

From the Rabbi's Desk
Rabbi Manes Kogan
Hillcrest Jewish Center
183-02 Union Turnpike, Flushing, NY 11366
rabbikogan@hillcrestjc.org

Mishnah with a Twist [19]

Rabbi Tarfon, You Are an Expert for the Court. Insights into Mishna Bekhorot Chapter 4:3 & 4



Background to Our Story

Tractate Bekhorot

Bekhorot ("Firstborns") is a tractate in Seder Kodashim ("Order of Holy Things") that discusses three categories of firstborns: a woman's firstborn son, the male firstborn of a kosher domesticated animal, and a male firstborn donkey. The Torah assigns a sacred status to each of these and requires them to be consecrated - either through transfer to a priest, redemption, or sacrifice, depending on the firstborn and the circumstances. Bekhorot discusses details of this process, such as determining whether an animal is a firstborn in questionable cases and blemishes that disqualify a firstborn animal from being sacrificed in the Temple.

The Firstborn of a Kosher Animal



The Schottenstein Edition of the Mishnah Elucidated. ArtScroll/Mesorah Publications. Volume 15. Introduction to Bechoros.

The law of bechor applies to three species of kosher animals: cows, sheep, and goats. These are the only animals fit to be offered on the altar (Devarim 15:19).

The bechor of a cow, sheep, or goat acquires sanctity at birth and is automatically consecrated to be brought as a korban (sacrificial offering) in the Beis HaMikdash (Temple); see Vayikra 27:26 with Ramban. Nevertheless, there is a mitzvah for the owner of the flock to declare it sanctified as a bechor (Arachin 29a). The owner himself does not bring the bechor to the Beis HaMikdash. Rather, he gives it to a Kohen (Bamidbar 18: 18).

What the Kohen does with the bechor depends on whether it is an unblemished [literally, perfect] animal, or a blemished animal.

Unblemished Bechor

If the animal is unblemished, it is brought by the Kohen as a korban in the Beis HaMikdash. The bechor is in the category of kodashim kalim, korbanos of lesser holiness. After it is slaughtered in the Beis HaMikdash and its blood is applied to the Mizbei'ach, only certain of its fats and organs [known as emurin] are burned on the Mizbei'ach, while the bulk of its meat is awarded to its owner [the Kohen]. This meat may be eaten anywhere within the walls of Jerusalem from the day of its slaughter through the next day.

Unlike other kodashim kalim, however, the meat of the bechor may be eaten only by Kohanim, their wives, children, and their Canaanite slaves (Zevachim 5:8).

Blemished Bechor

Like any korban, a bechor that has a permanent blemish is disqualified from being offered on the Mizbei'ach. Like all blemished korbanos, it therefore falls to a lesser state of holiness [disqualified korbanos] which, subject to certain restrictions, may be slaughtered and eaten outside the Beis HaMikdash as ordinary meat [chullin]. Generally, disqualified korbanos of this kind must be redeemed before they may be slaughtered outside the Beis HaMikdash, with the proceeds being used to purchase a replacement korban. The blemished bechor, however, is an exception to this rule in that it may be slaughtered outside the Beis HaMikdash without redemption. Thus, when a bechor becomes blemished, the Kohen who owns it may slaughter it and eat it anywhere. Similarly, if the bechor is born blemished or becomes blemished before being given to a Kohen, it must still be given to a Kohen; it then becomes his property, and he may slaughter and eat it. The meat of the blemished bechor may be eaten even by non-Kohanim, and even by a tamei person or an idolater (Mishnah 5:2; see there for another opinion).

When the Beis HaMikdash stood, a bechor had to be consumed within the first year of life - if unblemished as a korban, and if blemished as the Kohen's meat (Devarim 15:20-22). The destruction of the Beis HaMikdash has made offering a bechor impossible. Thus, nothing can be done with an unblemished bechor, and it must be left to roam until it develops a blemish. Once blemished, it may be slaughtered and eaten.

Temporary and Permanent Blemishes

There are two types of blemishes: a temporary blemish and a permanent one. Neither temporarily nor permanently blemished animals may be offered on the Mizbei'ach (Vayikra 22:20). However, a temporarily blemished animal becomes once again fit for offering once the blemish heals. For a bechor to be permitted for slaughter outside the Beis HaMikdash, its blemish must be a permanent one. Before any blemished bechor can be declared permissible for slaughter, it must be shown to an expert, in blemishes. This person must possess a superior knowledge of both the laws of animal blemishes, and the medical nature of blemishes. He must also receive permission from the Nasi, in Eretz Yisrael before he can render decisions on blemished bechoros (see Sanhedrin 5a-b). If the blemish is an obvious one [such as a blinded eye or a severed leg], and no expert is available, the animal may be shown to a panel of three laymen who may grant permission for its slaughter (Mishnah 5:5; see there for another opinion).

The expert who examines the blemish must also determine whether the blemish developed naturally or was inflicted by a person. An animal may not be slaughtered on the basis of a blemish that was intentionally inflicted (Mishnah 5:3). Therefore, any blemish that may have been inflicted by man requires the testimony of a reliable witness to establish that it was not intentionally inflicted.

Rabbi Tarfon



Koren Talmud Bavli, The Noe Edition. Ketubot. Koren publishers Jerusalem. Page 121.

Rabbi Tarfon was one of the great tanna'im in the generation following the destruction of the Second Temple. Rabbi Tarfon was a priest, and although he was young in the days when the Temple still stood, it appears that he served there as a priest. Apparently, he lived in the town of Lod. It seems that he was the same age as the students of Rabbi Yohanan ben Zakkai and perhaps even studied under him. He is also said to have been on close terms with Rabbi Eliezer and Rabbi Yehoshua, with the latter calling him: Tarfon, my brother. He was often in the great academy of Yavne, engaged in Torah discussions with its important Sages. It is likely that he first served as a kind of teacher to Rabbi Akiva before becoming his colleague after Rabbi Akiva grew in stature. Rabbi Akiva and Rabbi Tarfon were regularly engaged in Torah discussions, and Rabbi Tarfon honored and esteemed him greatly. Several of the Sages of the next generation were disciples of Rabbi Tarfon, with Rabbi Yehuda being his chief disciple.

The Text: Mishna Bekhorot Chapter 4:3 & 4

Mishna 3

הַשּׁוֹחֵט הַבְּכוֹר וּמְרָאָה אֶת מוּמּוֹ, רַבִּי יְהוּדָה מְתִיר. רַבִּי מֵאִיר אֹמֵר, הוֹאִיל וְהוּא נִשְׁחַט שְׁלֵא עַל פִּי מִמָּחָה, אָסוּר:

In the case of one who slaughters the firstborn animal and only then shows its blemish to an expert to determine whether it is a blemish, and it was established by the expert that it is in fact a blemish that renders its slaughter permitted, Rabbi Yehuda deems it permitted for a priest to derive benefit from the firstborn. Rabbi Meir says: Since it was slaughtered not according to the ruling of an expert, it is prohibited.

And the Halakha is according to Rabbi Meir. Obadiah ben Abraham of Bertinoro (c. 1445 – c. 1515), known as "The Bartenura."



Explaining the Text

What's going on in our story? (The sequence of events)

Comprehension and Analysis Questions

? Why would someone slaughter a firstborn before showing it to an expert?

Answer 1 _____

Answer 2 _____

Answer 3 _____

? Why do you think the Halakha follows Rabbi Meir?

Mishna 4

מִי שְׂאִינּוּ מִמָּחָה וְרָאָה אֶת הַבְּכוֹר וְנִשְׁחַט עַל פִּיו, הָרִי זֶה יִקְבֵּר, וַיִּשְׁלַם מִבֵּיתוֹ. דֵּן אֶת הַדִּין, זָכָה אֶת הַחֵיב וְחֵיב אֶת הַזָּכָאי, טָמֵא אֶת הַטָּהוֹר וְטָהֵר אֶת הַטָּמֵא, מִה שֶׁעָשָׂה עֲשׂוֹי וַיִּשְׁלַם מִבֵּיתוֹ. וְאִם הָיָה מִמָּחָה לְבֵית דִּין, פָּטוּר מִלְּשַׁלֵּם.

מַעֲשֵׂה בְפָרָה שְׁנוּטָלָה הָאֵם שְׁלָה, וְהֶאֱכִילָהּ רַבִּי טַרְפוֹן לְקָלְבִים, וּבָא מַעֲשֵׂה לְפָנֵי חֲכָמִים וְהִתִּירוּהָ. אָמַר תּוֹדוּס הַרּוֹפֵא, אֵין פְּרָה וְחִזִּירָה יוֹצֵאָה מֵאֶלְכֶסְנִדְרִיא עַד שֶׁהֵם חוֹתְכִין אֶת הָאֵם שְׁלָה, בְּשִׁבִיל שְׁלֵא תֵלֵד.

אָמַר רַבִּי טַרְפוֹן, הִלְכָה תְמוּרָה טַרְפוֹן. אָמַר לוֹ רַבִּי עֲקִיבָא, רַבִּי טַרְפוֹן, פְּטוּר אַתָּה, שְׂאֵתָה מִמַּחֲהָ לְבֵית דִּין, וְכָל הַמַּחֲהָ לְבֵית דִּין פְּטוּר מִלְשָׁלִים:

In a case involving one who is not an expert, and he examined the firstborn animal, and it was slaughtered on the basis of his ruling, that animal must be buried, and the non-expert must pay compensation to the priest from his property.

If someone judged a monetary case and exempted someone who was actually obligated to pay, or obligated someone who was actually exempt from paying, or ruled that something is tamei (impure) when it was actually tahor (pure) or ruled that something is tahor (pure) when it was actually tamei (impure), the law in each of these cases is: What he has done is done, i.e., his verdict stands and cannot be reversed, and he must pay the damaged party from his own funds for the loss caused by his incorrect ruling. But if [the judge] was an expert who was approved by the beit din (court), he is not obligated to pay.

Apropos the previous mishna, which taught that a judge who was an expert for the court and who erred is exempt from payment, this mishna teaches: There was an incident involving a cow whose womb was removed, and when Rabbi Tarfon was consulted he ruled that it is an animal with a wound that will cause it to die within twelve months [*tereifa*], which is forbidden for consumption. And based on the ruling of Rabbi Tarfon, the questioner fed it to the dogs. And the incident came before the Sages of the court in Yavne, and they ruled that such an animal is permitted and is not a *tereifa*. And Theodosius [*Todos*] the doctor said: A cow or pig does not emerge from Alexandria of Egypt unless the residents sever its womb so that it will not give birth in the future. The breeds of cows and pigs in Alexandria were of exceptional quality, and the people of Alexandria did not want them reproduced elsewhere. The fact that these animals lived long lives after their wombs were removed proves that the hysterectomy did not render them *tereifot*.

Upon hearing this, Rabbi Tarfon said: Your donkey is gone, Tarfon, as he believed he was required to compensate the owner for the cow that he ruled to be a *tereifa*. Rabbi Akiva said to him: Rabbi Tarfon, you are an expert for the court, and any expert for the court is exempt from liability to pay.



Explaining the Text

What's going on here? (The sequence of events)

Comprehension and Analysis Questions

Bonus ? Why must a non-expert judge pay compensation from his own funds if he examined a firstborn and it was slaughtered based on his ruling?

Answer 1 _____

Answer 2 _____

Answer 3 _____

Bonus ? Why would someone volunteer to judge a case if he is not an expert or if he was not authorized by the court?

Answer 1 _____

Answer 2 _____

Answer 3 _____

? Why did Rabbi Tarfon feed the cow whose womb was removed to the dogs?

? Why did the above incident come to the Sages in Yavne?

Answer 1 _____

Answer 2 _____

Extra Bonus ? Rabbi Tarfon who was an expert authorized by the Nasi to rule on firstborn cases. Why didn't he know about the unique condition of the cows of Alexandria?

Bonus ? Upon hearing of his erroneous ruling, Rabbi Tarfon exclaimed: "Your donkey is gone, Tarfon." What can we learn from Rabbi Tarfon's reaction about his personality?

Bonus ? Why is an expert approved by the court (like Rabbi Tarfon) not obligated to compensate the damaged party from his own funds if he rules erroneously?

Answer 1 _____

Answer 2 _____

Answer 3 _____

"The Twist" – Or the Lessons We Can Learn from This Text

! Rabbi Tarfon, you are good at what you do. Don't worry too much about your mistake!



A healthy organization (a court, a synagogue, a corporation, a department, for example) must rely on qualified people to make decisions, all the time. Our text teaches us that if you are a moral person, an expert in your field, thorough in what you do, and empowered to make decisions, you shouldn't have to pay the price for the mistakes you make (precluding gross negligence).

It is for the benefit of any organization to allow capable people to make decisions, understanding that occasional mistakes are an intrinsic part of the big picture. Punishing qualified people for their mistakes will cause them to refrain from taking a stand and making decisions, hence, affecting the wellbeing of the organization, stopping growth, and creating a feeling of distrust and discontent.