31.3.6; 25a (משנה ד) ← 26b (סיום הפרק)

I   משנה ד: dispute עקביא בן מהללאל/חכמים re: wool that fell off of בכור בע"מ before it died

   a   *ר' יהודה*: they disagree in a case when it was subsequently slaughtered (בע"מ – permits to use it; חכמים ban use)

   b   *ר' יוסי*: (they agree if it was slaughtered afterwards); disagree if it died on its own (בע"מ – permits; חכמים - forbid)

   c   *If*: the wool had come out but remained within the wool

     i   *If*: it appears to be part of the גיזה (shorn after שחיטה); permitted; if not – אסור

       1   *Definition*: of "not appearing with wool"

         (a)   *ר"ל*: if the root turns towards its head

         (b)   *ר' נתן בר אושעיא*: if it doesn't lay softly with rest of גיזה

           (i)   *Note*: ר"ל didn't accept this – since all גיזה has strands in any case

   d   *ר"ל*: the dispute is only in a case where a מומחה already verified the מום

     i   *חכמים*: decree as a precaution against deliberately keeping the בכור alive to gain more wool (that falls out)

     ii   *בע"מ*: doesn't agree to the גזרה

     iii   *But*: wool that fell out before the מומחה verified the מום – all agree is אסור

     iv   *Challenge (ר' ששת)*: בע"מ – ברייתא generate איסור with any amount; ר' יוסי says יבוקר (should be investigated)

       1   *Clarification*: cannot be that the בע"מ got mixed up with other קדשים – if it can be discerned, all would agree to find it and get it out

       2   *Rather (ר"נ)*: must be שער בע"מ that got mixed in with שער חולין and ת"ק is ר' יהודה, who says that the dispute is if they slaughtered it; ר' יוסי dissents, as he understands that רבנן permit if it was slaughtered

         (a)   *And*: ר' יוסי says יבוקר – which should mean that a מומחה has yet to investigate if מום עובר or קבוע?

       3   *Defense (רבא)*: יבוקר means – investigate if a מומחה was already מתיר or not

     v   *Response from א"י (ר' ירמיה)*: two versions of ר' יוחנן:

       1   *ר' חייא בר אבא*: dispute ר' יוסי/רבנן (above) only if he checked the entire herd and didn't find a מום

         (a)   *Per*: dispute ר"מ/חכמים about a field in which a קבר was lost

           (i)   *ר"מ*: field maintains חזקת טומאה until we know differently

           (ii)   *חכמים*: check until "bedrock" and if not found – טהור

             1. *Alignment*: ר"מ follow חכמים; ר' יוסי follows חכמים

       2   *ר' אסי*: dispute רבי/רשב"ג about the status of such a field after a קבר has been found

         (a)   *רבי*: if a קבר is found, we delcare it to be the one that was lost; rest of field is טהור

         (b)   *רשב"ג*: entire field must still be checked

       3   *Analysis*: ר' אסי didn't accept רחב"א's application

         (a)   *Reason*: in that case, perhaps the טומאה was taken by an animal or bird; but בע"מ has to be somewhere

           (i)   *Counter*: perhaps it had been a מום עובר and it healed by itself while "in the mix"

         (b)   *And*: רחב"א - a field is used for burying; just as he buried someone, another may have done so as well

           (i)   *But*: in the case of the בע"מ, once they've been checked and are fit, not likely to then get a מום

           (ii)   *Counter*: since they are frisky with each other, it is reasonable that they may still get a מום

   e   *Challenge*: תוספתא בכורות ב:יז – if someone pulls out wool from a בכור תם and it is subsequently slaughtered – אסור

     i   *Implication*: only if it was תם at the time is it אסור → if a בע"מ – מותר, even if not yet permitted by מומחה

     ii   *Defense*: the תנא refers to anything not yet "approved" by מומחה as "תם"

   f   *Proposal*: ר"ל's ruling is subject to dispute of תנאים (תוספתא שם):

     i   *תוספתא*: (…) if he pulled out wool from בכור בעל מום that then died, בע"מ permits and חכמים forbid

       1   *ר' יהודה*: their dispute was about wool taken from a בכור בע"מ that then was slaughtered

       2   *ר' יוסי*: father agrees that (לחכמים) this is permitted

         (a)   *But*: חכמים said he should leave it in the window (e.g.) in case there's hope (it will become מותר)

         (b)   *And*: if it was slaughtered, all permit; if it died, בע"מ and חכמים disagree

           (i)   *Question*: doesn't ר' יוסי hold the same position as ת"ק?

           (ii)   *Answer*: if the מומחה didn't yet permit –they disagree

             1. *ת"ק*: only if he was already מתיר is the wool permitted

             2. *ר' יוסי*: even if he wasn't yet מתיר, it will become מותר once the מום is confirmed

       3   *Summary*: three opinions:

         (a)   *ת"ק*: they disagree about both שחטו as well as מת; frame מחלוקת about מת to show position of בע"מ

         (b)   *ר' יהודה*: only disagree about שחוט; if it died, all agree it is אסור

         (c)   *ר' יוסי*: only disagree about מת; if נשחט, all agree it is מותר

4　*Final ruling* (ר"נ): per ר' יהודה (רבנן – even if נשחט, it is אסור)

  (a)　*Reason*: the משנה in עדויות was taught according to his approach:

    (i)　*עדויות ה:ו* if wool came out and he kept it around and then slaughtered the בכור בע"מ

      1. *עב"מ* permits use

      2. *רבנן* forbid use

  (b)　*Support* (רנב"י): from the end of our משנה – if wool is hanging off a בכור, if it appears to be with גיזה afterwards – מותר; if not – אסור

    (i)　*Explanation*: this must follow ר' יהודה

      1. *For if*: it followed ר' יוסי

        a.　*If*: the case was that it was slaughtered, both עב"מ and חכמים would permit

        b.　*And if*: רבנן – they would forbid, whether or not the wool appeared to be with גיזה

        c.　*And if*: עב"מ – it should read the opposite –

          i.　*If*: it were seen with גיזה, should be אסור, as it became אסור with death of animal

          ii.　*But*: if it were seen as separate, would be מותר like all wool that came out

    (ii)　*Therefore*: must follow ר' יהודה

      1. *But if*: it died on its own – both עב"מ and חכמים would prohibit

      2. *Must be*: שחוטה

        a.　*But*: עב"מ would, in that case, in any case (however seen) would be מותר

        b.　*Must be*: רבנן → they disagree about שחוטה

g　*ר' ינאי's question*: if someone pulls out wool from עולה תמימה – is it מותר

  i　*Correction*: must be נתלש – it is certainly forbidden to deliberately pull out such hair

    1　*Note*: we aren't asking about חטאת ואשם, since they come to expiate, he won't keep them around

    (a)　→no need to make a precautionary law

    2　*Nor*: would we ask about בכור ומע"ב; since they have no כפרה-component, he may keep them around

    3　*But*: question is only about עולה

    (a)　*Lemma1*: since it isn't essentially about כפרה, he may keep it around (if we permit use of the wool)

    (b)　*Lemma2*: since it also performs כפרה (for מצוות עשה), he won't keep it around

  ii　*Proposed solution*: ruling that if he pulls out צמר from a בכור תם, even if a מום developed afterwards

    1　*If*: he slaughtered it afterwards – אסור

    2　*Inference*: only because he deliberately pulled it out → if it came out on its own, should be מותר

    (a)　*And*: certainly if it were an עולה

    3　*Block*: even נתלש would be forbidden; תולש taught to show עב"מ's position – that if it is בע"מ, may pull it out

    (a)　*And*: נשר (fell out) taught to show position of רבנן