



Paid to inspect Bechorot

We have learnt that if a *bechor* develops a *mum* (blemish), such that it can no longer be brought as a *korban*, it is still given to the *kohen*. The *kohen* is able to slaughter the *bechor* and consume its meat. We have also learnt that the animal must first be inspected by a *mumche* – an expert that is authorised by the *nasi* for this task (see *Bartenura* 4:4). The *Mishnah* (4:5) teaches that if the *mumche* is paid, then his ruling cannot be relied upon. The *Mishnah* does however provide an exception for an expert like *Ila* in *Yavneh* who would take a fixed fee irrespective of his conclusion. We shall try to understand the ruling of this *Mishnah* and the exception for those like *Ila*.

The *Bartenura* explains that the concern in the *Mishnah* is that if the expert was to receive payment, it would act as incentive for him to permit the *bechorot*. To explain, it is in the interest of the *kohen* for the *bechor* to have a *mum*, so that it would become his personal property. To please his paying clients, the expert may then tend to permitting *bechorot* even in cases where the issue did not qualify as a *mum*. This is also the position of *Rashi* (28b s.v. *ein*).

The *Rashash* however asks that we see in the continuation of the *Mishnah* that even *Ila*, the exception, could only rule if he was taking a fee irrespective of the conclusion. This implies that had he taken the fee only when ruling if the *bechor* had a *mum*, then we would be concerned that that was swaying his judgment. We find therefore that regarding everyone else, even if they received a fee irrespective of the conclusion, it would invalidate their ruling. Consequently there appears to be a different issue for everyone else.

The *Ramban* however explains that the issue is what we learn in the next *Mishnah* – a judge cannot be paid. How then could *Ila* be paid? The *Rosh* (4:5) explains that since *Ila* was the world expert, and was pre-occupied with inspections all day, compensation for his time (*schar batala*) was necessary.

If we wish to persist with *Rashi*'s explanation that this issue is one of trust then we need to first look in the *Gemara*. The *Gemara* (39a) asks why *Ila* received payment for both

rulings. The *Gemara* understands why he received a payment for ruling that the animal had a *mum*, since the owner ultimately benefit from that ruling. Why then did he receive payment for a case where he ruled that the blemish would pass? The *Gemara* explained that had he not received payment in both cases then one might think he ruled that the animal had *mum* so that he could collect his payment. The *Gemara* however asks that if he receives payment for ruling that the blemish will pass, this might then motivate him to rule that way, considering that the *kohen* will need to keep returning to the *mumche* until he rules that it is indeed a *mum* and he can receive payment each time. The *Gemara* answers that *Ila* would only get paid for the first inspection of the animal, but not for further visits; so there would be no basis for this concern.

The *Tosfot* however raises a further concern based on the *Gemara*'s answer. If *Ila* would not get paid for any further inspections then we should be concerned that he would rule that the animal had a *mum* to avoid further free visits. The *Tosfot* provide two answers. The first is that the *Chachamim* would not obligate *Ila* with any further inspections anyway. The second, is that we are not concerned that someone like *Ila* would always permit a *bechor* just to avoid further inspections.

Based on the *Tosfot*'s explanation, the *Rashash* answers our original question. He first explains that there is a difference between *Ila* and everyone else based on the second answer of the *Tosfot*. Unlike *Ila*, if the first inspection was paid for irrespective of the ruling and further inspections were free, then others might be motivated to rule that the animal had *mum* to avoid further consultations. The *Tifferet Yisrael* also provides this answer. According to the first answer that he was not obligated to inspect the animal again, a regular *mumche* is still different to the chief inspector. Given that the regular *mumche* was selected amongst other and asked to inspect the animal, even if he receives payment for either ruling, he might still want to provide his customer a favourable ruling and rule that the animal indeed had a *mum*.

Yisrael Bankier

Revision Questions

בכורות בי'ה' – די'ה'

- To what extent does the offspring need to appear like the mother in order to have the status of a *bechor*? (בי'ה')
- What are the three (or four) opinions regarding the law if the head's of two offspring of an animal (that had not given birth yet) exited the mother at the same time? (בי'ו')
- Regarding the previous case explain the debate if one of them died? (בי'ז')
- What is the law if the offspring consisted of a male and female? (בי'י')
- What is the law if the offspring from two animals that had not given birth yet, consisted of: (בי'יא')
 - Two males?
 - A male and female?
 - Two males and a female?
- Regarding the first case in the previous question, what is the law if one of the mothers had already given birth? (בי'יב')
- Explain the debate regarding the first two offspring of an animal with the first was delivered by means of caesarean section. (בי'יג')
- According to *R' Yishmael*, if one purchased an animal from a *Nochri* and is not aware if it had given birth, what is the difference if this animal is goat, sheep or cow? (בי'יד')
- Explain the opinion of *R' Akiva* regarding the previous question. (בי'יט')
- Regarding the previous case, what is the opinion of *R' Shimon ben Gamliel* if the purchased animal was feeding? (בי'כ')
- If a *bechor* has a *mum* can its hair be removed to analyse the *mum*? (בי'כ"א')
- Explain the debate regarding hair that fell off a *bechor ba'al mum*, and then the animal was slaughtered. (בי'כ"ב')
- According to *R' Yosi*, to what cases was the debate really referring? (בי'כ"ג')
- For how long must a *yisrael* take care of the *bechor* before giving it to the *kohen*? (בי'כ"ד')
- In which two cases could one give the *bechor* to the *kohen* immediately? (בי'כ"ה')
- How is the first year of the *bechor* calculated and why is it important? (בי'כ"ו')
- Explain the debate regarding a *bechor* that had a *mum* and was slaughtered and only then shown to an expert to examine? (בי'כ"ז')
- What is the law if a non-professional: (בי'כ"ח')
- Ruled that a *bechor* had a blemish and it was slaughtered on his word?
- Ruled incorrect in a monetary law?
- Regarding the previous question what is the law if he was a professional? (בי'כ"ט')
- Can a professional "blemish-checker" for *bechorot* accept a salary? (בי'ל')

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat
10 minutes before *Mincha*
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Melbourne, Australia

Efrat, Israel *Shiur in English*

Sunday -Thursday
Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

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www.shemayisrael.com/mishna/

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Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
15 March י"ט אדר	16 March כ' אדר	17 March כ"א אדר	18 March כ"ב אדר	19 March כ"ג אדר	20 March כ"ד אדר	21 March כ"ה אדר
Bechorot 4:6-7	Bechorot 4:8-9	Bechorot 4:10-5:1	Bechorot 5:2-3	Bechorot 5:4-5	Bechorot 5:6-6:1	Bechorot 6:2-3

