

דף יומי • בכורות • דף ס"א ע"א

Daf Yomi • The Full Daf • Elucidated Talmud • Navy & Gold Edition

THE SUGYA

This perek opens with the classic hilchos petter chamor regarding animals owned in partnership or shared arrangements with a non-Jew. The Mishnah enumerates several scenarios where a Jew and a non-Jew have a joint financial or developmental stake in a donkey or its unborn fetus—such as buying or selling a fetus, entering a partnership, or giving or taking an animal under a receivership (shomaut) agreement. The core principle taught is that any non-Jewish ownership stake exempts the offspring from kedushas bechor, as the Torah specifies that the sanctity applies only when the ownership is exclusively "in Yisrael."

The Gemara then carefully analyzes why the Tanna needed to detail every single one of these scenarios rather than stating a single blanket rule. Through this shakla v'tarya, the Gemara explores potential Hava Aminos to fine a Jew who violates Rabbinic decrees—such as the prohibition against selling large livestock to a non-Jew—and contrasts these cases with the shittah of Rabbi Yehuda regarding partnerships and Rabbinic fines.

All introductions, summaries, and contextual notes are the editor's commentary and are not part of the original text.

עמוד א' DAF 61AA

משנה MISHNAH

MISHNAH

מתני'

MISHNAH:

MISHNAH

הלוקח עובר חמורו של נכרי,

With regard to **one who buys the fetus of a donkey of a non-Jew** while it is still in its mother's womb,

MISHNAH

והמוכר לו, אף על פי שאינו רשאי,

and one who sells the fetus of his donkey **to him, even though he is not permitted** to do so — because the Sages prohibited selling large livestock to a non-Jew lest he bring it to perform work on Shabbos —

MISHNAH

המשתתף לו,

and one who enters into a partnership with him in the ownership of a donkey or its fetus,

MISHNAH

וְהַמְקַבֵּל הַיָּמֵנוּ,

and one who receives a donkey from him under an assessment agreement to raise it in exchange for a share in the offspring,

MISHNAH

וְהַנוֹתֵן לוֹ בְּקָבָלָה —

and one who gives his donkey to him under such an assessment agreement —

MISHNAH

פֶּטוּר מִן הַבְּכוֹרָה,

in all these cases, the newborn offspring is exempt from the sanctity of a firstborn,

MISHNAH

שֶׁנֶּאֱמַר: "בְּיִשְׂרָאֵל", אֲכָל לֹא בְּאַחֵרִים.

as it is stated: "In Israel" (Bamidbar 3:13), implying that the mitzva applies when the animal belongs exclusively to a Jew, but not when it belongs partially to others, namely non-Jews.

גְּמָרָא GEMARA

GEMARA

גְּמִי

GEMARA:

QUESTION

כָּל הַנִּי לְמָה לִּי?

The Gemara asks: Why do I need all these cases in the Mishnah to teach this same principle?

ANSWER

צָרִיכִי,

The Gemara answers: They are all necessary.

EXPLANATION

דָּאִי תָנָא לֹקֶחַ — הֵנָּה אֲמִינָא מְשֻׁם דְּקָא מִיֵּיתִי לָהּ לְקָדוּשָׁה,

For had the Tanna taught only the case of one who buys a fetus from a non-Jew, I would have said that the exemption applies because he brings it into sanctity, as it comes into Jewish ownership and will be rested on Shabbos.

EXPLANATION

אֲכָל מוֹכֵר דְּקָא מִפְקַע לָהּ מְקָדוּשָׁה — אֵימָא לִיקְנָסִיהּ,

But in the case of one who **sells** a fetus to a non-Jew, **where he removes it from sanctity**, I would say let us **fine him** for his prohibited action by declaring that the fetus remains subject to the kedushas bechor.

EXPLANATION

קא משמע לז.

Therefore, the Tanna **teaches us** that even here it is exempt.

QUESTION

והמשתתף לו, למה לי?

The Gemara continues: **And why do I need** the case of **one who enters into a partnership with him**?

ANSWER

לאפוקי מדרבי יהודה, דאמר: שותפות גוי חייבת בכורה,

It is necessary **to exclude** the opinion of Rabbi Yehuda, who says: A partnership with a non-Jew is obligated in the law of a **firstborn**.

EXPLANATION

קמשמע לז דפטורה מן הכורה.

Therefore, the Mishnah **teaches us that it is exempt from the law of a firstborn**.

QUESTION

והמקבל, למה לי?

The Gemara asks: **And why do I need** the case of **one who receives** a donkey from a non-Jew? Isn't this just another form of partnership?

ANSWER

משום דקא פעי למיתני והנותן לו בקבלה.

The Gemara answers: It is **because he wanted to teach** the parallel case of **one who gives** his donkey to him under an **assessment agreement**.

QUESTION

והנותן לו בקבלה, למה לי?

The Gemara asks: **And why do I need** the case of **one who gives** his donkey to him under an **assessment agreement**?

ANSWER

איצטריה, סלקא דעתה אמינא: הואיל ועיקר בהמה דישראל היא, ליקנסיה,

The Gemara answers: It was **necessary**. For it might enter your mind to say: Since the principal animal belongs to a Jew, **let us fine him** by treating the fetus as a bechor that requires redemption,

EXPLANATION

דלמא אתי לאיחלופי בבהמה אחריתי,

lest people come to confuse this with another animal given to a non-Jew for safekeeping where the non-Jew has no rights in the fetus itself, in which case the offspring would indeed be subject to kedushas bechor.

EXPLANATION

קמשימע לו.

Therefore, the Mishnah teaches us that we do not fine him.

STATEMENT

תנו התם:

We learned elsewhere in a Mishnah (Avodah Zarah 14b regarding the Rabbinic decree against selling large livestock to a non-Jew):

מישנה MISHNAH

MISHNAH

רבי יהודה מתיר בשבועה, בן בתירא מתיר בסוס.

Rabbi Yehuda permits selling an injured animal to a non-Jew, because it cannot be worked with on Shabbos; Ben Beteira permits selling a horse, because a horse is used for riding, and carrying a living person on Shabbos is not a Torah prohibition.

גמרא GEMARA

QUESTION

איבעיא להו:

A dilemma was raised to them in the bais medrash:

QUESTION

עופר מה לי אמר רבי יהודה?

With regard to selling a fetus, what does Rabbi Yehuda say to us?

EXPLANATION

טעמא דרבי יהודה התם דשרי, משום דשבועה, עופר נמי שבור הוא.

Is the reason of Rabbi Yehuda there that permits the sale because it is injured, so a fetus is also like an injured animal, since it cannot perform labor currently?

EXPLANATION

או דלמא: שבועה לאו היינו אורחיה, אבל עופר, כיון דהיינו אורחיה, לאו שבור הוא?

Or perhaps: An injured animal is not its normal way of being, so the decree was not applied to it; but a fetus, since that is its normal way of development and it will eventually grow up to work, it is not considered injured, and therefore it is forbidden to sell it?

PROOF

תא שמע:

Come and hear a resolution from our Mishnah:

PROOF

והמוכר לו, אף על פי שאינו רשאי.

Our Mishnah states: **And one who sells a fetus to him, even though he is not permitted to do so.**

INFERENCE

ולא פליג רבי יהודה.

And Rabbi Yehuda does not disagree here to say that it is permitted!

OBJECTION

וליתעמיה, המשתתף לו, והמקבל ממנו, והנותן לו בקבלה, דלא קתני — הכי נמי דלא פליג?

The Gemara rejects this proof: **And according to your reasoning**, in the cases of **one who enters into a partnership with him, and one who receives a donkey from him, and one who gives his donkey to him under an assessment agreement, where the Mishnah does not teach** that Rabbi Yehuda disagrees — **is it also true that he does not disagree?**

REFUTATION

אלא — פליג, ולא קתני.

Rather, he certainly **disagrees** in those cases — as we know he holds a partnership with a non-Jew is obligated in bechor — **and** yet the Tanna **does not teach** his dissent!

RESOLUTION

הכא נמי — פליג, ולא קתני.

Here too, regarding the sale of a fetus, Rabbi Yehuda may well **disagree**, **and** the Tanna simply **does not teach** his view.

PROOF

תא שמע:

Come and hear a resolution from a Braisa:

BRAISA

רבי יהודה אומר, המקבל בהמה מן הגוי וילדה — מעלין אותו בשויו, ונותן חצי דמיו לפהו.

Rabbi Yehuda says: **One who receives an animal from a non-Jew under an assessment agreement and it gave birth to a male firstborn — they evaluate its worth, and he gives half of its value to the Kohen**, because Rabbi Yehuda holds a partnership with a non-Jew is obligated in bechor.

BRAISA

והנותן לו בקבלה, אף על פי שאינו רשאי — קונסים אותו עד עשרה בדמיו, ונותן כל דמיו לפהו.

And one who gives his animal to him under an assessment agreement, even though he is not permitted to do so — we fine him up to ten times its value, and he must give all of its value to the Kohen.

עמוד ב' DAF 61AB

מִשְׁנָה MISHNAH

MISHNAH

מתני'

MISHNAH:

MISHNAH

הלוקח עובר חמורו של נכרי,

If a Jew purchases the fetus of a donkey of a non-Jew while it is still in its mother's womb,

MISHNAH

והמוכר לו, אף על פי שאינו רשאי,

or one who sells to him the fetus of his donkey, even though he is not permitted to do so mid'Rabbanan (because the Rabbis forbade selling a large livestock animal to a non-Jew),

MISHNAH

המשתתף לו,

or one who forms a partnership with him in the ownership of a donkey or its fetus,

MISHNAH

והמקבל הימנו,

or one who accepts a donkey from him in a receivership arrangement to raise it in exchange for a share in its offspring,

MISHNAH

והנותן לו בקבלה —

or one who gives his own donkey to him, to a non-Jew, in receivership —

MISHNAH

פטור מן הבכורה,

the offspring is exempt from the sanctity of the firstborn (petter chamor),

MISHNAH

שנאמר: "בְּיִשְׂרָאֵל", אֲכָל לֹא בְּאַחֵרִים.

as it is stated regarding the sanctification of the firstborn: "In Yisrael," which implies: in Yisrael **but not among others**; if a non-Jew has even a partial share in the animal or fetus, it is exempt.

גמרא GEMARA

QUESTION

גמ' כל הני למה לי?

GEMARA: Why do I need all these cases in the Mishnah to teach this rule?

ANSWER

צריכי,

The Gemara answers: They are all **necessary**.

EXPLANATION

דאי תנא לוקח —

For had the Tanna only **taught** the case of one who **purchases** a fetus from a non-Jew,

EXPLANATION

הוה אמינא משום דקא מייתי לה לקדושה,

I would have said that there he is exempt from firstborn status **because he is bringing it into sanctity**, as the animal will now be owned by a Jew and kept holy from work on Shabbos;

EXPLANATION

אבל מוכר דקא מפקע לה מקדושה —

but in the case of one who **sells** a fetus to a non-Jew, **where he is removing it from sanctity**,

EXPLANATION

אימא ליקנסיה,

I might **say that we should fine him** for his forbidden action by ruling that the offspring still retains full kedushas bechor,

EXPLANATION

קא משמע לו.

therefore the Tanna **teaches us** that even here it is exempt.

QUESTION

והמשתתף לו, למה לי?

The Gemara asks: **And** the case of **one who forms a partnership with him**, why do I need it?

ANSWER

לֹאפוֹקִי מִדְּרָבִי יְהוּדָה, דָּאָמַר: שׁוֹתֶפּוֹת גּוֹי חֵיִבָּת בְּכֹרָה,

The Gemara answers: It is needed **to exclude** the opinion of Rabbi Yehuda, who says: A partnership with a non-Jew is **obligated in firstborn** status;

EXPLANATION

קָמַשְׁמַע לוֹ דְּפִטּוּרָה מִן הַבְּכֹרָה.

so the Tanna **teaches us** the Tanna Kamma's view, **that it is exempt** from firstborn status.

QUESTION

וְהַמְקַבֵּל, לָמָּה לִּי?

The Gemara asks: **And** the case of **one who accepts** an animal from a non-Jew in receivership, **why do I need** it? This is just another form of partnership!

ANSWER

מִשּׁוֹם דְּקָא בְּעֵי לְמִיתְנִי וְהַנּוֹתֵן לוֹ בְּקַבְלָהּ.

The Gemara answers: It was taught **because** the Tanna **wanted to teach** the corresponding case of **and one who gives** his animal **to him in receivership**.

QUESTION

וְהַנּוֹתֵן לוֹ בְּקַבְלָהּ, לָמָּה לִּי?

The Gemara asks: **And** the case of **one who gives to him in receivership**, **why do I need** it?

ANSWER

אֵי צִטְרִיָּה, סָלָקָא דְעֵתָּהּ אֲמִינָא:

The Gemara answers: It **was necessary**, for it might **enter your mind** to say:

EXPLANATION

הוּאִיל וְעֵיקַר בְּהֵמָה דִּישְׂרָאֵל הִיא,

Since the primary animal belongs to a Jew,

EXPLANATION

לִיקְנִסֶיהָ,

we should penalize him mid'Rabbanan and declare the offspring holy,

EXPLANATION

דְּלָמָּא אָתִי לְאַיְחָלוּפִי בְּבֵהֶמָה אַחֲרִיתִי,

lest he come to substitute this case with **another animal** given to a non-Jew just to guard, where the non-Jew has no monetary share in the offspring, in which case it really would be obligated in bechorah;

EXPLANATION

קמִשְׁמַע לוֹ.

therefore the Tanna **teaches us** that even here he is not penalized and it is exempt.

PROOF

תֵּנוּ הֵתָם:

We learned in a Mishnah **elsewhere** (Avodah Zarah 14b regarding the Rabbinic prohibition against selling large livestock to a non-Jew):

BRAISA

רַבִּי יְהוּדָה מְתִיר בְּשִׁבוּרָה,

Rabbi Yehuda permits selling a **broken animal** to a non-Jew, since it cannot be used for forbidden work on Shabbos;

BRAISA

בֶּן בֵּתֵירָא מְתִיר בְּסוּס.

Ben Beteira permits selling a **horse** to him, because a horse is used for riding, and a living creature carrying a rider is not a Torah-level Melacha on Shabbos.

QUESTION

איִכְפָּעִיא לָהּ:

A **dilemma was raised by** the scholars in the bais medrash:

QUESTION

עוֹבֵר מָה לִּי אָמַר רַבִּי יְהוּדָה?

Regarding a fetus, what does Rabbi Yehuda say to us? Is it permitted to sell a fetus to a non-Jew according to Rabbi Yehuda, or forbidden?

QUESTION

טַעְמָא דְּרַבִּי יְהוּדָה הֵתָם דְּשָׂרִי, מְשׁוּם דְּשִׁבוּרָה, עוֹבֵר נִמְי שְׁבוּר הוּא.

Is **the reason of Rabbi Yehuda** there that he **permits** selling a broken animal **because it is broken** and cannot perform melacha, and so a **fetus is also** considered like a **broken** animal, as it cannot perform work inside its mother?

QUESTION

אוּ דְלָמָּא: שְׁבוּרָה לָאוּ הִינּוּ אוֹרְחִיהָ,

Or perhaps we distinguish: a **broken animal is not its normal state**, so the Rabbis did not include it in their gezeirah;

QUESTION

אָבֵל עוֹבֵר, כִּינּוּן דִּהְיִינוּ אוֹרְחִיהָ, לָאוּ שְׁבוּר הוּא?

but a fetus, since that is its natural, normal state before birth and it will eventually grow up to do work, **it is not** considered like a **broken** animal, and therefore selling it would be forbidden?

PROOF

תא שמע:

Come and hear a resolution from our Mishnah:

PROOF

והמוכר לו, אף על פי שאינו רשאי.

The Mishnah taught: **And one who sells to him** a fetus, **even though he is not permitted** to do so.

INFERENCE

ולא פליג רבי יהודה.

And Rabbi Yehuda does not argue or express a lenient opinion here!

OBJECTION

וליתעמיה,

The Gemara rejects this: **And according to your reasoning,**

OBJECTION

המשתתף לו, והמקבל ממנו, והנותן לו בקבלה,

regarding the other rulings in our Mishnah—one who forms a partnership with him, and one who accepts from him in receivership, **and one who gives to him in receivership**—

OBJECTION

דלא קתני — הכי נמי דלא פליג?

where the Tanna **does not teach** any disagreement, **is it also** true **that he does not argue?**

REFUTATION

א לא — פליג, ולא קתני.

Rather, you must admit that Rabbi Yehuda **does argue** in those cases (as we know he holds a partnership with a non-Jew is obligated in bechorah), **and yet** the Tanna of our Mishnah **did not teach** his dissenting opinion!

RESOLUTION

הכא נמי — פליג, ולא קתני.

Here too, regarding selling a fetus, Rabbi Yehuda might indeed **argue** and permit it, **and** the Tanna simply **did not teach** his view.

PROOF

תא שמע:

Come and hear another proof from a Braisa:

BRAISA

רבי יהודה אומר, המקבל בהמה מן הגוי וילדה —

Rabbi Yehuda says: If a Jew accepts an animal from a non-Jew in receivership and it gives birth to a firstborn,

BRAISA

מַעְלִין אוֹתוֹ בְּשׂוּיָו, וְנוֹתֵן חֲצִי דָמָיו לַכֹּהֵן.

they appraise its value, and he gives half its value to the kohen, because Rabbi Yehuda holds that a shared animal is still obligated in bechorah.

BRAISA

וְהוֹתֵן לוֹ בְּקַבְלָהּ, אֲףִי עַל פִּי שְׂאִינוֹ רֹשָׁאִי —

And if a Jew gives his animal to him in receivership, even though he is not permitted to do so mid'Rabbanan,

BRAISA

קוֹנְסִים אוֹתוֹ עַד עֲשָׂרָה בְּדָמָיו,

we fine him up to ten times its value for breaking the Rabbinic ban,

BRAISA

וְנוֹתֵן כָּל דָּמָיו לַכֹּהֵן.

and he must give its full value to the kohen. This explicitly shows that Rabbi Yehuda holds it is forbidden to give or sell an animal in receivership to a non-Jew!

SUMMARY

The Sugya details the various joint-ownership and receivership arrangements with a non-Jew that exempt a donkey's fetus from petter chamor based on the drahsa of "in Yisrael." The Gemara clarifies the necessity of listing each individual case to prove that we do not impose a Rabbinic fine to treat the offspring as a bechor even when an infraction was committed, such as selling livestock to a non-Jew. Additionally, the Gemara addresses Rabbi Yehuda's shittah regarding a non-Jew's partnership and evaluates his opinion on whether selling a fetus is comparable to selling an injured animal.

The Gemara is bothered by a simple question: why does the Mishnah list so many different cases of selling, buying, or sharing an animal with a non-Jew just to tell us that the offspring is exempt from bechorah? The Gemara answers that we might have thought Chazal would place a penalty (a *kenas*) on the Yid who did something he wasn't supposed to do. If a person sells a fetus or puts it out on *kabbalah* against the Rabbinic decree, we would have thought Chazal would step in and say, "Since you broke the rule, we are going to treat this offspring as a holy bechor anyway to teach you a lesson." But the Tanna comes to teach us a major *chiddush*: *halocha is halocha*. We do not manufacture artificial holiness as a penalizing tool where the Torah-law of partnership simply removes it.

There is a deeply practical *yesod* for our daily *avodah* here. Sometimes when we slip up or mess something up in our spiritual life, our *yetzer hara* tries to "fix" the situation by making us invent wild, unhealthy *chumros* or unnatural stringencies out of guilt. We tell ourselves, "Because I failed here, I must now force a holiness that isn't required, or punish myself in ways the Torah never asked of me." But our *mesorah* teaches us that true *kedushah* isn't created through panic, nor is it manufactured out of a *kenas*. Hashem wants us to serve Him with clear, honest, and balanced halachic reality.

When you make a mistake or fall short in an area of *yiras Shamayim*, do not respond by inventing heavy, ungrounded *chumros* out of guilt or frustration. Take a deep breath, accept the halachic truth of where you are right now, and re-engage in your regular, steady *avodas Hashem* with a calm and honest heart.