

The Weekly Daf



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Bechoros 11-17

Week of 12-18 Shevat 5757 / 20-26 January 1997
Rav Weinbach's insights, explanations and comments for the 7 pages of Talmud
studied in the course of the worldwide Daf Yomi cycle

Little Gamboling Lamb

To fulfill the mitzvah of redeeming the first-born male donkey one must do one of two things. Either give the *kohen* a live lamb or kid, even if it is worth much less than the donkey, or give him money or anything else equivalent to the full value of the animal.

In order to use the first option he can give only a live lamb or kid — not a calf or any other live animal, and not a slaughtered lamb or kid.

This raises an interesting question. What about a *ben pakuah* — a live lamb found in the womb of its slaughtered mother? We rule that such an animal does not require slaughtering because the slaughtering of its mother in its prenatal state is considered as *shechita* for it as well (*Chullin* 74a).

We can therefore consider this *ben pakuah* as being a chunk of meat on the hoof rather than a live lamb, and thus invalid for use in redemption. On the other hand, this lamb is running around like any live animal, so it should be considered a bona fide lamb for the purpose of redemption.

The Sages were split on this issue with Rabbi Ashi ruling that a *ben pakuah* can be used for redemption and Mar Zutra that it cannot. The latter opinion draws its support from the fact that the same designation of lamb or kid is used in regard to the animal to be used for the *Korban Pesach*. A *ben pakuah* is disqualified for use as a *Korban Pesach* because only animals born in natural fashion are eligible for sacrifice. Mar Zutra's conclusion, therefore, is that just as the *ben pakuah* is ruled out for *Korban Pesach* so is it ruled out as redemption material.

Rabbi Ashi challenges this conclusion because a comparison with *Korban Pesach* would also require it to be male and unblemished, requirements which do not apply to this mitzvah. Rambam and Shulchan Aruch rule like the opinion of Rabbi Ashi.

Bechoros 12a

Mitzvah or Penalty?

If a Jew does not wish to redeem his first-born male donkey by giving a lamb to a *kohen* as commanded by the Torah he is obligated to behead that animal. This is explicitly stated in the Torah (*Shmos* 13:13) and detailed in the final *mishnah* of the first *perek*.

The *mishnah* refers to this act of beheading as a mitzvah, but reminds us that the mitzvah of redeeming is preferable to the mitzvah of beheading. Rambam, accordingly, lists the beheading as one of the 613 *mitzvos*.

A problem arises, however, from the statement of the Sage Levi (*Bechoros* 10b) explaining the Torah's command to behead the unredeemed first-born donkey: "He caused a loss to the *kohen* (by not giving him a lamb as redemption) so he must also suffer a loss." This seems to indicate that the beheading is a penalty for not complying with the mitzvah of redemption, and should therefore not be considered a mitzvah as well. It was this problem which moved Ravid to challenge Rambam (*Laws of Bikurim* 12:1) in his description of beheading as a mitzvah.

A solution to this problem is suggested, however, by the author of *Minchas Chinuch* (mitzvah 23). Beheading the unredeemed first-born donkey is indeed a penalty as Levi declares, but there is a mitzvah to comply with this penalty.

The author cites an interesting parallel. The same aforementioned *mishnah* states that the mitzvah of *Yibum* — marrying the widow of a childless brother — is preferable to the mitzvah of *Chalitzah* — the ritual performed by the brother who refuses to marry her. The author of the *Hilchos Gedolos* — one of the earliest Halachic authorities whose words are quoted by the *Beis Shmuel* in his commentary on *Shulchan Aruch Even Haezer* (169:82) — writes that the reason a shoe is removed from the foot of the man in the *Chalitzah* ritual is to communicate to him that because he refused to do what was expected of him, he must remove his shoe like a mourner or one who has been excommunicated for rebelling against a mitzvah. Even though *Chalitzah* is thus viewed as a penalty it does not prevent a consensus that it is counted as a mitzvah.

(This last point is a little difficult to understand in our own day when *Yibum* is never done, even when the brother wishes to do so. The proper perspective on this is already suggested in our *mishnah*, which states that with the decline of the generations and the fear that *Yibum* will not be performed with the proper motivation, the mitzvah of *Chalitzah* is now preferable. It is perhaps this decline which requires this symbolic act of mourning involved in removing the shoe.)

Bechoros 13a

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