

31.9.4

56b → (משנה ג) 57b (הוא מוזרתא הוא)

Note: **משנה ג** invokes the obligation of **קבלון**, this small coin was mandated by **חכמים** as an obligatory addition to **שקל מחצית** whenever someone was using their own money to pay the "tax"; if they were using redeeming another, the obligation was relaxed. Therefore, if brothers were paying their debt from father's estate, no **קבלון** was needed – they were not considered partners, rather still on father's "dole". Once they divided the property and each took his own portion, they were considered partners and would then be paying of their own funds and be **חייבים**

1. כל פטר רחם לכל בשר אשר יקריבו לה' באדם ובבהמה יהיה לוֹ אֶף פֶּדֶה תִּפְדֶּה אֶת בְּכוֹר הָאָדָם וְאֶת בְּכוֹר הַבְּהֵמָה הַטְּמֵאָה תִּפְדֶּה: במדבר יח, טו
2. והבאתם שמה עלתיכם וזבחיכם ואת מעשרתיכם ואת תרומת ידכם ונדריכם ונדבתיכם וכלית בקרכם וצאנכם: דברים יב, ו
3. שור או קשב או עז כי יולד והיה שבועת ימים תחת אמו ומיום השמיני והלאה ירצה לקרבן אשה לה': ויקרא כב, כז
4. וכל מעשר בקר וצאן כל אשר יעבר תחת השבט העשירי יהיה קדש לה': ויקרא כז, לב
5. ומיד בן נכר לא תקריבו את לחם אלהיכם מכל אלה כי משחתם בהם מום בם לא ירצו לכם: ויקרא כב, כה
6. וירא אלהים את הארץ והנה נשחתה כי השחית כל בשר את דרכו על הארץ: בראשית ו, יב
7. פן תשחתנו ועשיתם לכם פסל תמונות כל סמל תבנית זכר או נקבה: דברים ד, טז
8. לא יבקר בין טוב לרע ולא ימירנו ואם המר ימירנו והיה הוא ותמונתו יהיה קדש לא יגאל: ויקרא כז, לג
9. ואם נקבה תלד וטמאה שבועים כנדתה וששים יום וששת ימים תשב על דמי טהרה: ויקרא יב, ח
10. קנף רגלים ונעלסה אם אברה חסידה ונצה: איוב לט, יג

- I **משנה ג**: if brothers or partners are liable for **קבלון** (see note), they are exempt from **מע"ב** – and vice versa
- a If: they took the animals from the estate – **חייבין**; if not – **פטורים**
- b Explanation: if they took their separate portions and then (re)joined as partners – exempt from **מע"ב** (and **קבלון**)
- i Source (for exemption of **שותפין** in **מע"ב**): v. 1 – לֹא implies only one owner
- 1 However; context of that verse is **בכור**, which cannot exclude partnership (per **בקרם** – v.2) → apply to **מע"ב**
- ii **ד' ירמיה**: all four possibilities exist – **חייבין** in both, **פטורין** from both, **חייבין** in one or the other
- 1 Obligated in both: if they only divided father's moneys but not animals
 - 2 Exempt from both: if they only divided father's animals but not money
 - 3 Obligated in **קבלון** only: if they divided both
 - 4 Exempt from **קבלון** only: if they divided neither
 - (a) Challenge: this entire schema is obvious
 - (b) Answer: 2nd clause is needed; **סד"א** since they divided animals, they've indicated intent to fully divide
 - (i) And therefore: consider as if moneys were also divided → **חייבין בקבלון**
- iii Disputes among 2nd generation **אמוראים**: related to issue of **ברירה** with inheritance (is portion given out a clarification of original claim – **יש ברירה**?)
- 1 Dividing by kind (**אמוראי בבל**): if they divided kids and lambs evenly (as opposed to kids against lambs)
 - (a) **יש ברירה** (פטורין →) שותפין to tithe (חייבין) in this case, when they re-partner, it is as if they are at pre-divide and **דב ענן**
 - (b) **אין ברירה** (פטורין →) שותפין (even in this case, once they've divided, even if they re-partner, considered שותפין)
 - 2 Dividing by size, number (**אמוראי ארץ ישראל**): if they divided 10 against 10 (same size) (as opposed to 9 [bigger]/10)
 - (a) **יש ברירה** (חייבין) to tithe (פטורין →) in this case, when they re-partner, it is as if they are at pre-divide and **אלעזר**
 - (b) **אין ברירה** (פטורין →) שותפין (even in this case, when they re-partner, considered שותפין)
 - (i) Note: **ר' יוחנן** is consistent, as he ruled that brothers who divide are considered **לקוחות** (re: **יובל**)
 - (ii) Justification: if we only had our dispute, **סד"א** due to comparison with **בנן** – clear it is your son
 1. But: in the case of **יובל**, only sales revert, not **ירושה**
 2. And: if we were only taught about **יובל** **סד"א** since that is **לחומרא** (or **לכתחילה**) but not here – **קמ"ל**
- (iii) Challenge (to position of **יש ברירה** – **תמורה** – if 9 animals+dog were swapped for 10 animals)
1. Then: the 10 are all **אסורים** as **מחיר כלב**; the 9 are **מותרים**
 2. But: if we hold **יש ברירה**, only 1 of 10 (corresponding to dog) should be **אסור**
 3. Answer (**ר' אשי**): if they all had equal value, that would be the ruling
 - a. But: in this case, they weren't of equal value – dog is worth a bit more than 1 lamb
 - i. Therefore: the base value corresponds to 1 lamb; the surplus "bleeds" to other 9 → **אסורים**

II מע"ב exempted animals from משנה ד

- a All are included: except hybrid, טריפה, born via C-section, מחוסר זמן (before 8th day of life) and "orphan"
- i "orphan" (יתום): if it was born after mother died or was slaughtered
- ii Dissent: יהושע – ר' – even if mother was died; if pelt is still whole, not a יתום
- b Source: v. 3 (in re: general קדשים)
- i שור או כשב excludes hybrid
- ii גז excludes נדמה (animal that looks like another species)
- iii גז יולד excludes non-vaginal birth
- iv (מחוסר זמן) זיהה שבטת ימים excludes "early"
- v תחת אמו excludes an orphan
- vi מע"ב (vv. 3-4) – just as this list is excluded from קדשים, so it is excluded from מע"ב
- 1 And: just as טריפה is excluded from מע"ב (doesn't go "under the staff"), so too טריפה is excluded from קדשים
- c Comment on "all (are included)": extends to rule (ז:ז) (תוספתא בכורות): מחיר, טומטום ואנדרוגינוס (נעבד, אתנן, מוקצה, נרבע, רובע, all enter the corral for מע"ב
- i Dissent: שמעון – ר' שמואל וטומטום ואנדרוגינוס do not get counted
- ii Question: our תנא (who allows all these in) – if he accepts תחת::תחת, they should all be excluded (as all of these are מן פסוקה); if he doesn't accept תחת::תחת, then those he excluded have no source
- 1 Answer: he accepts תחת::תחת, but these 6 are extended via v. 5 – which associated מום with השחתה
- (a) And: vv. 6-7 define השחתה as either idolatry or promiscuity (per "תדרב"י)
- (i) Therefore: only cases where מום invalidates are also invalidated by these
- (ii) And since: מע"ב is not affected by מום (מום בעלי מום) enter the corral, per v. 8 – ("רע" – → these are also included
1. Explanation: אתנן, נרבע, רובע, are all related to דבר ערוה; מחיר כלב is juxtaposed to אתנן
- a. And: מוקצה ונעבד are related to זרה
- b. And: our תנא maintains that טומטום ואנדרוגינוס are both ספק (M/F) → enter the corral
- c. and: ר"ש agrees that they're ספק; but קדשים don't allow for ספק → תחת::תחת excludes from מע"ב
- d טריפה ר' יהושע had a tradition from בר יהודה איש כפר ברתותא. תוספתא בכורות ז:
- i ר' יהושע heard same list as our משנה from ר' יהושע (adding דופן, "early" and "orphan")
- ii תחת::תחת, if he infers תחת::תחת, should exclude all 5
- iii But: if not, we understand the exclusion of טריפה (...כל אשר יעבר...); but what is his source for כלאים?
- 1 Answer: he certainly infers תחת::תחת, however, in re:
- (a) גיזא דופן. he follows ר"ש, who, per תלד (v. 9) reads non-vaginal birth as לידה
- (i) Contra: ר' יוחנן (who, in מ. נדה) maintains that ר"ש limited his application to human birth
- (b) "early" (מחוסר זמן): he holds like ר"ש – that זמן מחוסר enters the corral (akin to בכור; and is offered later)
- (c) ר' יהושע: יתום – as long as pelt is whole, not a יתום

III Unusual testimony of רבי ר' סתריאל before רבי

- a Pelt: in their place, they would strip the mother and use the pelt to warm the newborn
- i דבני now we understand the reason behind יהושע's position
- b Lettuce: in their place, the חזרת had 600,000 leaves in the "stomach"
- c Cedars: a cedar fell and 16 chariots were able to pass over on its side
- d גז יונני had an egg that fell and 60 cities were drowned and 300 cedars were felled
- i Question: why would the mother throw her egg down? (v. 10)
- ii Answer: it was an unfertilized egg