

30 Nissan 5779  
May 5, 2019



Bechoros Daf 18

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**

**Tzvi Gershon ben Yoel (Harvey Felsen) o”h**

May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

### ***Precisely Half***

May we say that Tannaim differ in this matter (*if it is possible to be precise in matters that lie in the hands of humans*)? If a corpse was found at the same distance between two cities, we do not decapitate the heifer’s neck. [*eglah arufah - the law is that upon finding a corpse, and being unable to solve the murder, the leaders of the city closest to the corpse are required to bring a calf to an untilled valley, decapitate it, wash their hands over it, and then they must recite a verse, declaring publicly that they did not kill the person.*] Rabbi Eliezer says: Both cities bring two heifers. Is not the difference of opinion between them based on this very point? For the *Tanna Kamma* holds that it is impossible to be precise, whereas Rabbi Eliezer holds that it is possible!?

The *Gemora* questions this interpretation: But can you really say this? If the *Tanna Kamma* holds that it is impossible to be precise, why did they not decapitate the heifer’s neck? Let the two cities bring one heifer between them and make a stipulation (*that whoever is really closer will acquire the half belonging to the other*)! Rather, according to these *Tannaim*, they all hold that it is possible to be exact; the point at issue between them, however, is whether we hold that the words ‘*the city which is closest*,’ imply ‘but not the cities which are closest’: The *Tanna Kamma* holds that the words, ‘*that is closest*’ imply ‘but not the cities which are closest’ (*and therefore if two cities are of equal distance away, the calf is not brought*), whereas Rabbi Eliezer holds ‘which is closest’ implies even the cities which are closest.

The *Gemora* asks: What do we decide?

Rabbi Chiya bar Avin said in the name of Rav Amram: It was taught in a *braisa*: If a corpse was found at the same distance between two cities, Rabbi Eliezer says: Both cities bring two heifers. The Sages say: They shall bring one heifer between them and make a stipulation. Now, what is the reasoning of the Sages? If they hold that it is possible to be precise, and the words ‘*the city which is closest*’ imply also ‘the cities which are closest,’ then let them bring two heifers. And if the words ‘*the city which is closest*’ imply ‘but not the *cities* which are closest,’ then they should not bring even one heifer? It must be a proof from here that the Sages hold that it is impossible to be precise even regarding human actions. This is indeed a proof. (18a)

### ***Bechor of Doubtful Status***

The *Mishna* had stated: Rabbi Tarfon says: The *Kohen* chooses the better one.

The *Gemora* explains his reasoning: He holds that the animal which is healthier emerged first (*and we therefore assume that it is the bechor*).

The *Mishna* had stated: Rabbi Akiva says: ‘The fat’ (*the worth of one more than the other*) is between them.

Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: The *Kohen* takes the weaker one.

Rabbi Chiya bar Abba asked Rabbi Yochanan: But doesn't the *Mishna* say that 'the fat' (*the worth of one more than the other*) is between them (*seemingly meaning that the Kohen takes the weaker one, but the difference in value between the two of them is split evenly*)!?

He replied to him: While you were still eating dates in Bavel, we explained Rabbi Akiva's statement based upon the latter part of the *Mishna*, for the *Mishna* says: If one of them died, Rabbi Tarfon says that they divide the remaining one. Rabbi Akiva says: The claimant (*in this case – the Kohen*) must produce a proof (*in order to exact money from his fellow*). Now, if we were to assume that 'the fat is between them' means that they are divided equally, here also let them divide the live animal equally! Rather, what is meant by 'the fat is between them' is that the fat animal is the issue between them, for the Jew says to the *Kohen*, "Bring me a proof that it is the firstborn and take it" (*and since he has none, the Jew is able to keep the healthier one*).

The *Mishna* had stated: and the second one (*in the Jew's possession*) is left to graze until it develops a blemish (*and then it may be slaughtered and eaten*). The owner is liable for the *Kohanic* gifts, whereas Rabbi Yosi exempts him.

The *Gemora* asks: What is the reason of Rabbi Meir (*as an anonymous Mishna is generally attributed to him*)? [*Shouldn't the principle of 'one who wishes to exact money from his friend must bring proof' apply?*]

Rabbi Yochanan said: It is because the *Kohen* can make a claim upon him from two sides. He claims as follows: "If it is a firstborn then it belongs to me entirely, and if it is not a firstborn, give me the *Kohanic* gifts from it."

Rava explains Rabbi Yosi's reasoning as follows: The Rabbis have said that possession (*of the bechor*) is reckoned to have been acquired (*by the Kohen*) though strictly speaking it has not been acquired. So although it had not reached the *Kohen's* hands, it is as if it had reached his hands and he had

sold it to the Jew when blemished (*and a bechor which has been sold is not subject to the Kohanic-gifts obligation*).

Rabbi Elozar said: All agree that an animal which is a doubtful firstborn (*e.g., a ewe gave birth to a male and a female, and we are unsure as to which one emerged first*), where the *Kohen* does not have an animal in its stead (*for the doubt concerns only one of the animals*) is liable for the *Kohanic* gifts (*for you cannot say that it is a 'sold bechor'*).

The *Gemora* asks: When you say that they all agree, you are referring to Rabbi Yosi; but is that not obvious? For Rabbi Yosi exempts only where the *Kohen* has an animal in its stead, in which case the Rabbis have said that possession (*of the bechor*) is reckoned to have been acquired (*by the Kohen*) though strictly speaking it has not been acquired. But where the *Kohen* has nothing in its stead, it is not so?

The *Gemora* answers: You might have thought that Rabbi Yosi's reasoning was because he held that if you make him liable for the *Kohanic* gifts he may come to shear and work the animal (*which is still forbidden*), even where the *Kohen* has nothing in its stead; Rabbi Elozar consequently informs us that we are not concerned for this.

The *Gemora* asks: But how could you have said this? Have we not learned in the subsequent *Mishna*: For Rabbi Yosi used to say: Whenever the *Kohen* has an animal in its stead, he is exempt from the *Kohanic* gifts, whereas Rabbi Meir makes him liable? The reason therefore is because the *Kohen* has an animal in its stead, but if the *Kohen* has nothing in its stead, the owner is not exempt. [*Obviously, R' Yosi's reasoning has nothing to do with the aforementioned decree!?*]

The *Gemora* answers: You might have thought that Rabbi Yosi was arguing according to the view of Rabbi Meir as follows: My own view is that even if the *Kohen* has nothing in its stead (*he is not liable for the gifts*), for if you render him liable for the *Kohanic* gifts, he may come to shear and work the animal (*which is forbidden*), but according to your view,

at least admit that where the *Kohen* has an animal in its stead, the Rabbis have said that possession (*of the bechor*) is reckoned to have been acquired (*by the Kohen*) though strictly speaking it has not been acquired. To this Rabbi Meir replied to him: It is not so (*and the owner is still obligated in the gifts*).

Rav Pappa said: All agree with reference to a doubtfully tithed animal that it is exempted from the *Kohanic* gifts.

When you say that they all agree, you are referring to Rabbi Meir; but is that not obvious? For Rabbi Meir only makes him liable for the *Kohanic* gifts in connection with an animal which is a doubtful firstborn, since the *Kohen* can make a claim upon him from two sides, but in the case of a doubtfully tithed animal, it is not so!?

The *Gemora* answers: You might have thought that Rabbi Meir's reasoning was because the law of the *Kohanic* gifts should not be forgotten, and consequently, even in the case of a doubtfully tithed animal, the ruling is the same; Rav Pappa consequently informs us that we are not concerned for this.

The *Gemora* asks: But how could you have said this? Have we not learned in the subsequent *Mishna*: For Rabbi Yosi used to say: Whenever the *Kohen* has an animal in its stead, he is exempt from the *Kohanic* gifts, whereas Rabbi Meir makes him liable?

The *Gemora* answers: You might have thought that Rabbi Meir, even in the case of a doubtfully tithed animal, makes him liable, and the reason why they differ in the matter where the *Kohen* has an animal in its stead, is to show the extent that Rabbi Yosi is prepared to go, since he exempts even where the *Kohen* can make a claim upon him from two sides. Rav Pappa therefore informs us that this is not so. (18a – 18b)

## INSIGHTS TO THE DAF

### ***Chazakah is not an all-inclusive solution for all doubts***

A serious question bothered the greatest authorities. Tosfos on our *sugya* (s.v. *Chalav*) and on other *sugyos* (Yevamos 119, s.v. *Machvarta*; Chulin 11b, s.v. *LeRabbi Meir*) discuss the halachah of a doubtful firstborn of a pure animal – i.e., an animal gave birth and we don't know if this was the first time. If it were surely known that it was a firstborn, its owner should give it to a *kohen* as it is sanctified with the sanctity of the firstborn. Tosfos mention that the matter has two points of view and the aspect to be lenient is based on a few reasons, including that the offspring is assumed to be *chulin* (mundane): "Set the offspring upon its previous *chazakah* that it is not a firstborn, as it was *chulin* in the womb." In other words, since we have a doubt, we should determine the status of the doubtful article according to the last time when its status was clear. A firstborn becomes sanctified only when it is born. Therefore, we determine that its status is that of a mundane animal without sanctity, like it was while still a fetus (in practice, it is impossible to use this *chazakah* in our case because the mother has the *chazakah* that it hasn't given birth; see *ibid*).

**A doubtful kohen must be strict:** An explicit Gemara in Yevamos 100b apparently contradicts this rule. A person who doesn't know if his father was a *kohen* or a *Yisrael* has a doubtful status. The Gemara rules that he should behave strictly – for example, concerning *terumah*, he is not permitted to eat it, but he should be wary of the impurity of the deceased like a *kohen*.

Apparently, a *kohen's* fetus is not sanctified with the sanctity of the *kehunah*, which only takes effect when he is born. Hence, its status is identical to that of a calf that is a doubtful firstborn: both are not sanctified as long as they haven't been

born. Therefore, just as Tosfos rule that a doubtful firstborn is not sanctified because as long as we have a doubt, we don't change its last known status, as a fetus, we should similarly determine that this doubtful *kohen* should keep his last known certain status as a fetus, not sanctified with the sanctity of a *kohen*. Why, then, does his definition remain in doubt?

**The difference between a kohen's fetus and an animal's:**

HaGaon Rabbi Yerachmiel Gershon Edelstein zt"l, the Rabbi of Shumayetz, explains the issue finely (*Chidushei Ben Aryeh*, II, 21). There is a prominent difference between the fetuses. Both are not sanctified till their birth but for utterly different reasons. An animal's firstborn becomes sanctified because it is the first **to leave the womb**. That is the reason that until it is born, it is not sanctified. On the other hand, a fetus of a *kohen* bears all the characteristics required for the sanctity of *kehunah* and lacks none of them but in his present condition he follows his mother's halachic status.

Now we shall examine the *chazakah* by which Tosfos ruled that a doubtful firstborn is surely mundane. The logic at the basis of this *chazakah* is that as long as we don't know if the status of an article changed, then that certain definition adheres to it and continues to determine its status even if a doubt arises.

**The *chazakah* leaves its impression that the calf is not firstborn:** Indeed, if we examine the fetus of a pure animal, this definition fits well. When it was a fetus, it **in essence** wasn't a firstborn as it didn't leave the womb and this definition remains with it also after its birth: it is not a firstborn as it could be that its mother already gave birth and it is not the first to leave her womb. We are thus left with the same definition and the same reason for exemption all the way.

**We cannot say that the doubtful *kohen* remains a fetus:** However, the fetus of a *kohen* does not bear the sanctity of *kehunah* merely because it is a fetus. Can we give him this

label also after his birth? Is there any logic in claiming that just as he lacked sanctity when he was a fetus, this situation should continue forever? (See Vol. 264 in the article "The firstborn in our era" the statement of HaGaon Rav Y. Kanterovitz; according to this explanation, it is clear that the *chazakah* of a firstborn before its birth doesn't help in case of a doubtful sale).

## DAILY MASHAL

### In Rabbi Meir's Merit

Once Rabbi Tzvi Hirsh of Ziditchov became ill till he was bedridden and his situation became worse. When he was almost about to die, he immediately gave a coin for charity and prayed, "G-d of Meir, answer me." The danger soon passed and he became healthy. He later explained his action: "Most of those on a deathbed are doomed to die" and he therefore prayed, "G-d of Meir, answer me" as Rabbi Meir takes into account the minority (*'Al HaTzadikim* by the Munkacser Rebbe).