



## OVERVIEW of the Daf

### 1) Two chattaos (cont.)

R' Hoshaya rules that one who designates two animals for his chattas uses one for his korban and the other is left to graze.

The Gemara searched for the Tanna that is the basis for this ruling and concludes that it is Rebbi.

Two unsuccessful interpretations of this explanation are recorded.

### 2) Lost chattas

R' Shimi bar Ziri cites a Baraisa that presents a dispute between Rebbi and Rabanan concerning cases of a lost chattas.

R' Pappa rejects the presentation of the Baraisa and emends it accordingly.

### 3) Skinning

A Baraisa presents a dispute related to skinning an animal on Yom Tov or skinning a bechor or disqualified korban.

The Gemara identifies the authors of the different rulings in the Baraisa.

R' Chisda's identification of the authors of the Baraisa is unsuccessfully challenged.

The position of R' Elazar the son of R' Shimon is unsuccessfully challenged.

Two additional reasons to prohibit skinning a bechor or disqualified korban are presented.

### הדרן עלך ולד חטאת

**4) MISHNAH:** The Mishnah presents steps one could take to assure that a kohen will not take one's bechor animal.

### 5) Blemishing a bechor before it is born

R' Yehudah rules that it is permitted to blemish a bechor before it is born.

This ruling is unsuccessfully challenged.

### 6) Clarifying the Mishnah

Two of the statements of the Mishnah are clarified. ■

## REVIEW and Remember

1. What is done with the leftover animal set aside as insurance for his chattas?

2. Why is it prohibited to skin an animal on Yom Tov?

3. What is the procedure for circumventing the obligation to give a bechor to a kohen?

4. Under what condition is it permitted to inflict a wound on a bechor before it is born?

## Distinctive INSIGHT

*A declaration of olah prevents the status of bechor from applying*

כיצד מערימין על הבכור וכו' ילדה זכר יקרב עולה

The Mishnah at the beginning of the new perek teaches that if the owner of an animal which is about to give birth for the first time declares that the fetus in the body of the pregnant animal is an olah, if the newborn animal is a male, this statement works to make it an olah and not a bechor.

Rashi mentions that this "trick" is valid, and that as a result of this declaration the person will be able to bring this animal for his personal obligation to bring an olah, rather than giving the animal to a kohen. Rashi is apparently aware that the owner of this animal does not stand to gain whether the animal is a bechor or if it is an olah. Either way, he does not benefit from the animal. A bechor is given to a kohen, and an olah is not eaten. Why, then, would a person bother to avoid having the animal become a bechor when he gains nothing by doing so? Therefore, Rashi explains that the case is where the owner had a previous obligation to bring an olah, and if he can use this animal to fulfill his need he would not have to bring another animal instead. However, Piskei HaTosafos (#13) writes that if this person had an obligation to bring an olah, this trick cannot work for him.

Rashi explains that the status of bechor is established at birth, when the male offspring exits the womb, and the designation as olah, which had already been declared upon the fetus before that, prevents the animal from becoming a bechor. From Rashi's explanation here and on 10b (ד"ה ילדה) it seems that the issue is that once the animal is sanctified as an olah there is "no more room" for the sanctification of bechor to take hold.

Gri"z wonders why Rashi presents this reasoning rather than noting that sanctified animals are exempt from the law of bechor, as is taught in Bechoros 14a, which is based upon a posuk (ibid. 15a). In fact, we can actually approach this issue from another perspective. If, as Rashi mentions, once an animal is sanctified it cannot become a bechor, why should the Gemara in Bechoros have to derive from a special posuk that a sanctified animal is exempt from bechor? Gri"z therefore explains that this does not present a difficulty, because the posuk is necessary to teach that the law of bechor does not apply even where the fetus

## HALACHAH Highlight

### *Selling chometz to a gentile for Pesach*

כיצד מערימין על הבכור

*How does one circumvent the bechor?*

The Mishnah explains the procedure for using subterfuge to remove a kohen's claim to one's bechor and to use it for one's own korban. The Mishnah rules that by designating the fetus as a korban the owner prevents the fetus from attaining the sanctity of a bechor. Rambam<sup>1</sup> explains that the subterfuge described in the Mishnah is a permitted form of subterfuge. This is evident from the Mishnah's choice of the word מערימין which implies a permitted form of subterfuge rather than מרמה which is the word used for prohibited forms of subterfuge.

Chasam Sofer<sup>2</sup> notes that this implies that it is even permitted to employ subterfuge for something that is a Biblical prohibition. However, there are times when Chazal prohibited the use of subterfuge to prevent a breach in halacha from being generated. It is important to note though that when one employs subterfuge that is Rabbinically prohibited one has not violated a Biblical prohibition since the subterfuge is effective; rather he has violated the Rabbinic injunction against employing subterfuge in this case. Regarding the sale of chometz Chazal did not prohibit the use of subterfuge. This is evident from the Tosefta in Pesachim (2:6, 7) that clearly describes circumstances in which subterfuge is permitted. It is these sources that serve as the source

*(Insight...continued from page 1)*

itself is not consecrated, for example according to the opinions that hold that a person may consecrate a cow but retain the rights to the fetus for himself. Here, although the fetus has no sanctification of its own, the posuk teaches that it is still not a bechor due to the sanctified status of its mother. In fact, the posuk which exempts a sanctified animal from the law of bechor is said in reference to disqualified sanctified animals (פסולי המוקדשין), whose offspring have no sanctification.

Accordingly, the comment of Rashi is precise, in that the posuk which exempts a sanctified animal from the law of bechor is not referring to where the fetus itself has been sanctified. In our case, where the animal has been declared an olah, it is obvious that the status of bechor cannot take hold upon the animal. ■

for the common practice of selling one's chometz to a gentile in advance of Pesach even though both parties are aware that after Pesach the Jew will take back his chometz. The sale must be a halachic sale that includes a transfer of money, the gentile must take physical possession of the chometz (משיכה) and the chometz should be moved to the gentile's home. In the event that it is not possible to remove the chometz from the Jew's home the Jew must rent the land to the gentile for nine or ten days and then sell the chometz in a package deal with the land in a single document. ■

1. רמב"ם בפירושו המשנה פ"ה מ"א.

2. שו"ת חת"ס או"ח סי' קי"ג. ■

## STORIES Off the Daf

### *Muktzeh?*

אין מרגילין ביום טוב

Today's daf discusses certain halachos of Yom Tov.

A certain man had cooked a large amount of potatoes for Yom Tov. He had taken out a twenty-pound bag and used most of its contents. Shortly before the end of Yom Tov, he wished to use the space of the remaining potatoes and was on the verge of doing so when he realized that they might constitute muktzeh. "Since it is so close to the end of Yom Tov it is prohibited to cook the

potatoes since this would be preparing for after the festival. So maybe they revert to muktzeh and may not be moved merely because I need their space, just like the halachah on Shabbos?"

When this question reached Rav Nissan Karelitz, shlit"א, he ruled that the potatoes were indeed muktzeh. "From the moment that it is too close to sunset to cook the raw potatoes to be eaten on the same day, they are muktzeh. As the Rambam writes, everything forbidden to move on Shabbos is forbidden on Yom Tov unless he moves it for the sake of אוכל נפש."<sup>1</sup>

Rav Shlomo Zalman Auerbach disagreed, however. "Why should we assume these potatoes are muktzeh? If

they were to be muktzeh we would find an unusual phenomenon: that some things become muktzeh at the end of the day! If this were true we would surely have found this in the earlier poskim. It is also unlikely, since potatoes may then be permitted in one home with a stronger fire, where they can be cooked quicker, and be prohibited in another with a small supply of wood which would cook the potatoes too slowly to be eaten on Yom Tov! Since the rule is that our sages did not differentiate in their decrees it seems clear that raw potatoes are not muktzeh on Yom Tov at all."<sup>2</sup> ■

1. חוט שני, הלי יו"ט, ע"י צ"ג

2. שלחן שלמה, הלי יו"ט, ע"י ז' ■