



Bechor of a Safek Kohen

The *Mishnah* (11:5) discusses a case where the baby boys of a *kohenet* and *shifcha* got mixed up. The *Mishnah* deals with what can be done in that situation and how to treat these individuals going forward. One issue is that each of the people could be the *kohen* and there are stringencies and leniencies as a result. One of these laws relates to the *bechor*. A *bechor* refers to a first-born kosher animal. During the times of the *Beit HaMikdash* the animal would be taken to the *Beit HaMikdash*, offered as a *korban* and parts of the *korban* consumed by the *kohanim*. If however the animal developed a *mum* (a blemish that invalidated it from being offered as a *korban*) then the animal was to be given to a *kohen* who would only be able to slaughter it for consumption. The *Mishnah* teaches that the individual in this *Mishnah* would be able to hold onto the *bechor* until it developed a *mum* and then keep it. We shall try to understand this *Mishnah*.

It is clear that once it develops a *mum*, they could keep the *bechor* since from that point onward it is a monetary question. To force them to hand over the *bechor*, we would need to prove that they are not the *kohen*, which we cannot do.

One might be tempted to understand that our *Mishnah* is referring to a time when there is no *Beit HaMikdash*. In other words, there is no issue in waiting for the animal to develop a *mum* since that animal cannot be offered as a *korban*.

The *Tosfot Yom Tov* however explains that the *Mishnah* applies also during the time of the *Beit HaMikdash*. He explains that once the *korban* is offered, it is enjoyed only by *kohanim* and since this individual cannot prove that he is a *kohen*, he would lose out if it were offered. *Rashi* also understands that the *Mishnah* is also referring to during the times of the *Beit HaMikdash*.

The *Tosfot R' Akiva Eiger* provides two difficulties with this explanation. Firstly, he cites the *Gemara* (*Temura* 8a) that

prior to the *bechor* developing a *mum*, the *kohanim* have no share in the animal. It is only once the sacrificial parts of the *korban* have been offered that they merit to take a share (“*zoche ba'baser meshulchan gavoah*”). That being the case, the *gizbar* (treasurer of the *Beit HaMikdash*) should be able to take the *bechor* even if he cannot prove that the individual is not a *kohen*. It is for that reason that the *Gemara* concluded that our *Mishnah* is referring to nowadays instead. Secondly, he cites the *Korban Ha'Eidah* who finds *Rashi* difficult, noting that when waiting for the *mum* to develop, one might violate the prohibition of *baal te'acher*. That being the case it is difficult to understand how we would allow the violation of *baal te'acher* based on a doubt whether the individual is a *kohen*.

The *Tifferet Yisrael* applies the *Korban Ha'Eidah's* question to the *Gemara* in *Temura*. The basis of the question there was that the *kohen* does not have a share in the *bechor* prior to it being offered. This implies that if he had a share in the *bechor* he could retain the animal until it develops a *mum*. That conclusion is difficult to accept considering it would involve the violation of *baal te'acher* while waiting for it to develop a *mum*.¹

The *Aruch LaNer* offers two possible answers for the *Korban Ha'Eidah's* question. The first is that perhaps he can delay, assuming that the *mum* will develop before the *regalim* have passed, prior to *ba'al te'acher* being transgressed. He however admits that that suggestion is forced. Alternatively, he answers based on the *Rambam* (*Rosh Hashanah* 6:2) that if one inherits a *korban* and delays in offering it, he does not violate *baal te'acher*. He continues that it is clear in the *Mishnah* that these two people would share in the inheritance from both fathers. The *Mishnah* is therefore referring to a *bechor* that one of the boys inherited. They would not violate the prohibition of *ba'al te'acher* and *Beit Din* could therefore not force them to bring the *korban*, due to the loss that the *Tosfot Yom Tov* described above.

Yisrael Bankier

¹ The *Tifferet Yisrael* raises another possibility, that the *Mishnah* is referring to during the time of the *Beit HaMikdash*, but the animal is outside *Eretz Yisrael* and therefore cannot be offered as a *korban*. The *Tifferet Yisrael*

however ejects this possibility since the assumption is that the *Tana* of the *Mishnah* is situated in and discussion laws of *Eretz Yisrael*.

Revision Questions

יבמות י"א:ה' – י"ג:ה'

- What is the law regarding a case where the child of the wife of a *Kohen* and her maid-servant's child got mixed up with regards to: (י"א:ה')
 - Eating *trumah*?
 - *Tameh met* if they are both "freed"?
 - *Zro'ah* and *lechayayim*?
- What is the law regarding a case where a woman remarried immediately after divorce and we are not sure about the paternity of her child, with respect to *yibum* and *chalitzah* if:
 - His mother had sons from both marriages?
 - Both of the husbands had sons from other marriages? (י"א:ו')
- Regarding the previous question, what is the law if one of the father's was a *Kohen* and the other was a *Yisrael*? (י"א:ז')
- Regarding the previous question, what if both father's were *Kohanim*? Which *mishmar* would he serve in? (י"א:ח')
- Where is *chalitzah* performed? (י"ב:א')
- What type of *sandal* can be used for *chalitzah*? (י"ב:ב')
- Which of the following is acceptable for *chalitzah*: (י"ב:ב')
 - Using a borrowed shoe?
 - Wearing the left shoe on the right foot?
 - Using a shoe that is the wrong size?
 - Performing *Chalitzah* at night?
- What are the three components of *chalitzah*? (י"ב:ג')
- Which of the three components: (י"ג:א')
 - If left out is still acceptable?
 - May not be left out?
 - Is subject to debate whether it is acceptable if left out?
- Can a *cheresh* perform *chalitzah*? (י"ב:ד')
- What is the law regarding *chalitzah* that is performed before a *beit din* of two people? (י"ב:ה')
- Describe the process of *chalitzah*. (י"ב:ו')
- What is *mi'un*? (י"ג:א')
- What are the five points of debate between *Beit Shammai* and *Beit Hillel* regarding when *mi'un* can be performed? (י"ג:א')
- Who qualifies for *mi'un*? (י"ג:ב')
- According to *R' Eliezer ben Ya'akov* when is the *ketanah* considered "ishto"? (י"ג:ג')
- If a girl underwent *mi'un* can she still marry a *Kohen*? (י"ג:ד')
- Complete the follow rule and explain: (י"ג:ד')
 "זה הכלל: _____ אחר _____, אסורה לחזור לו. _____ מותרת לחזור לו"
- If the *ketanah* left a number of husbands, some of which through *mi'un* and the others through a *get*, which can she remarry? (י"ג:ה')

Shiurim

ONLINE SHIURIM

Yisrael Bankier
 mishnahyomit.com/shiurim

Rabbi Reuven Spolter
 mishnah.co

Rabbi Chaim Brown
 www.shemayisrael.com/mishna/

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

APPS

Mishnah Yomit
 mishnahyomit.com

All Mishnah
 Orthodox Union

Mishna Yomi
 Our Somayach, South Africa

Kehati

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
 In US dial: 718 906 6400
 Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
10 December כ"ז כסלו	11 December כ"ח כסלו	12 December כ"ט כסלו	13 December א' טבת	14 December ב' טבת	15 December ג' טבת	16 December ד' טבת
Yevamot 13:6-7	Yevamot 13:8-9	Yevamot 13:10-11	Yevamot 13:12-13	Yevamot 14:1-2	Yevamot 14:3-4	Yevamot 14:5-6

