

Bechoros – Simanim

פרק א – הלוקח עובר חמור

דף ב – 2 Daf

1. Partial ownership of an עבו"ם which exempts from *bechor*

The first Mishnah states: הלוקח עובר חמורו של עובד כוכבים – if *one buys the fetus of an idolator's donkey*, or sells his own donkey's fetus to an עבו"ם even though it is forbidden to do so, or jointly purchases a donkey with an עבו"ם, והמקבל הימנו – *or accepts a donkey from* [an עבו"ם] to raise it, with the agreement that they will divide the offspring, *or gives his own donkey to* [an עבו"ם] *on contract* to raise it for him (and divide the offspring), פטור – *in all these cases, [the firstborn donkey] is exempt from bechor status, because the passuk says "בישראל"* – *in Yisroel*, אבל לא באחרים – *but not in other* [nations], i.e., where an עבו"ם owns or partially owns the fetus. The Gemara explains the necessity for all five cases. In a Baraisa, Rebbe Yehudah says that שותפות with an idolator does not exempt from בכורה.

2. Does Rebbe Yehudah's permit to sell a שבורה to an עבו"ם also apply to an עובר?

In a Mishnah discussing the prohibition to sell large livestock to an עבו"ם (because it performs work on Shabbos), Rebbe Yehudah permits selling שבורה – *an injured animal* which can no longer perform labor. The Gemara asks if Rebbe Yehudah would permit selling an עובר to an עבו"ם – *is Rebbe Yehudah's reason to permit selling an injured animal because it is "broken" and cannot perform work on Shabbos?* If so, עובר – *a fetus is also "broken,"* i.e., it cannot perform work, and selling it would be permitted. Or, is Rebbe Yehudah's reason because שבורה לאו היינו אורחיה – *an injured animal is not its normal state*, so its sale will not be confused with a normal animal's sale, whereas a fetus, which is in its normal state, might lead some to sell ordinary animals to idolators? A Baraisa is eventually quoted in which Rebbe Yehudah explains that one may sell an injured animal להתרפאות – *because it cannot be healed* (and will never perform labor). Clearly, an injured animal which can be healed, as well as a fetus which will eventually be able to perform labor, cannot be sold.

3. מכר בהמה לעובריה מאי

The Gemara asks: מכר בהמה לעובריה – if *one sold the rights in an animal for its fetuses* [to an עבו"ם], is he penalized to repurchase his rights in the animal, like one who illegally sold an animal? This question may be asked both according to Rebbe Yehudah and the Rabbonon. According to Rebbe Yehudah, who permits selling שבורה, perhaps it is because לא אתיא לאיחלופי – *it will not come to be confused* with a normal animal; however, he might forbid selling a healthy animal [for rights to its fetuses], because that may be confused with normal sales of animals. Or, we can say that if Rebbe Yehudah permits completely selling an injured animal, דפסקה מיניה – *which becomes* entirely detached from him after the sale, then certainly he would permit selling the fetus rights of a normal animal, where the animal does not become detached from him. According to the Rabbonon, who forbid selling שבורה, perhaps that is because it is completely detached from him through the sale, whereas they might permit selling the fetus rights of a normal animal. Or, we can say that if they forbid selling שבורה, whose sale will not be confused with a normal animal's sale, then they would certainly forbid selling the fetus rights of a normal animal.

Siman – House

At the Animal Maternity **House** where a Jew who jointly owned a donkey with an עבו"ם was informed that the first born of their donkey was exempt from בכור status, a man outside who just sold his injured cow to an עבו"ם was told that he is not permitted to sell his pregnant cow's fetus, and to take down his sign offering to sell non-Jews the rights to all the fetuses his cow would potentially bear in the future.

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3 things to remember

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