Hayeshiva. **Rabbah and R' Yosef** took 400 pairs of chachomim to go and offer him the position. When they got there they heard that he had been the tax collector and therefore didn't want to offer it to him anymore. **R' Huna bar Chiya** said that he no longer held that job. **R' Yosef** still refused to offer the position to him based on the Braisa that says that even if he is no longer a tax collector we don't accept him as a chaver again. **Rabbah** went to offer the position to him based on the Braisa that said that they later said that if he is no longer a tax collector we treat him like every other person and he may be accepted again.

- A Braisa says, a Kohen may view and pasken on all bechoros regarding a mum, except a bechor that belongs to him. A person may view and pasken regarding a mum on his own kodashim, and his own animal maaser, and may pasken regarding his own taharos.
    - **Q:** The Braisa can't be discussing where the person by himself wants to pasken regarding the mum on his bechor, because a Mishna says that a Beis Din of 3 is needed!? If it refers to where he is one of the 3, why would we suspect that the mum was judged improperly? A Mishna says that a chochom who oversaw a mi'un or a chalitza may marry that woman since he is only one of a Beis Din of 3!? **A:** The case is that he was acting alone in accordance with the ruling of **R' Chisda in the name of R' Yochanan** who said that a single expert may pasken on a mum by himself.
    - The reason he may pasken on his kodashim is because if he was looking to make it mutar to be shechted not on the Mizbe'ach he could simply have been matir neder.
    - The reason he may pasken on his animal maaser is because if he was looking to make it mutar to be shechted not on the Mizbe'ach he could simply have given all his animals a mum before taking maaser from them.
    - The reason he may pasken on his taharos is because even if they are tamei he may eat them on days that he himself is tamei, and he is therefore not facing a loss if they are indeed tamei.

HADRAN ALACH PEREK AHD KAMAH!!!

PEREK KOL PESULEI HAMUKDASHIN -- PEREK CHAMISHI

MISHNA

- With regard to all passul korbanos, (since their upside goes to hekdesh) they may be sold in the market, may be shechted in the market, and may be weighed with a litra weight, except for a bechor and maser, because their upside goes to their owners, whereas the upside of the other passul korbanos goes to hekdesh. One may weigh one piece of meat against another even in the case of a bechor.

GEMARA

- **Q:** Is the Mishna referring to before the korbon is redeemed or after? It can't be referring to after the redemption, because then the Mishna wouldn't say that their upside goes to hekdesh, and it can't be referring to before the redemption, because the Mishna would not say that it can be shechted before it is redeemed since according to one view it must stand and be evaluated before it is redeemed!? **A:** The Mishna is referring to after they are redeemed and when the Mishna says their upside goes to hekdesh it is referring to the money of the redemption. The Mishna means to say that since we permit it to be sold in the market, shechted in the market, and weighed with a litra weight, it will be redeemed for more money, which will bring upside to hekdesh.

CHUTZ MIN HABECHOR UMIN HAMAASER…

- **Q:** It makes sense that in the case of the bechor it may not be sold in the market but may be sold in his house. However, how can the Mishna say that a maaser may be sold in his house? A Braisa says that "lo sifdeh" written regarding bechor teaches that it may be sold live but not dead, and "lo yiga'el" written regarding maaser teaches that it may not be sold even live!? **A: R' Sheishes** had this difficulty one night as well and in the morning answered based on a Braisa that the Mishna is referring to the maaser animals of orphans regarding which the **Rabanan** were lenient and allowed it to be sold so as to prevent the orphans from suffering a loss. **R' Idi** repeated this ruling without mentioning that it was said by **R' Sheishes** and **R' Sheishes** was upset, because **R' Yochanan in the name of R' Shimon ben Yochai** said, that when something is said in the name of a talmid chochom after his death, his lips move in his grave.
    - The Braisa used for **R' Sheishes's** answer is explained by **Abaye** to say that the animal maaser of orphans may be sold along with its skin, cheilev, sinews, and horns and the buyer pays an inflated price for these items and pays nothing for the meat.
        - **Q:** This suggests that this method of sale could not be used for one who is not an orphan. Why is this different than the case of an esrog during shmitta, regarding which **R' Huna** said that one

may sell the lulav for an inflated price and then give the esrog as a gift? **A:** When the price of a lulav is inflated to include the price of the esrog it is not so noticeable. When the price of the skin, cheilev, sinews, and horns are inflated to include the price of the meat it is noticeable.

- **Rava** asked, that the words of the Braisa do not fit well with the explanation of **Abaye**. Therefore, **Rava** said that the Braisa is actually talking about two different cases – the animal maaser of orphans may be sold in the regular way (even when not sold with the skin, etc.) and the animal maaser of other people may be sold along with the skin, etc. **Rava** said, the pasuk regarding maaser says "v'haya hu usmuraso yihiyeh kodesh lo yiga'el", which teaches to compare maaser to temurah, that just as temurah only takes effect while the animal is alive, so too the issur of selling the maaser is only when the animal is alive, but after it is shechted it may be sold. The **Rabanan** came along and were goizer against the regular selling of the animal after shechita so that one not come to sell it before the shechita – when it is assur D'Oraisa. The **Rabanan** were only goizer against selling the meat, because that is used to evaluate an animal while it is alive. They were not goizer against selling the skin, etc., because those are not things used to evaluate an animal while it is alive. When dealing with orphans the **Rabanan** were not goizer at all
  - **R' Shmuel bar R' Yitzchak** darshened a pasuk to teach like **Rava**, that the animal maaser of orphans may be sold in the regular way of selling.
- **Q:** What is the halacha with regard to selling the meat along with the bones (rather than the skin, cheilev, sinews, or horns)? **A: R' Chiya and R' Shimon the son of Rebbi** argue – one says it may be done and one says it may not be done.
  - They don't argue, the one who says it may not be done is referring to small animals (whose bones have little value), and the one who says it may be done is referring to large animals (whose bones have value).
    - We can also say that they are both referring to large animals. The one who says it may not be done is referring to the place where he lived (where bones were not used for things of value), and the one who says it may be done is referring to where he lived (where bones were used for things of value).

----------Daf לב---32----------

- The Gemara had quoted a Braisa that said that "lo sifdeh" written regarding bechor teaches that it may be sold live but not dead, and "lo yiga'el" written regarding maaser teaches that it may not be sold whether live or dead, whether without a mum or with a mum.
  - **Q:** How do we know that "lo yiga'el" means that selling the maaser animal is assur? **A: R' Chinina in the name of Rav** said, and **R' Dimi in the name of R' Yochanan** said, the pasuk regarding maaser says "lo yiga'el" and the pasuk regarding cheirem says "lo yiga'el" – this teaches that just as cheirem is assur to be sold, the same is true for maaser.
    - **R' Nachman bar Yitzchak** said to **R' Huna the son of R' Yehoshua**, in order for this to be a valid gezeira shava it must be that the words are "open" (not needed for another purpose), because if they are not we are allowed to refute the comparison, and this comparison can be refuted by saying that cheirem is different in that it can take effect on everything (even things that are kadosh) whereas maaser cannot. The Gemara says that it is "open", because there is no need to write "lo yiga'el" regarding cheirem, since it can be learned from maaser – just as maaser is kadosh and may not be redeemed, the same is for cheirem. Therefore, the "lo yiga'el" written regarding cheirem is "open".
      - **Q:** We can say that cheirem can't be learned from maser, because maaser has the stringency in that the animal before it and after it in the count can become kodesh as well!? **A:** Rather, there was no need to write "lo yiga'el" by cheirem, because we could

have learned it from bechor – just as bechor is kadosh and may not be redeemed, the same is for cheirem. Therefore, the "lo yiga'el" written regarding cheirem is "open".

- **Q:** We can say that cheirem can't be learned from bechor, because bechor has the stringency that it is kadosh from the womb!? **A:** Rather, there was no need to write "lo yiga'el" by maaser, because we could have learned it from a gezeira shava of "havarah" from bechor – just as bechor is kadosh and may not be redeemed, the same is true for maaser. Therefore, the "lo yiga'el" written regarding maaser is "open".
- **Q:** We can refute the gezeira shava of maaser from bechor based on the fact that bechor is kadosh from the womb!? **A:** The word "v'havarta" written regarding bechor and used for this gezeira shava is "open" and the gezeira shava therefore can't be refuted.

- **Q:** We should say that bechor should be learned from cheirem with a gezeira shava of "geulah", which should teach that a bechor may also not be sold!? **A:** The "geulah" written regarding bechor is needed to teach that it itself may not be redeemed and is therefore not available for the gezeira shava.
  - **Q:** Why do you say that the "lo sifdeh" of bechor is needed for its own teaching and the one written regarding maaser is not (since it is learned from bechor)? Why not instead say that the one written regarding maaser is needed for its own teaching and bechor is learned from maaser? **A:** Maaser and cheirem both have the word "geulah" whereas bechor has a word of "pediya", which although similar are not the same, and that is why we learn the gezeira shava between maaser and cheirem which have the same word.
  - **Q:** Once we learn from a gezeira shava from cheirem that maaser may not be sold we should then use the gezeira shava of "havara" from maaser to bechor that bechor may also not be sold!? **A:** The pasuk regarding cheirem says "hu", which is an exclusionary term and excludes bechor.
    - **Q:** Maybe say that it instead excludes maaser? **A:** The Torah uses the term "geulah" regarding cheirem and maaser, so it can't mean to exclude maaser.
- **Rava** said, the "lo yigael" written regarding cheirem is not needed. If the cheirem is in the hands of the owner it is hekdesh and may not be redeemed, and if it has already been given to the Kohen it is considered to be chullin and need not be redeemed. Therefore, the "lo yigael" is not needed for cheirem and we instead darshen it for maaser to teach that it may not be sold.
  - **Q:** Why don't we instead darshen it for bechor to teach that *it* may not be sold? **A:** The Torah writes "geulah" for maaser and cheirem and therefore we say it teaches regarding maaser.
- **R' Ashi** said the "lo yiga'el" written regarding maaser should be understood as if it said "it shall not be sold". We know this from the fact that the pasuk compares maaser to teumrah. Temurah can only be done while the animal is alive, which would therefore mean that the maaser may similarly not be sold while it is alive. It certainly can't be sold after it is shechted, because at that point it cannot stand and be evaluated. Therefore, clearly the pasuk must mean that it may not be sold at all. Even according to the view that kodesh for the Mizbe'ach need not be stood and evaluated, we would still say that we don't find anything that cannot be redeemed when alive but can be redeemed when dead. Therefore, it must be that it can't be redeemed when dead either.
  - **Q:** Maybe say that while it is alive its kedusha is too strong to allow redemption, but after its death the kedusha is not as strong and therefore allows for redemption? **A:** We know that redemption takes effect on stronger kedusha, and therefore, if it can't be redeemed with the stronger kedusha it definitely can't be redeemed with the weaker kedusha.
  - **Q:** Why doesn't the Torah simply say "it may not be sold"? **A:** If it would say that, we would think it can't be sold because it makes the maaser chullin, but it may be

redeemed, because then at least the money goes to hekdesh. The pasuk therefore says "lo yiga'el", which teaches that it may not be sold or redeemed.

----------Daf לג---33----------

MISHNA

- **B"S** say that a Yisrael may not be invited to eat the bechor with a mum together with the Kohen. **B"H** say that even a goy may eat from the bechor.

GEMARA

- Our Mishna follows the view of **R' Akiva** of a Braisa. The Braisa says, **B"S** say that only Kohanim may eat from a bechor that had a mum, but **B"H** say that even non-Kohanim may do so. **R' Akiva** said that **B"H** say that even a goy may eat from such a bechor.
    - The view of **B"S** is based on the pasuk that compares a bechor to the chazeh v'shok of a shelamim – just as the chazek v'shok may only be eaten by Kohanim, the same is true for the bechor. **B"H** say that the comparison is regarding a bechor that does not have a mum. Once the bechor has a mum the pasuk says "hatamei v'hatahor yachdav yochlenu". Now, if a tamei Kohen, who may not eat kodashim kalim, may eat the bechor, then certainly a non-Kohen, who may eat kodashim kalim, may eat from a bechor!
        - We can ask that a tamei Kohen is different, because he may do the Avodah for the tzibbur? **B"H** would say that although he may at times do the Avodah, we never find that he may eat kodashim. A non-Kohen may eat things that a tamei Kohen may not and therefore it makes sense that the non-Kohen may eat the bechor.
    - **R' Akiva** says that a goy may eat from it, because the pasuk says the bechor is "katzvi v'cha'ayal" and it therefore is mutar for a goy just like a deer. The **T"K** uses the three times the pasuk says "katzvi v'cha'ayal" for different drashos, and therefore they are not available for this drahsa of **R' Akiva**.
- A Braisa says, **B"S** said that a bechor may not be eaten by niddos, but **B"H** said that it may.
    - **B"S**'s view is based on the fact that the Torah compares the bechor to the shelamim – just as a niddah may not eat a shelamim she may not eat a bechor. **B"H** say, that comparison is regarding an animal that doesn't have a mum – once it has a mum the pasuk says "hatamei v'hatahor yochlenu". **B"S** say, that pasuk allows one who is tamei to eat the bechor only when it is a tumah that did not emanate from their body. We find this difference in types of tumah regarding the bringing of a Korbon Pesach when tamei – which even then may not be done by one who is tamei with a tumah that emanates from their body. **B"H** say that is true for the Korbon Pesach, because the pasuk specifically says only a "tmei nefesh" may bring the Pesach.
    - A Braisa says, we may not skin an animal from the feet on Yom Tov. Similarly, we may not skin a bechor from the feet (even if it has a mum) and we may not skin a passul korbon (that was redeemed) from the feet.
        - **Q:** It makes sense that this may not be done on Yom Tov, because it involves doing work that is not needed for Yom Tov. Why is it assur to be done to a bechor? **A: R' Chisda** said, this is the view of **B"S** who say that a niddah may not eat a bechor (which shows that it has kedusha, and for that same reason may not be skinned from the feet).
        - **Q:** Who is the view that says that this also applies to a passul korbon? **A: R' Chisda** said it is the view of **R' Elazar the son of R' Shimon**, who says regarding a chatas that had a mum, that even if it was shechted before the owner brought another animal for his kapparah, it becomes assur when the blood of the actual chatas is applied (at that point the one with the mum is a chatas whose owner has achieved a kapparah through other means). We see that he holds that even after the shechita it retains the kedusha of a chatas.
        - **Q:** Why couldn't **R' Chisda** say that the entire Braisa follows the view of **B"S**? **A:** We can say that **B"S** only says that regarding bechor which becomes kadosh from the womb, but not for other passul kodashim.

- **Q:** Why couldn't **R' Chisda** say that the entire Braisa follows the view of **R' Elazar the son of R' Shimon**? **A:** We can say that **R' Elazar** only says that regarding passul korbanos, because their kedusha is strong enough to allow for a redemption, but the kedusha of a bechor which is not as strong maybe doesn't have kedusha after the shechita.
- **Q:** Does **R' Elazar** not hold of our Mishna which allows a passul korbon to be sold even in the market since it benefits hekdesh, which would seem to similarly allow a passul korbon to be skinned from the feet!? **A: R' Mari the son of R' Kahana** said, skinning like that ruins the meat, therefore it is not considered to be a benefit for hekdesh.
- In EY in the name of **Ravina** they said that the reason it may not be skinned from the feet is because it looks like one is doing work with the animal.
- **R' Yose bar Avin** said, the reason it may not be skinned from the feet is because it would entice people to keep the animal alive, which would have them produce more animals and lead to issurim.

MISHNA

- If a bechor had "too much blood" (and it must have blood let from it), **R' Yehuda** says even if it will die if left untreated, we may not let blood from it. The **Chachomim** say we may let its blood as long as he does not make a mum. If he did make a mum, he may not shecht it based on that mum. **R' Shimon** says we may let its blood even if he will make a mum by doing so.

GEMARA

- A Braisa says, if an animal bechor had a life-threatening blood condition which could be healed by letting blood from it, **R' Meir** says we may only let blood in a way that would not make a mum in it (even though it is currently in a life-threatening situation and is therefore already a baal mum). The **Chachomim** say that we may let blood even if it will cause a mum, as long as we don't remove it from kedusha and allow the Kohen to eat it based on the mum that we have created. **R' Shimon** says we may even allow the bechor to be eaten by the Kohen based on this mum caused by the blood letting. **R' Yehuda** says, even if the bechor will die if left untreated, we may not let blood from it to heal it.
    - **R' Elazar** (or **R' Chiya**) told his son, the machlokes in this Braisa is like the machlokes in a Mishna regarding terumah. The Mishna says, if terumah wine became safek tamei, **R' Eliezer** says, even though it may no longer be eaten one must take measures to prevent it from becoming definitely tamei. **R' Yehoshua** says it may be made definitely tamei (so that it can at least be used for sprinkling). **R' Gamliel** says it may not be made tamei but it need not be protected from becoming tamei. It would seem that **R' Meir** holds like **R' Eliezer**, that the **Rabanan** hold like **R' Yehoshua**, and that **R' Yehuda** holds like **R' Gamliel**.
        - The Gemara says this may not be a valid comparison. It may be that **R' Meir** holds that way regarding bechor, because he is causing the mum with his hands, but regarding the wine he may agree with **R' Yehoshua** that it is permitted since it is being done in an indirect way (he moves it to a place where it will likely become tamei). Also, maybe **R' Eliezer** holds that way regarding the terumah, because Eliyahu may come and tell us whether it is actually tamei, but in the case of the bechor which will die if left untreated he may agree with the **Rabanan**! The same can be said for the **Rabanan**, that they may agree with **R' Eliezer** in the case of terumah, because Eliyahu may come and tell us whether it is tamei! Also, it may be that **R' Yehuda** says it is assur by bechor, because it is being done by the person's hands, but in the case of terumah, where it is only indirect, maybe he agrees with **R' Yehoshua**! Also, maybe **R' Gamliel** only holds that way regarding terumah, because Eliyahu may come and tell us whether it is tamei, but in the case of bechor, since it will die if left untreated, maybe he agrees with the **Rabanan**!
            - Also, we find that the machlokes regarding bechor is based on how to darshen pesukim and that the machlokes regarding terumah is based on how to darshen other pesukim. We learned, **R' Chiya bar Abba in the name of R' Yochanan** said, all these Tanna'im

would agree that in the case of one who processes a chametz mincha after another person has already processed the chametz mincha, the person would be chayuv, because the pasuk says "lo sei'aseh chametz" and also says "lo sei'afeh chametz". All these Tanna'im would also agree that if one castrates an already castrated animal more severely than it was already castrated, he would be chayuv, because the pasuk says "uma'uch, v'kasus, v'nasuk, v'karus", which teaches that one is chayuv for the latter even if the previous was already done. **R' Meir and the Chachomim** only argue in the case of the Braisa, because **R' Meir** holds that the pasuk of "kol mum lo yihiyeh bo" teaches that it is absolutely always assur to make a mum in the animal, even if there was already a mum there, whereas the **Rabanan** hold that the pasuk of "tamim yihiyeh l'ratzon" teaches that it is only assur to make a mum if the animal was a "tamim", but if it already had a mum anyway, the issur to make a mum would not apply.
    - **Q:** How does **R' Meir** darshen the pasuk of "tamim yihiyeh l'ratzon"? **A:** He uses it to teach that an animal that was *born* with a mum is not subject to the issur of making a mum in it.
    - **Q:** An animal born with a mum can never be made kodesh, so it is obvious that there would be no issur to make a mum in it!? **A:** Rather, he uses it to teach that the issur does not apply to a korbon that became passul and was then redeemed from kodesh. We would think that since it remains assur to be shorn or worked it is also assur to make a mum in it. The pasuk therefore teaches that the issur does not apply.
    - **Q:** How do the **Rabanan** darshen the pasuk of "kol mum lo yihiyeh bo"? **A:** They use it to teach that one may not even indirectly cause a mum – for example, by putting dough on the animal's ear, causing a dog to come and bite it, thereby making a mum in the ear.
- We also learned that **R' Yehuda in the name of Shmuel** said that the machlokes regarding terumah is based on how to darshen the pasuk of "es mishmeres terumosai".
- For all these reasons the Gemara remains that the comparison of the machlokes regarding bechor and terumah are not comparable.

----------Daf לד---34----------

- **R' Yehuda in the name of Shmuel** said that we pasken like **R' Shimon**.
    - **Q: R' Nachman bar Yitzchak** asked, which view of **R' Shimon** is he referring to? It can't be the view of **R' Shimon** in our Mishna where he says that it is mutar to let the blood and make the mum but doesn't say that it becomes mutar for shechita with that mum, because **Shmuel** has already said elsewhere that the halacha follows **R' Shimon** that an unintended act is mutar!? **A:** Rather, he is referring to **R' Shimon** of the Braisa, where he says that it even becomes mutar to shecht that bechor on account of that mum.
        - **R' Shisha the son of R' Idi** said explicitly that **R' Yehuda in the name of Shmuel** said, the halacha follows **R' Shimon** of the Braisa.

MISHNA

- If a person makes a mum in the ear of a bechor, **R' Eliezer** says this bechor may never be shechted. The **Chachomim** say, if it later gets another mum it may be shechted based on that other mum.

GEMARA

- **Q:** Does **R' Eliezer** really make a penalty that it may never be shechted? A Mishna says, if someone cut off a tzaraas from his body (which is assur to do), if it was done unintentionally he becomes tahor. If it was done intentionally, **R' Eliezer** says that if he later gets another tzaraas and becomes tahor from that one, he will become tahor from the first one as well. The **Chachomim** say that he remains tamei until a new tzaraas spreads

all over his body. At that time he becomes tahor from the first one. We see that **R' Eliezer** does not penalize forever!? **A: Rabbah and R' Yosef** both said, **R' Eliezer** only penalizes in monetary matters (since a person would inflict a mum on a bechor to try to allow him to shecht it), not in matters involving his body (he would not risk cutting off a tzaraas if the only way he can become tahor is by getting another tzaraas). **A2: Rava** said, the contradiction of **R' Eliezer** is answered. The contradiction of the **Rabanan** can be answered by saying that the **Rabanan** are consistent in penalizing regarding the thing that he tried to do. Therefore, regarding the bechor they penalize that the mum he inflicted cannot serve as the basis of allowing it to be shechted, and regarding the tzaraas they penalize that the cutting off of the tzaraas does not make it that that tzaraas is no longer tamei.

  - **Q: R' Pappa** asked, does **R' Eliezer** say he becomes tahor as soon as the second tzaraas appears, or is it only when he becomes tahor from the second tzaraas that he then becomes tahor from the first tzaraas as well? The practical difference between these two would be for a chosson who developed his second tzaraas during sheva brachos, or to a person who developed the second tzaraas on Yom Tov, in which case we don't examine tzaraas during sheva brachos or Yom Tov. If this person had earlier cut off another tzaraas, then if he becomes tahor with the appearance of the new tzaraas then he is tahor, but if he only becomes tahor when he becomes tahor from the new tzaraas, he is still tamei. What is the halacha? **TEIKU**.

- **Q: R' Yirmiya** asked **R' Zeira**, if someone made a mum in a bechor and the person then died, would we penalize his son (who inherits the bechor from him) as well and not allow him to shecht this bechor? Even if we say that if one sells his slave to a goy and then died we do penalize his son, that is because every day that slave is prevented from doing mitzvos. Even if we say that if someone planned to do work on chol hamoed and then died we allow his son to do the work to prevent a loss, that may be because the father didn't actually do an issur. The question is regarding bechor – did the **Rabanan** only penalize the person who made the mum and he is no longer alive, or did the **Rabanan** penalize the person's property and that still exists and therefore it still applies? **A: R' Zeira** said, a Mishna regarding shmitta says that if one improved his field during shmitta it is assur to plant it after shmitta. **R' Yose the son of R' Chanina** said that we have a kabbalah that if he died his son may plant the field after shmitta. We see that the **Rabanan** penalize the person and not the property. The same should be true regarding the case of the bechor.
  - **Abaye** said, we have a kabbalah that if one made tamei the taharos of another person and then died, the **Rabanan** did not penalize his son to have to pay for that damage. The reason is that an unrecognizable damage is not considered to be a damage at all, and it is only a penalty of the **Rabanan** that requires one to pay for such damage. The **Rabanan** only instituted this penalty for the person, not for his son.

----------Daf לה---35----------

MISHNA

- It once happened that there was an old ram bechor whose hair was overgrown. A Roman official saw it and asked why this animal was let to be like that. He was told that it was a bechor and could not be shechted without a mum. He went and sliced its ear with a spear. This matter was brought to the **Chachomim** and they said it was mutar to be shechted based on that mum. This Roman official then went and inflicted a mum and other bechoros, but the **Chachomim** said they were assur to be shechted based on those mumin.
- It once happened that the children were playing and tied the tails of lambs together. When the lambs ran from each other the tail of one of them was pulled off, and it was realized that that lamb was a bechor. The matter was brought to the **Chachomim** and they said it was mutar to be shechted based on that mum. The children saw that they caused the animal to be mutar so they went and did this to other bechoros, but the **Chachomim** said they were assur to be shechted based on those mumin.
- The general rule is, any mum that was inflicted with intent to make the animal mutar, is assur. Any mum that was inflicted without such intent is mutar.

GEMARA

- Both these cases are necessary to be taught. If the Mishna had only taught the first case we would say they permitted it in the case of a goy, because we are not concerned that he will become used to doing this issur of making a mum on a bechor, but in the case of a Jewish katan we would think that it would not be mutar, because we are concerned. If we only had the second case we would say that in that case it is mutar, because we are not concerned that it would lead one to become confused for a case when this is done by an adult, but the case of the goy could lead one to be confused with the case of an adult and we would therefore say that it is assur. That is why both cases are needed.
- **R' Chisda in the name of R' Katina** said, in the first case of the Mishna it is only mutar if the Yid told the goy "the bechor is only mutar if it has a mum". But, if he told him "it is only mutar if a mum is made in it", that would be as if he told the goy to go and make a mum and it would not become mutar based on that mum. **Rava** said, if he said either one it suggests that he meant it becomes mutar when the mum "came on its own", and therefore it would be mutar in both cases.

ZEH HAKLAL KOL SHEHU L'DAAS ASSUR

- This "general rule" comes to include a case of indirect causing of a mum (he puts dough on its ear so that a dog should come and bite it and make a mum in the animal).

SHELO L'DAAS

- This comes to include a case where the goy didn't ask about the nature of the animal, but the Yid mentioned "meisi'ach lefi tumo" that it can only be shechted if there is a mum. If the goy then inflicts a mum in that case it would be mutar as well.

MISHNA

- If a bechor was chasing someone and he kicked it (to save himself) and caused a mum, it may be shechted based on that mum.

GEMARA

- **R' Pappa** said, this is only true if he kicked it as it was still giving chase. However, if he kicked it after it had stopped giving chase, it may not be shechted based on that mum.
    - **Q:** This seems obvious!? **A:** We would think that he kicked it out of frustration for having been chased and it therefore is mutar.
    - **Another** version of **R' Pappa** is that it is mutar even when he kicked it after it had stopped giving chase, because that is done out of frustration for having been chased and it therefore is mutar.
- **R' Yehuda** said, it is mutar to make a mum on a bechor before it is born. **Rava** said, a goat can be given a mum on its ear (the ear is visible before the head emerges, and thus before the animal is considered to be born) and a sheep can be given a mum on its lip (its ears are not visible until after it is already considered to be legally born). **Some** say that a sheep may even be given a mum on its ear if it is seen before most of the head comes out, because the head can come out sideways.
- **Rava** said, with regard to a mum in the animal's mouth, if it cannot be seen when the animal eats, but can be seen when the animal opens its mouth wide and cries, it is considered to be a valid mum.
    - **Q:** A Mishna seems to say this already!? The Mishna says that if the front gums were cut, or if the back gums were uprooted, it is a mum. Presumably this is because this mum is visible when it opens its mouth wide!? **A: R' Pappa** said that **Rava** is actually explaining and giving the reason for the psak of the Mishna.

MISHNA

- With regard to any mum that is possible that it was inflicted by a person – shepherds of Yisraelim are believed to testify that it was not done by a person (if it was intentionally done by a person it would not make it mutar to be shechted), but shepherds of Kohanim are not believed. **R' Shimon ben Gamliel** says, he is believed regarding his friend's bechor but not regarding his own bechor. **R' Meir** says, one who is suspected regarding something may not act as a judge regarding it or testify about it.

Daf In Review – Weekly Chazarah

GEMARA

- **R' Yochanan and R' Elazar** argue – one says that the Mishna means that shepherds who are Yisraelim who are employed by Kohanim are believed and we are not concerned that they would lie in exchange for a share of the bechor, but shepherds who are Kohanim who are employed by Yisraelim are not believed, because they feel that they will get this bechor from their employer, and he would also not be believed regarding another Kohen, because he would expect to get a share and may lie to get that. **R' Shimon ben Gamliel** then teaches that he is only not believed when it is already his bechor, but is believed regarding a bechor that now belongs to someone else. **R' Meir** comes and teaches that if someone is suspected regarding something he may not act as a judge regarding it or testify about it and the Kohen is therefore not believed even regarding someone else's bechor. The other one says that the Mishna means that shepherds of Yisraelim who are themselves Kohanim are believed, because they feel that their employer will give the bechor to a talmid chochom and not to them and therefore would not lie, however, the shepherds of Kohanim who are themselves Yisraelim are not believed, because they may lie in hopes of getting a share of the bechor from their employer, and certainly this would be true where the Kohen's shepherd was himself a Kohen. **R' Shimon ben Gamliel** then teaches that the Kohen shepherd is believed regarding someone else's bechor, but not regarding a bechor of his own. **R' Meir** then teaches that one suspected regarding something may not act as a judge regarding it or testify about it and therefore argues on the **T"K and R' Shimon**.
    - **Q:** According to the first version of the machlokes, **R' Meir** seems to be saying the same thing as the **T"K**!? **A:** The machlokes would be regarding the view of **R' Yehoshua Kapusai** of a Braisa who holds that only members of the Kohen's household are passul to testify regarding his bechor. The **T"K** would agree with that and would therefore hold that other Kohanim would not be passul, but **R' Meir** disagrees and says that all Kohanim are suspect and are therefore passul.
        - **Q:** Who does **R' Chisda in the name of R' Katina** follow when he said that if a safek bechor of a Yisrael that has a mum needs two people from the market to testify that it was not intentionally inflicted? **A:** It follows **R' Yehoshua Kapusai** (since the mum would allow the bechor to be eaten by the Yisrael no members of his household would be believed, similar to the case of the bechor of the Kohen).
            - **R' Nachman** says that the Yisrael owner may testify regarding this safek bechor, because if we don't say that, who will be allowed to testify regarding a maaser's mum according to **R' Meir**?
                - The Gemara says this is not a valid proof. Maaser is different in that the owner would be believed since he can inflict a mum on every animal in his flock before separating maaser. Rather, the owner of a safek bechor must be believed regarding the mum, because if he is not, according to **R' Meir** who will testify regarding it? You can't say that noone can and therefore the animal has no hope to become mutar, because we see in a Mishna that **R' Meir** says it can become mutar! Rather, it must be that the owner is believed, because Yisraelim are not suspected regarding mumim, and only Kohanim are suspected.
            - **R' Nachman** said the halacha follows **R' Shimon ben Gamliel** who argues on **R' Yehoshua Kapusai** and says that the son and daughter of the Kohen are believed, and **Rava** said the halacha follows the view of **R' Yose**.
                - **Q: Rava** has said that if the Kohen owner is with us outside the house and the bechor entered the house without a mum and emerged from the house with a mum, they (presumably the members of the Kohen's household) may testify about it. We see that he doesn't hold like **R' Yose**!? **A: Rava** meant that if *all* the owners (all the members of the household) are outside and the shepherd testifies regarding how it got the mum he is believed.
                - **Q:** If that is what **Rava** means why does he even need to state it? **A:** We would think that we have to be concerned that the shepherd made the mum.

- The Gemara paskens like **R' Shimon ben Gamliel**, but adds that only the son and daughter would be believed – not the Kohen's wife, because one's wife is considered to be like himself.

- **Q: R' Pappa** asked **Abaye**, according to **R' Meir** who says that one who is suspect regarding something may not act as a judge regarding it or testify about it, and **R' Meir** also says that one who is suspect regarding one aspect of the Torah is suspect regarding the entire Torah, the Kohanim who are suspect regarding bechor should never be able to act as a judge for any part of the Torah!? Now that can't be, because the pasuk clearly says that they can judge matters!? **A: R' Meir** said they are *suspect* to have possibly inflicted a mum in the bechor, but they are certainly not established as doing so.
- **Q:** Is testimony regarding a mum based on hearsay sufficient to shecht the animal on account of it? **A: R' Assi** says it is not and **R' Ashi** says it is.
  - **Q: R' Assi** asked, a Braisa of **Divei Menasheh** says that hearsay is only acceptable testimony for permitting a woman to remarry!? **A: R' Ashi** said, the Braisa should read – it is acceptable testimony whenever a woman could testify (and a woman may testify regarding a mum).
  - **R' Yeimar** would permit a bechor based on hearsay testimony. **Mareimar** called **R' Yeimar** – "Yeimar the one who permits bechoros".
  - The Gemara paskens that testimony based on hearsay *is* sufficient to permit a bechor for shechita.