

OVERVIEW of the Daf

1) Ben pekuah (cont.)

Reish Lakish defends his position against R' Yochanan's challenge.

R' Yochanan identifies the author of the Beraisa that was previously cited.

It is noted that R' Yochanan follows his own reasoning.

The difference between the opinions of Beis Hillel and R' Akiva is identified.

R' Chisda inquires about R' Akiva's position and after the inquiry is fully developed it is left unresolved.

2) Cheilev of a miscarried animal

R' Yochanan and Reish Lakish dispute the status of the cheilev of a miscarried animal.

Two explanations of the dispute are presented.

Reish Lakish's position is unsuccessfully challenged.

According to a second version R' Yochanan's position was unsuccessfully challenged.

3) A nine-month fetus found in a slaughtered tereifah

R' Ami and Rava disagree about the status of nine-month fetus found in a slaughtered tereifah according to the opinion that maintains that a ben pekuah may be eaten on the basis of its mother's slaughter.

R' Chisda issues rulings regarding this case.

R' Chisda's position is unsuccessfully challenged.

A related incident is recorded.

4) Clarifying the Mishnah

R' Kahana notes the difference between the positions of R' Shimon Shezuri and Tanna Kamma.

R' Mesharshiya notes an interesting halacha according to the opinion that maintains that we are concerned for the father's seed.

Abaye identifies a case in which both R' Shimon Shezuri and Tanna Kamma agree.

A second version of Abaye's statement is recorded.

The Gemara presents a dispute between Amoraim whether practically the offspring of a ben pekuah requires slaughter.

A related incident is recorded.

Tangentially the Gemara presents R' Shimon Shezuri's ruling regarding the dangerously-ill man and terumas ma'aser of demai. ■

Distinctive INSIGHT

The halachos which we rule according to R' Shimon Shezuri

רבי שמעון שזורי אומר אף בחול שואלו ואוכלו על פי

The Mishnah (74a-b) cites a disagreement regarding the status of a fetus which was fully developed within its mother, and which was born alive after its mother's shechita (a ben pequ'ua). R' Meir holds that this offspring is only permitted if it is shechted, and it does not become permitted with its mother's shechita. Chachamim hold that this animal is permitted due to its mother's shechita, and that it need not be shechted to be eaten. R' Shimon Shezuri affirms that even years later, where this animal's history might have been forgotten, it is still permitted.

Our Gemara notes that Chachamim hold that even though the animal is technically permitted due to its mother's shechita, once it stands on its own legs the rabbis rule that it must be shechted, because not everyone knows of the animal's background of being a ben pequ'ua. R' Shimon Shezuri does not agree that there is a rabbinic restriction, and he holds that this animal need not have shechita.

Zeiri reported that R' Chanina rules according to R' Shimon Shezuri. Rav Ashi said, however, that R' Yochanan ruled according to R' Shimon Shezuri only in two areas, neither one being in reference to his view regarding ben pequ'ua. In this case, the halacha rather follows the Chachamim who say that the animal would require shechita rabbinically once it stands on its own feet.

One of the two cases where we do rule according to R' Shimon Shezuri is that if a deathly-ill husband tells two messengers to "write a גט for his wife," the messengers may not only write the גט, but they may also deliver it to the wife. Although the husband did not specify this command, his ill condition may be understood to indicate this intent.

The second case of R' Shimon Shezuri is where one buys produce from someone who is suspect not to separate tithes from his fruit. If terumas ma'aser of demai was taken from this produce and it fell back into the pile of fruit the legal complication of this mixture cannot be resolved. R' Shimon Shezuri rules leniently that the seller of the fruit may be consulted and trusted if he says that he did take off the tithes. This is allowed not only on Shabbos, when even undependable people do not lie (see Mishnah, Demai 4:1), but he may be believed also on a weekday. He holds that terumas ma'aser is very serious in the eyes of even people who are otherwise not dependable in the area of tithes.

Rashi notes that Chachamim hold that we are lenient and rely upon this person's word due to the honor of Shabbos. Ramban notes that the Mishnah (Demai 7:1) suggests that this applies even if there is other food to eat and the honor of Shabbos is not at risk. Nevertheless, Ramban explains that the trust is based originally upon cases where there is nothing else to eat, but we also trust him in all other cases. ■

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צבי בן ר' חיים עקיבא

HALACHA Highlight

Producing a flock of bnei pekuah

מתיר בבנו ובן בנו עד סוף כל הדורות

He permitted its offspring and the offspring of its offspring until the end of all generations

The Gemara teaches that if a ben pekuah and a bas pekuah produce offspring those offspring are also treated with the halachos applicable to a ben pekuah. Therefore, the necessity to slaughter the offspring is also only Rabbinic and the different tereifos do not apply. Similarly, if the ben and bas pekuah produce flocks and herds of offspring those offspring for all generations will be treated with the halachos applicable to a ben pekuah and therefore even if they develop teriefah wounds the ben pekuah descendant is permitted. This ruling is codified in Shulchan Aruch¹.

Teshuvos Mishnah Halachos² writes about the following suggested practice. Nowadays, animals are only examined for the common teriefah wounds, i.e. the lungs³. The reason, explains Shach,⁴ is that we rely on the majority that indicates that the animal does not possess a tereifah wound and is kosher. Why should we rely upon the majority when we could produce a flock of animals that are offspring of a ben and bas pekuah and then tereifos issues will no longer apply? According to some Rishonim even issues related to meat and milk do not apply to animals that are categorized as a ben pekuah. Seemingly it would be extremely advantageous to do this. Mishnah Halachos, however, rejected the suggestion. He explained that when we try and add to the Torah all we end up doing is diminishing the Torah and our tradition is that the tzadik will live with his faith – צדיק באמונתו יחיה – and does not need to

REVIEW and Remember

1. What is the point of dispute between Beis Hillel and R' Akiva ?

2. At what point in its development does an animal become a בהמה ?

3. According to Tanna Kamma when is it required to slaughter a ben pekuah ?

4. What is R' Shimon Shezuri's ruling about terumas ma'aser of demai ?

generate new concerns.

The same suggestion was presented to the author of Teshuvos Shevet Halevi⁵ in the following manner. It is known that there are many concerns that arise while slaughtering and examining an animal's lungs. Why not raise flocks and herds of bnei pekuah whose slaughter is only Rabbinically mandated and regarding whom tereifos do not apply? He responded that there are no new concerns that exist nowadays that did not exist in the past. Additionally, the will of God is that we should follow his Torah and apply the laws related to slaughtering and in the event that an uncertainty arises one should refrain from eating that animal but there is no reason to bring into question the mesorah we have for eating animals that are properly slaughtered and examined. ■

¹ שו"ע יו"ד סי' י"ג סעי' ב'.
² שו"ת משנה הלכות חט"ז סי' ק"ל.
³ שו"ע יו"ד סי' ל"ט סעי' א'.
⁴ שו"ת שם סק"א.
⁵ שו"ת שבט הלוי ח"ח סי' קע"ח. ■

STORIES off the Daf

Two Wonders

"תרי מיממי הידרכי אינשי..."

In Europe when a person was unwell he was often advised to go to a spa town to recuperate. These towns had every amenity and helped recovery immensely. Once the Yitav Lev, zt"l, was in Mareinbad—a famous spa town—at the same time as the Ksav Sofer, zt"l. When the Ksav Sofer visited the rebbe he presented him with a beautiful silver cup. Interestingly, the Yitav Lev did not wish to accept this gift.

When the Ksav Sofer pleaded with him to accept it, the rebbe asked, "Why are you so insistent that I accept this gift?"

"That way I know you will remember me," the Ksav Sofer replied.

"I will remember you, all right," promised the Yitav Lev. "As we find in Chullin 75, when there are two wonders, people remember. In this situation there certainly are two wonders. One wonder is that a rav wants to give a gift to a rebbe. The second wonder: that a rebbe refuses to accept a gift!"¹

But Rav Meir Simchah of Dvinsk, zt"l, learned a different lesson from this Gemara. People often marveled at how

much the famous author of the Ohr Sameach recalled. Not only was his acuity razor-sharp, but also his vast breadth of Torah knowledge was truly breathtaking. But when people would ask how he seems to recall everything when offering his replies to questions, Rav Meir Simchah gave a very intriguing response.

"Our sages teach that when a situation is a chiddush it is automatically recalled. For me, the entire Torah is a chiddush. Is it any wonder that I remember it?"² ■

¹ מפייהם ומפי כתבם, ח"א, ע"י רנ"ג.
² שקול התורה, תשרי תשס"ז, ע"י רכ"ט. ■

