

1 Sivan 5779  
June 4, 2019



Bechoros Daf 48

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

### **Mishna**

If a man’s wife had never before given birth and she gave birth to two males (*and we do not know which one emerged first*), he gives five *sela’im* to the *Kohen* (*for one of them is certainly a bechor*). If one of them dies within thirty days (*of birth*) the father is exempt (*for since the mitzvah of redemption does not take effect until thirty days, perhaps the bechor was the one that died; the burden of proof rests upon the Kohen, and without proof, the father is exempt from giving the five sela’im*). If the father dies and the sons remain alive, Rabbi Meir says: if they gave the five *sela’im* before the property (*from the father*) was divided up, it has been given (*they cannot demand the return of the five sela’im as they are legally obligated to pay the redemption money which is considered a debt on the estate*); but if not, they are exempt. Rabbi Yehudah, however, says: There is a claim upon the estate. If she gave birth to a male and a female, the *Kohen* receives nothing (*for perhaps the female was born first; the burden of proof, again, rests upon the Kohen*). (48a)

### **The Estate – for Redemption**

[*The Gemora discusses R’ Meir’s ruling*] When did the father die? If he died after thirty days (*from their birth*), would Rabbi Meir say in this case that after they have divided up the estate, they are exempt from the five *sela’im*? How can this be seeing that the estate is mortgaged to the *Kohen* (*for the five sela’im*)? Then you must say that he died within the thirty days. What then is the difference why where they have divided up the estate (*the sons are exempt*), presumably it is because when he (*the Kohen*) goes to one son, he deflects him (*by saying that perhaps it is the other son that is the bechor*), and if he goes to the other, he deflects him as well; why then shouldn’t the same apply to the case where they did not

divide up the estate, for if the *Kohen* goes to one, he will deflect him, and if he goes to the other, he will deflect him as well!?! [*The Kohen does not have a claim against the father, for he died within thirty days; the claim, therefore, must be upon the bechor, and accordingly, each one can deflect him by saying that it is the other son who is the bechor!?!*]

Rabbi Yirmiyah said: This proves that if there were two men of the name of Yosef ben Shimon in one city (*against one of whom a man produces a loan document that he owes him money, and each of them declares that it is the other with the same name that owes him and not him, the law is that their claim is legitimate and he cannot collect the loan*) and they purchased a field in partnership, the creditor can claim (*half of*) it from them, for he can say to either one of them: If my claim is against you, I am taking your portion of the field, and if my claim is against your friend, I am taking his portion. [*And here also, the Kohen seizes the five sela’im, his debt, from the joint estate and says to either of them: If you are the bechor, I am taking from your portion, and if your brother is the bechor, I am taking from his portion, and you can resolve the matter among yourselves.*]

Rava said: Let us see. The possessions of a person are like his guarantor (*and that is what allows a creditor to collect from the property if the debtor is not willing, or cannot, pay*). Can there be such a thing where the creditor is not able to claim against the debtor himself, and can yet make a claim against his guarantor? But it was taught in a *Mishna*: If someone lends to his fellow with a guarantor, he cannot collect from the guarantor. And we understand this to mean that he should not collect from the guarantor first (*before trying to collect from the debtor*). [*This means that the person has no right to first try to collect from the debtor’s possessions.*]

Rather, said Rava, I may still say that the father died after thirty days; and if there is a large (*value in the*) estate, then indeed (*the Kohen*) takes his due (*for it was mortgaged from beforehand*); the case we are dealing with, however, is one in which there are only five *sela'im* in the estate. Now, all the *Tannaim* agree with the ruling of Rav Assi. Rav Assi said: [*Rav says that brothers who split their father's possessions are like inheritors (who are both obligated to pay their father's debt). Shmuel says that these brothers are like people who purchase from each other, and do so without responsibility for what happens to the other person's portion. Rav Assi is unsure whether they are like inheritors or buyers, and accordingly, he maintains the following:*] After the brothers have divided up the estate, with regards to a half of it they are considered as inheritors, and regarding the other half, they are considered buyers from one another. And also, they all agree that a debt which is written in the Torah (*such as the obligation to redeem the firstborn*) is not similar to one that is written in a document. And also, they all agree with the ruling of Rav Pappa, for Rav Pappa rules that a creditor without a contract can collect from the estate of his debtor, but not from land sold by the debtor. [*He may collect from the estate in order to not dissuade people from lending, but he may not collect from land sold by the debtor, to protect buyers who did not hear of the loan, since no contract was signed.*] And the point at issue here is whether the when the Torah writes five *sela'im*, does it rule out a half of five *sela'im* (*as a redemption*), or not? Rabbi Meir holds: The Torah says five *sela'im*, thus ruling out a half of five *sela'im* (and therefore, the inheritors are exempt (*for half of their share is considered as belonging to them as buyers, and there is therefore no inheritance left except two-and-a-half sela'im, and the Kohen is not able to claim this*), whereas Rabbi Yehudah maintains: Five *sela'im*, and even a half of five *sela'im*.

The *Gemora* asks from a *braisa* where Rabbi Yehudah stated that after the brothers (*of which one of them is a bechor*) have divided up the estate - if there are ten *zuz* (*two and a half sela'im*) for one and ten *zuz* for the other, they must obligated to pay the *Kohen*, but if not, they are exempt. Now what does Rabbi Yehudah mean by the expression 'ten *zuz* for one and ten *zuz* for the other'? If you say that he refers to both the portion that he has as an inheritance and to the part that he has which is regarded as a purchase, then why does Rabbi Yehudah mention ten *zuz*, for the same also applies to less than ten *zuz* (*even, for example, if each brother had only eight zuz, making four sela'im in all, of which the Kohen would*

*receive two, as the other half is considered as estate bought from each other, the law would be the same; consequently, what need is there for Rabbi Yehudah to mention specifically the figure of ten zuz, for, since the entire redemption money cannot be paid, a third or a fourth of the sum is also valid*)!? Rather, it is obvious that he means that there are ten *zuz* that one has as an inheritance and ten *zuz* as an inheritance to the other; consequently, we see that he holds that when the Torah writes five *sela'im*, it excludes a redemption with half of the five *sela'im*!

Rather, the *Gemora* explains that they all agree that when the Torah writes five *sela'im*, it excludes a redemption with half of the five *sela'im*, and here they differ on the points raised by Rav Assi and Rav Pappa.

The *Gemora* notes that there were those who reported this discussion in connection with the latter clause (*in our Mishna*), as follows: Rabbi Yehudah, however, says: There is a claim upon the estate. When did the father die? If he died after thirty days (*from their birth*), would Rabbi Meir say in this case that after they have divided up the estate, they are exempt from the five *sela'im*? How can this be seeing that the estate is mortgaged to the *Kohen* (*for the five sela'im*)? Then you must say that he died within the thirty days. But why then, when the estate was divided, does Rabbi Yehudah make them liable to pay the redemption? If the *Kohen* goes to one, his claim can be deflected, and if he goes to the other, his claim can be deflected as well!?

Rabbi Yirmiyah said: This proves that if there were two men of the name of Yosef ben Shimon in one city (*against one of whom a man produces a loan document that he owes him money, and each of them declares that it is the other with the same name that owes him and not him, the law is that their claim is legitimate and he cannot collect the loan*) and they purchased a field in partnership, the creditor can claim (*half of*) it from them, for he can say to either one of them: If my claim is against you, I am taking your portion of the field, and if my claim is against your friend, I am taking his portion. [*And here also, the Kohen seizes the five sela'im, his debt, from the joint estate and says to either of them: If you are the bechor, I am taking from your portion, and if your brother is the bechor, I am taking from his portion, and you can resolve the matter among yourselves.*]

Rava said: Let us see. The possessions of a person are like his guarantor (*and that is what allows a creditor to collect from the property if the debtor is not willing, or cannot, pay*). The entire discussion is repeated, as in the first version. (48a – 48b)

## Mishna

If two women (*married to one man*) had never before given birth and they gave birth to two males (*in a dark hideout, and the children became intermingled and the identity of each child could not be ascertained*), he (*the father*) gives ten *sela'im* to the *Kohen*. If one of the children dies within thirty days (*of its birth*), if he already gave the redemption money to one *Kohen* alone, he (*the Kohen*) must return five *sela'im* to him (*the father*), but if he gave it to two *Kohanim*, he cannot reclaim the money from them (*because each Kohen can deflect the father's claim by saying that he is retaining the redemption money on account of the surviving child*). If they gave birth to a male and a female or to two males and a female (*and the children became intermingled and the identity of each child could not be ascertained*), he gives five *sela'im* to the *Kohen* (*for one is definitely a firstborn*). If they gave birth to two females and a male or to two males and two females, the *Kohen* receives nothing (*for there might not be a firstborn here at all*).

If (*he has two wives, and*) one woman had given birth before and the other had never given birth, and they gave birth to two males, he gives five *sela'im* to the *Kohen*. If one of the children died within thirty days (*of its birth*), the father is exempt (*from redemption with five sela'im, because he can claim that it was the offspring of the woman who had never before given birth which had died*). If the father dies and the children survive, Rabbi Meir says: If they gave the redemption money before they divided the estate, they may reclaim the money, but if not, they are exempt, but Rabbi Yehudah says: there is a claim on the estate. If they gave birth to a male and a female, the *Kohen* receives nothing.

If two women who had never before given birth married two men and gave birth to two males, one father gives five *sela'im* to the *Kohen* and the other gives five *sela'im* to the *Kohen*. If one of the children died within thirty days (*of its birth*), if they gave the redemption money to one *Kohen* alone, he returns five *sela'im* to them (*for he is only entitled to five, and the two fathers divide the money amongst themselves*), but if they gave the money to two

*Kohanim*, they are not able to take the money from them (*because each Kohen can deflect the father's claim by saying that he is retaining the redemption money on account of the surviving child*). If they gave birth to a male and a female, the fathers are exempt from the obligation of redemption (*for each one of them can say that they are the father of the female*), whereas the son must redeem himself (*as in any case he is a firstborn*). If they gave birth to two females and a male or to two females and two males, the *Kohen* receives nothing.

If one woman had given birth before and the other had never before given birth, and they were the wives of two husbands, and they gave birth to two males, the one whose wife had never before given birth gives five *sela'im* to the *Kohen*. If they gave birth to a male and a female, the *Kohen* receives nothing. (48b)

## INSIGHTS TO THE DAF

### *Why is the pidyon haben not held in the morning?*

By: Meoros HaDaf HaYomi

Those of our readers who participated in a *pidyon haben* were probably invited in the afternoon, as opposed to a *bris*, held more often in the morning and the more conscientious take care to hold it early in the morning. Why is a *pidyon haben* different?

Let's clarify the exact time starting at which one must redeem the firstborn. In these *dapim* we constantly learn that the obligation of *pidyon haben* starts after 30 days. The source of this halachah is in the verse "...and his redeeming, from the age of a month you shall redeem" (Bemidbar 18:16). The phrasing of our mishnah, Gemara and the *poskim* is that the mitzvah of *pidyon haben* falls at the completion of thirty days. The *Bach* and the *Shach* ruled a most innovative halachah concerning the timing of *pidyon haben* and to understand it, we must clarify what is meant by a "month".

**What is a month?** The word *chodesh* (month) stems from *hischadshus* (renewal). The moon moves around Earth and the duration of each revolution is 29 days, 12 hours, 44 minutes and one *cheilek* (one eighteenth of a minute, 3½ seconds) or, in short,

29½ days and 793 *chalakim*. Logic would dictate that the months should change with the renewal of each revolution, at the *molad*, sometimes in the morning, sometimes in the afternoon or in the middle of the night. However, Chazal interpreted from a verse (Megilah 5a) that one doesn't divide the days of a month but that they must be whole. In the Hebrew calendar there are therefore some months of 29 whole days and some months of 30 whole days. Let us return to "his redeeming, from the age of a month you shall redeem".

We have realized that a month is the time it takes for the moon to revolve around the earth. In other words, the Torah asserts that 29 days, 12 hours, 44 minutes and one *cheilek* after a firstborn's birth the mitzvah of *pidyon haben* applies. Why, then, must we wait 30 days? The *poskim* disagree about this matter.

According to the *Bach*, the time for *pidyon haben* is indeed after one lunar month while the Gemara, which mentions 30 days, does not necessarily mean 30 days! The *Shach* agrees (S.K. 9) and some Rishonim also mention this opinion (*Sefer HaYereiim* and in *HaEshkol*, II, p. 139) while other *poskim* utterly disagree (*Magen Avraham*, 339, S.K. 8; *Migdal 'Oz*; *MahariYa'avetz*, 133, 3, os 9, and *'Aroch HaShulchan*, 308:42). In their opinion, the halachah that we do not divide up the days of the month does not only concern arranging the months of the year but concerns anywhere the Torah uses the term "month". Therefore, also concerning the *pidyon haben* one must wait 30 days as we mustn't divide the days of a month and redeem the son on the completion of 29½ days (see *Magen Avraham* for his proof and see *'Aroch HaShulchan*, *ibid*). Most *poskim* adopted this opinion (see *Mishnah Berurah*, 339, S.K. 28, and *Sha'ar HaTziyun*, *ibid*, and *Responsa Igros Moshe*, Y.D., I, 196).

Apparently, the *Bach's* *chidush* is that one may perform the *pidyon* beforehand. However, in certain circumstances, according to the *Bach* one should put off the *pidyon*. What are we talking about? Well, to calculate the day of the *pidyon* it's always four weeks and two days after birth. A firstborn born on Sunday will be redeemed on Tuesday. The Sunday after the four weeks is the twenty-ninth day to his birth, Monday is the thirtieth day and at the end of the thirtieth day – i.e., at the start of the thirty-first day, Tuesday, falls the time of his *pidyon*.

Now, an infant born on Sunday shortly before sunset begins to count his second day in this world already at nightfall, the halachic start of Monday. On the arrival of the expected Tuesday, the day of the *pidyon* (Monday night), he still hasn't filled out 29½ days and according to the *Shach* and the *Bach*, the time for his redeeming has not arrived!

Some wrote that this is the source for the Ashkenazic custom not to hold *pidyon haben* at night, to prevent redeeming infants born in the afternoon, whose time to be redeemed has not yet arrived according to the *Bach* and the *Shach*, whose opinion should be heeded *lechatchilah* (see *Pischei Teshuvah*, Y.D. 305, S.K. 17). This is the reason why a *pidyon* is not held in the morning but in the afternoon, because in certain countries the sun sets very late in the summer and sometimes even in the morning the infant has not filled out 29½ days (see *Otzar Pidyon HaBen*, I, pp. 346, and 351 for more reasons, and see *Meoros HaDaf HaYomi*, Vol. III, Kesubos 5 and Nazir 5).