

## Introduction to **יסכת בכורות**

*מסכת בכורות* addresses, as its name implies, the various *בכורות* which have a special status and therefore must be processed in one form or another. There are essentially three types of *בכורות* which have some special status:

- 1) *בכור בהמה טהורה* – the firstborn of any ovine or bovine, which is given to *כהן*, if *תמים* – as *קרנן*
- 2) *בכור אדם* – the firstborn male of *ישראל*
- 3) *בכור בהמה טמאה* – the firstborn donkey which is redeemed for a lamb, which is given to *כהן* but has no *קדושה*

Every one of these has its own parameters, exemptions and procedural systems. The *מסכת* begins with the one with the fewest complications – *בכור* – and the entire first chapter is dedicated to that topic; the relevant *פסוקים* will be cited on p. 2

31.1.1; 2a (משנה או) → 3a (ומילתא דלא שכיחא לא גזרו ביה רבנן)

1. כי לי כל בכור ביום הפתי כל בכור בארץ מצרים הקדשתי לי כל בכור בן ישראל מאדם עד בהמה לי יהיו אני ה' במדבר ג, יג  
 2. ובכל אשר אמרתי אליכם תשמרו ושם אלהים אחרים לא תזכירו לא ישמע על פיך שמות כג, יג

- I 1a exclusivity of *מסנה* או: *מסנה* או: (v. 1) *בכור בהמה טמאה* (פטר חמור – פט"ח) to *ישראל* ownership per *ישראל* (v. 1)
- a if: *ישראל* buys the firstborn embryo of a non-Jew's donkey, or if he sells it to him (which is forbidden – ע"ז או:)
- b or if: they become co-owners or he does *קבלה* or gives the donkey *בקבלה* – in all cases, *פטור*
- i *קבלה*: the owner gives the animal to another for birthing and the worker shares a percentage of the foals
- II Analysis of *משנה*
- a justification: if we only learned exemption for *לוקח* *סד"א* since he is bringing the donkey into *קדושה* (→ *מלאכת שבת* no)
- i but: when he sells it "out", we should fine the seller to give *כהן* to *פט"ח*
- ii and: partnership is taught to oppose *יהודה* ר' opinion (חייב → שותפות בעכו"ם)
- iii and: *מקבל* is taught to correspond with *בקבלה*, which is needed, *סד"א* the *ישראל* should be fined, so that he doesn't mistakenly exempt himself when he fully owns animal – *קמ"ל*
- b analyzing *יהודה* ר' opinion: in *ע"ז או* *יהודה* ר' permits selling a *גסה* to a non-Jew if it is "broken" (*שבורה*)
- i question: would he permit selling an *עובר*, which is also (currently) non-functioning? or, since the *עובר* is "behaving" as is usual for an embryo, it is forbidden
- ii proposed answer: in our *משנה*, selling *עובר* to non-Jew includes line "אע"פ שאינו רשאי" and *יהודה* ר' doesn't respond
- 1 rejection: our *משנה* also lists exemption of *שותפות*, which *יהודה* ר' certainly opposes → silence isn't telling
- iii proposed solution: *יהודה* ר' rules that if someone is *מקבל* from a non-Jew and it gives birth, we estimate value and he gives ½ of that value to the *כהן*; if he gives it *בקבלה* to the non-Jew, although prohibited, we estimate value and multiply it by 10 and give the entire amount to *כהן*
- 1 assumption: the "although prohibited" is referring to the *עובר*
- 2 rejection: that phrase refers to the mother (which all will agree is prohibited)
- (a) challenge: the *ברייתא* refers to *עשרה בדמי* (masculine – i.e. the *עובר*)
- (b) correction: should read *בדמיה* (feminine – i.e. the *בהמה*)
- (i) challenge: ruling is to give all moneys to *כהן*; but *כהן* has no reason to get fine on giving mother
- 3 rather: case is where he gave the pregnant donkey to non-Jew for fattening; since we fine him for the donkey, we also fine him for the *עובר* (and that goes to *כהן*)
- iv solution (*אשי*): *יהודה* ר' permits selling a *שבורה*, since it won't heal → if it would get better, *אסור*
- 1 and: *עובר* is certainly "יכול להתרפאות" → *יהודה* ר' would agree that it is *אסור* to sell *עובר* of *גסה* to non-Jew
- v note: some learned this entire give – and-take as commentary on our *משנה*; to wit – would ר"י subscribe to prohibition mentioned in *משנה* (for selling *עובר*) etc.
- vi question: is it permissible to sell a donkey for its foals (only) – could be asked to ר"י or to *רבנן*
- 1 ל"י: if he permits a *שבורה* which he fully gives up; certainly here where he doesn't relinquish ownership
- (a) or: he wouldn't confuse a *שבורה* for a healthy animal; but here, we have reason to create precaution
- 2 *רבנן*: same considerations – in reverse; perhaps they prohibit *שבורה* because he fully relinquishes ownership
- (a) challenge: that isn't *רבנן*'s reason for prohibiting *שבורה*
- (i) *ברייתא*: they responded to *יהודה* ר' that they will breed the *שבורה* (→ keep it around & work it on *שבת*)
- (ii) answer: that is *רבנן*'s response to ר"י's argument; their own reason is *בשלמה* אתי לאחלופי
1. wouldn't happen, as a *שבורה* refuses to be mated (lit. "won't accept the male")

- 3 *proposed solution*: our משנה doesn't mention שאינו רשאי in re: *עוברים* for *נותן לו בקבלה* (::selling for *עוברים*)
- (a) *block*: partnership is also mentioned without an explicit note of its prohibition
- (i) *and*: per *אבוה דשמואל*, partnership with *עכ"ם* is prohibited, per concern of v. 2
- (ii) *rather*: the silence isn't telling; similarly, silence about *נותן בקבלה* doesn't indicate permission
1. *note*: explicit prohibition mentioned in re: selling; as that is the fundamental problem
- 4 *proposed proof*: *ברייתא* (above) *יהודה ר'* rules that if someone is *מקבל* from a non-Jew and it gives birth, we estimate value and he gives ½ of that value to the *כהן*; if he gives it *בקבלה* to the non-Jew, although prohibited, we estimate value and multiply it by 10 and give the entire amount to *כהן*
- (a) *חכמים*: as long as the ownership ("hand") of the non-Jew is present at any stage – *פטורה מן הבכורה*
- (i) *assumption*: reference is to animal (mother)
- (ii) *correction*: reference is to *עובר*
1. *support*: fine is up to 10 times its value (and goes to *כהן*) → reference must be *עובר*
- (b) *note*: this fine supports ר"ל's ruling – if one sells a *בהמה גסה* to a non-Jew, we fine him up to 10 times its value (to buy it back)
- (i) *question*: did ר"ל mean exactly up to 10 times its value?
1. *proposed solution*: *ריב"ל* rules that if one sells his *ע"כ* to a non-Jew, he is fined up to 100 times his value (to buy the *עבד* back, and then to free him)
2. *inference*: both numbers are exact; else they could have used 10 (or 100) in both cases
3. *rejection*: in the case of an *עבד*, we would require more, as every day he is not fulfilling *מצוות* that he could have under Jewish owner
- (c) *alternate version*: ר"ל ruled that if one sells *בהמה גסה* to a non-Jew, he is forced to buy it back – even to 100 times its value
- (i) *question*: did ר"ל literally mean up to 100 times its value, or is this hyperbole?
1. *proposed solution*: *ריב"ל* rules that if one sells his *ע"כ* to a non-Jew, he is fined up to 10 times his value (to buy the *עבד* back, and then to free him)
2. *inference*: both numbers are exact; else they could have used 10 (or 100) in both cases
3. *rejection*: in the case of an animal, we would require more, as he will get it back; in the case of an *עבד*, we wouldn't fine him as much, as he will subsequently go free
- a. *challenge*: if the consideration is that the *בהמה* will be returned, let it be 1 time more than the *עבד* (11 times the value)
- b. *answer*: the case of selling an *ע"כ* to a non-Jew is so rare, *חכמים* didn't make a *גזרה*