

## 31.8.3

48b (משנה ד) → 49b (מצוה זידיה עדיף)

1. ופדיו מִבֶּן חֹדֶשׁ תִּפְדֶּה בְּעֶרְכָּךְ כֶּסֶף חֲמִשֵּׁת שְׁקָלִים בְּשָׁקֶל הַקֹּדֶשׁ עֲשִׂרִים גֶּרָה הוּא: בַּמְדַּבֵּר יח, טז  
 2. פֶּקֶד אֶת בְּנֵי לְוֵי לְבֵית אֲבֹתָם לְמִשְׁפַּחְתָּם כָּל זָכָר מִבֶּן חֹדֶשׁ וּמַעְלָה תִּפְקְדוּם: בַּמְדַּבֵּר ג, טז  
 3. וְאִם מִבֶּן שָׁנָה וּמַעְלָה אִם זָכָר וְהָיָה עֶרְכָּךְ חֲמִשָּׁה עָשָׂר שְׁקָל וְלִנְקֵבָה עֲשָׂרָה שְׁקָלִים: וּיקרא כז, ז

- I ד משנה: single father, multiple births, parental ambiguity (possibly switched)
- a If: he had two wives who had not yet had children
- i And: they both had boys – he gives 10 סלעים to כהן
- 1 if: one of them died within 30 days
- (a) If: he paid the 10 to one כהן, that כהן must return 5 סלעים
- (b) But if: he paid it to 2 כהנים, he is unable to get money back
- ii If: he had a boy and a girl or two boys and a girl (unclear about birth order or motherhood) – he gives 5
- iii If: he had two girls and a boy and 2 girls and 2 boys – the כהן gets nothing
- b If, however: he had one wife who had had children and the other had not
- i And: they both had boys – he gives 5 סלעים to כהן
- 1 If: one of them died within 30 days – father is פטור
- 2 If: the father died and both boys are alive (and mature)
- (a) ד"מ: if they paid before they divided father's property – that payment is valid; if not – exempt
- (b) סלעים of 5 "obligation" ד' יהודה: in any case, the property has an
- ii But if: there was one girl and one boy (and we don't know which mother had which child) – כהן gets nothing
- II ה משנה: multiple fathers, multiple births, parental ambiguity (possibly switched)
- a If: neither had given birth yet and both had boys – each father gives 5 סלעים to כהן
- i If: one of them died within 30 days
- 1 If: they paid the 10 to one כהן, he returns 5
- 2 But if: they paid it to separate כהנים, neither can get any money back from כהן
- (a) Question: in both cases, כהן should be able to assert that the father claiming his money back has the יא
- (b) Answer (שמואל): case is where both fathers come בהרשאה (they empower each other to collect)
- (i) Challenge: נהרדעי rule that we do not write an אדרכתא (הרשאה) on מטלטלין (e.g. סלעים)
- (ii) Answer: that is only in a case where there is a denial; here, no one denies the debt → כותבין
- b If: there was one boy and one girl – the כהן gets nothing
- i But: the boy is obligated to redeem himself (when he matures)
- c If: there were two girls and a boy or two girls and two boys – the כהן gets nothing
- III ו משנה: multiple fathers, multiple births, only one מבכרת
- a If: they both had boys – only the husband of the מבכרת אינה pays 5 סלעים to כהן
- b If: one had a boy and the other a girl – the כהן gets nothing
- IV ז משנה: status of payment in case of death of בכור during/after 30 days (only one, unambiguous בכור)
- a If: the בכור died within 30 days, even if he paid the כהן – he must return money; if afterwards – must pay
- b If: he died on day 30 – it is as if he died earlier (→exempt)
- i Dissent: ר"ע – if he paid, he may not get it back; but if he didn't pay, is exempt
- ii Sources: רבנן – infer חדש::חדש (vv. 1-2) from במדבר (included from a month and up)
- 1 ר"ע: in doubt; since the תורה had to add "ומעלה" in re: ערכין (v. 3), it is considered כאחד שני כתובין הבאים כאחד
- (a) Or: perhaps, שני כתובין cannot inform outwards, but can inform contextually
- iii Note: ר' אשי – all agree that re: אבלות, since (per שמואל) אבל, day 30 is considered like day 29

- V 31 **משנה**: father's obligation and presumptions of fulfillment
- a *If*: father died during 30 days – we assume that he didn't redeem him (burden of proof on בכור)
  - b *If*: father died after 30 days – we assume that he did redeem (burden of proof on כהן)
  - c *Limited funds*: if he has yet to redeem himself and his son
    - i ד"ק: he takes precedence
    - ii ד' יהודה: his son takes precedence; the obligation rests with father (his father was חייב for his redemption)
      - 1 ד' ירמיה: they agree in the case where there are only 5 סלעים that he comes first
        - (a) *Reason*: his own מצוה takes precedence
        - (b) *Dispute*: in case there are 5 סלעים available and 5 that are משועבד
          - (i) ד' יהודה: a מלוה הכתובה בתורה is as if written in a שטר
            1. *Therefore*: his obligation (dates to when he was 1 month old) can be seized from משועבדים and he gives the "free" 5 to redeem his son
            - (ii) ד'בנן: a מלוה הכתובה בתורה (e.g. פדיון הבן) is *not* considered מלוה בשטר
              1. *Therefore*: his own מצוה takes precedence
- VI **Dispute** רב/שמואל regarding status of early פדיון
- a *If*: he redeemed his son during the 30 days
    - i ד'ב: redeemed
    - ii שמואל: not redeemed
      - 1 *Note*: they agree that if he gave the money, stipulating that it take effect immediately, not redeemed
      - 2 *And*: they agree that if he stipulated that it take effect after 30 and the money is still in his possession after 30 days, he is redeemed
      - 3 *Dispute*: if he stipulated לאחר שלשים and the money has been exhausted by that point
        - (a) ד'ב: he is redeemed, just as קידושין given "in advance" are valid even if money is gone when time comes
        - (b) שמואל: distinct; in that case, he had the ability to have her קידושין be effective immediately unlike here
      - 4 *Final ruling*: even though we usually rule like רב באיסורי בדיני and רב שמואל בדיני, here we follow שמואל
        - (a) *Challenge*: in our משנה, if the child died before day 30, father may claim money back from כהן
          - (i) *Implication*: if he hadn't died, redemption (given during first 30) would have been valid
          - (ii) *Defense*: in this case, the money was still in כהן's possession after 30 days
        - (b) *Challenge*: in our משנה – if father died during 30, חזקה is that he didn't pay unless proven otherwise
          - (i) *Defense*: in that case, as well, money is still in כהן's possession after day 30
        - (c) *Note*: support (to פסק הלכה) – from יהודה רב's chiding תנא who taught in accordance with רב