

31.5.3; 34a (משנה גו) → 35a (פעי מיחזי)

- I בכור תם מום on a making a
- a If: someone makes a hole in a בכור's ear
- i ד"א he may never slaughter the animal
- ii חכמים: once another מום happens, he may slaughter
- b Challenge: ר"א doesn't fine "forever" in such cases
- i Support: זה: נגעים – if a בהרת got cut off by accident, he may be declared טהור
- 1 But if: he cut it off on purpose
- (a) ד"א: when he has another נגע (and is טהור from it) (he is טהור from it)
- (b) חכמים: he isn't טהור until his entire body has the נגע (פשיון – which is a טהרה)
- ii Answer1 (ר"א: ר"א only fines against his possessions (בכור), not against his body (נגעים))
- 1 Reason: regarding the בכור, he has nothing to lose by making a מום (if this one doesn't "work", he'll have to wait for another מום in any case); regarding נגעים, he has much to lose and wouldn't do so intentionally
- 2 Challenge (ר"א): that solves the apparent contradiction within ר"א; what of the contradiction within רבנן?
- iii Answer2 (ר"א): in each case, they only fine within that which he violated
- 1 בכור: we regard the מום (that he made) as if it isn't there; prohibited until another מום happens
- 2 נגעים: we regard the cut-off בהרת as if it were there – can't be declared טהור as it can't be seen
- iv Tangential question (ר"פ): is ר"א's formulation in נגעים
- 1 גיטור: meaning – when he develops the new נגע, he is immediately cleansed of the first (cut-off) נגע OR
- 2 גיטור: meaning – when he develops the new נגע and is declared pure from it – he is טהור
- (a) Split the difference: if a חתן (during 7 days of שמחה) or anyone during רגל has an appearance of בהרת
- (i) הלכה: we allow to complete period of rejoicing before declaring טומאה
- (ii) If: the phrasing is יטהר – once the new one appears, he is cleansed from earlier one
- (iii) But if: the phrasing is ויטהר – he is still טמא until the new one is declared and he is then טהור – תיקו
- II Question posed to ר' זירא by ר' ירמיה: if someone pierces בכור's ear and dies, is his son fined to have to wait for new מום?
- a On the one hand: if he sells his ע"כ to non-Jew and dies, son is also "fined" to spend up to 10x his value to redeem him
- i But: in that case, the עבד is uprooted from מצווה every day; unlike here, where the act happened once
- b On the other hand: if someone orchestrates his work so that a דבר האבד "falls" on חור"מ and then dies, his son is allowed to do that work (not fined, as we would fine the father were he to have lived)
- i But: in that case, no איסור happened (yet) – but in our case, the בכור's ear was already pierced
- c In our case: did they fine the man (who is now dead) or his possessions (i.e. the בכור)?
- d Answer: if he dethorns field on שמיטה, it may be planted after שמיטה;
- i But: if he fertilizes field (by leaving animals in field), may not work the field (as a fine)
- ii ד' יוסי בר חנינא: but if he did so and died, his son may work the field
- iii In other words: only he is fined, not his possessions – so too, here, the בכור may be slaughtered
- e Further support (אבני): if he made another's טהרות impure (we fine him) and he died – son isn't fined (to pay)
- i Reason: it is "intangible" damage (-not נזק) and the payment is a fine – son isn't fined
- III משנה גז: inadvertent and willful מומים made by "others"
- a Story #1: Roman clerk saw old-looking goat, found out that it was a בכור that never had a מום; made a מום
- i חכמים: permitted it to be slaughtered based on that מום
- ii But then: he went ahead and pierced a bunch of animals and חכמים forbade slaughtering them
- b Story #2: kids were playing with animals, inadvertently caused a מום
- i חכמים: permitted it to be slaughtered based on that מום
- ii But then: learning what they had "accomplished", they played with more – and חכמים forbade slaughter
- c General rule: if it is done by consent/awareness of owners – forbidden (even גרמא); if not – permitted (even מסיח לפ"ת)
- d Justification: if we only had 1<sup>st</sup> story, סד"א in that case he is a non-Jew and won't continue doing so, we can permit 1<sup>st</sup>
- i And: if only had 2<sup>nd</sup> story, סד"א since we wouldn't confuse him with an adult, מותר, unlike adult non-Jew – צריכא
- IV משנה דו: if a בכור was chasing a person and he kicked the animal and made a מום – it may be slaughtered
- a ר"פ (version 1): only permitted if he kicked him while chasing – but if afterwards, it isn't caused by his anger/pain
- b ר"פ (version 2): permitted even if he kicked him afterwards – it is his anger, not desire to make a מום, that drove him
- c ד' יהודה: permitted to make a מום on a בכור before it comes out of the birth canal
- i דבא: a kid – on its ears; a lamb – on its lambs (or – a lamb, also on its ears, if it came out sideways)
- ii דבא: if a מום in mouth isn't seen when it eats, but is seen when it yawns – this is מום שבגלוי and may be נשחט
- 1 Question: what is he teaching – we already learned this (ו:ד) (א: רבא is teaching reason for that משנה)