

פרק חגישי – אותו ואת בנו Introduction to

The Torah prohibits slaughtering an animal and its offspring on the same day; this prohibition only applies to בהמות and not חיות. Our chapter deals with the details of this איסור; along the way, we will analyze the status of a כוי – a hybrid of בהמה/חיה vis-à-vis בנו among other הלכות

30.5.1

78a (משנה א) → 79b (וסימנין דאורייתא)

1. שור או קטב או עז כי יולד והיה שבעת ימים תחת אמו ומיום השמיני והלאה ירצה לקרבן אשה לה: ויקרא כב, כז
 2. ושור או שה או שור ואתו בנו לא תשחטו ביום אחד: ויקרא כב, כח
 3. כי איש איש אשר יקלל את אביו ואת אמו מות יומת אביו ואמו קלל דמיו בו: ויקרא כ, ט

- I חולין and מוקדשים and (ביה"מ) at all times (even when there is no חולין) and with מוקדשים and משנה א
- a Applications (in various sequences): חולין, קדשים in and out of עזרה
- i Both חולין – outside: 1st is fine, 2nd is אר"ב – may be eaten, he gets מכות
 - ii Both קדשים – outside: 1st is שחוט חוץ → כרת; neither may be offered and both generate חולין (1st – שחוט חוץ – 2nd – אר"ב)
 - iii Both חולין inside: neither may be offered; 2nd generates מכות for אר"ב
 - iv Both קדשים inside: 1st is valid; 2nd generates מכות for אר"ב and may not be brought
- II משנה ב: continuation of examples: using mixture of חולין/קדשים or חוץ/פנים; sequence is critical
- a Applications: mixing חולין and קדשים in one location
- i אר"ב then קדשים outside: 1st is fine; 2nd carries מכות for אר"ב
 - ii קדשים then חולין outside: 1st carries כרת for חוץ and is פסול; 2nd is valid but generates מכות for אר"ב
 - iii חולין then קדשים inside: both are invalid; 2nd generates מכות for אר"ב
 - iv קדשים then חולין inside: 1st is fine; 2nd generates מכות for אר"ב and is פסול
- b Applications: mixing inside/outside with a single type of animal (חולין OR קדשים)
- i חולין outside and then inside: 1st is fine; 2nd generates מכות for אר"ב and is פסול
 - ii קדשים outside and then inside: 1st generates כרת for חוץ, both invalid and both generate מכות
 - iii חולין inside and outside: 1st is invalid; 2nd generates מכות for אר"ב but is כשר
 - iv קדשים inside and outside: 1st is fine; 2nd is invalid and generates מכות for אר"ב
- III Analysis: source for בנו ואתו applying to both קדשים and חולין
- a קדשים context of איסור (v. 2) after v. 1 (קדשים)
- i However: שור (beginning of v. 2) "blocks" it off from being exclusively קדשים ושור connects to include קדשים
 - ii Challenge: כלאים (crossbred animals) are פסול as קדשים – perhaps אר"ב doesn't obtain?
 - iii Further: the use of ו (v. 2) should indicate, per רבא, that כלאים are excluded
 - 1 However: כלאים rules that אר"ב applies to בריתא
 - iv Answer: (v. 2) extends to include כלאים
 - 1 Challenge: או needed to isolate – that only need to slaughter ox OR lamb and its young to be חייב
 - 2 Answer: בנו (v. 2) already isolates (only one offspring needed)
 - (a) Challenge: בנו alone would mislead us – must slaughter שור, שה, and one of their offspring
 - (b) Answer: that is inferred from אותו – only one parent needed
 - (i) Note: this is only valid for רבנן, who don't "need" אותו for another חנניה does (see below)
 - (ii) Answer: חנניה doesn't require a word to isolate (→ אותו is "extra" and available)
 1. Per: ר' יונתן's approach to v. 3 – (contra יאשיהו ר') אביו ואמו implies either both or either
- IV Background: חנניה vs. רבנן – whether אר"ב applies to father and young (חנניה) or only mother and young (רבנן)
- a דבנן: we might have inferred from שלוח הקן that it only applies to mother, but that is not a good model, as שלוח הקן only applies to "encountered" nests, not one owned by the subject; אר"ב applies in all cases;
- i However: the use of the singular אותו indicates only one parent
 - ii And: once we understand that only one parent is involved, we infer from שלוח הקן that it only applies to mother
 - 1 However: if not convincing (אותו is masculine), we read בנו; i.e. the parent that the child is more attached to
- b חנניה gives us father; בנו gives us mother
- c Final ruling (שמואל): per חנניה – and שמואל is consistent as he notes that יהודה ר' opinion (כלאים ח:ד) that mules may be mated with each other as long as they all have the same type of mother (donkey or horse) – isn't accepted by רבנן, who we read as חנניה, are concerned with the identity of the father and allow all mules to mate

- d *tangential question*: is ר' יהודה clear that the father's identity is of no consequence or is he doubtful?
- i *Split the difference*: if he is sure, then a mule w/donkey mother could mate with a full donkey
- ii *Suggested solution*: כלאים ח:ד – "all born of a horse may mate with each other"
- 1 *Cannot mean*: mating two, each of which has donkey father and horse mother – too obvious
- (a) *Must mean*: donkey/mare with full horse (→ he is clear that אין חוששין לזרע האב)
- (b) *Rejection*: may refer to two with parallel parentage – against possibility that they cannot mate with anyone, as their "other side" mixes in – קמ"ל that they may
- iii *Suggested solution*: ר' יהודה rules that if a mule is in heat, we cannot bring a horse or mule, rather her "own kind"
- 1 *Implication*: ר' יהודה is not clear on the impact of the father – else we could mate it with its' mother's kind
- 2 *Rejection*: in this case, perhaps we don't know what the mother is
- (a) *Challenge*: the one acceptable solution is "מינה" – so we know what the mother is
- (b) *Rejection*: read ברייתא that we cannot bring a horse-type or donkey-type because we don't know מינה
- (i) *Challenge*: why not check what type she is, based on her voice (אביי) or ear/tail (ר"פ)?
1. *Answer*: could be mute and amputee (no ears or tail)
- iv *Final resolution*: ר' הונא בריה דר"י stated that all agree (i.e. even ר' יהודה) that the mule may not be mated with its mother's type → ר' יהודה is doubtful as to father's impact
- v *Coda*: ר' אבא told his servant to divide up mules by their physical characteristics (tail, ears etc.) and allow them to mate within the sub-groups
- 1 *Implication*: he isn't concerned with father's impact (אין חוששין לזרע האב)
- (a) *And*: סימנין דאורייתא (and sufficient to determine איסור והיתר in an איסור תורה – הרבעה)