



Safek Peter Chamor

The first *perek* of *Bechorot* deals with the *mitzvah* of *pidyon peter chamor* – redeeming the first-born male donkey. The donkey is ideally redeemed with a young lamb or kid, which is given to a *kohen*. If however one did not want to perform this redemption, the donkey would require *arifa* – it is killed by taking an axe to the back of the neck

The *Mishnah* raises a number of cases of doubt regarding *peter chamor*. For example (1:3) a donkey, in her first birth, gave birth to a male and female but which are not sure which was born first. Since *peter chamor* only applies to a male first born, and there is a doubt which of the offspring was first, it is questionable whether *pidyon peter chamor* is required. The *Mishnah* continues that a lamb must still be separated, yet it can be retained by the owner.

The *Bartenura* explains that considering the doubtful status of the foal, the lamb must be separated to remove the potential sanctity if it is indeed the *peter chamor*. Once that issue is dealt with, since it is questionable whether it was necessary and whether the lamb should be given to the *kohen*, the owner can keep the lamb. This is based on the principle of *hamotzi me'chaveiro alav ha'ra'aya*. In other words, regarding financial matters, the burden of proof is placed on the one attempting to extract the funds from another.

The *Gemara* (9b) questions why the separation of the lamb is necessary in this case of doubt if the owner is going to retain it. It answers, much like we saw in the *Bartenura* above, that it is to remove the prohibition that exists if the animal is indeed a *peter chamor*. The *Gemara* comments that the *Mishnah* must then be according to the opinion of *R' Yehuda* who prohibits deriving any benefit from a *peter chamor* prior to the redemption. In contrast, *R' Shimon* maintains that there is no prohibition even then.

The *Tosfot* (9b s.v. *le'afukei*) explains, that if the sole interests in a case of doubt was just to exempt one from performing *arifa*, then no lamb would need to be separated. The reason is that the two are linked together. In other words,

if giving the *pidyon* to the *kohen* is not necessary, then neither is *arifa*.

The *Minchat Chinnuch* (23:2) explains that the *Tosfot's* comment implies that *R' Yehuda* and *R' Shimon* have fundamentally different understandings of the *mitzvah* of *pidyon peter chamor*.¹ According to *R' Yehuda*, who understands that prior to redemption the *peter chamor* is prohibited, the *mitzvah* is one of redemption. After the redemption, the *Torah* gifted the lamb used to the *kohen*. Nevertheless, of prime importance is the redemption itself. If redemption is performed and was not given to the *kohen*, then the *mitzvah* has been fulfilled. Consequently, even in a case of doubt, the redemption would still be required. Furthermore, since the *Torah* states that *arifa* stands in the place of redemption if not performed, then even in cases of doubt, one would need to be concerned for the *mitzvah* of *arifa* and prefer to perform the *pidyon*. Yet, as explained above, once performed, the ownership of the lamb is a financial matter.

The *Minchat Chinnuch* continues that according to *R' Shimon*, who permits the *chamor* prior to redemption, the *mitzvah* is one of *netina* – giving the *kohen* a gift. If the *chamor* is permitted, then why does the *Torah* require that a lamb be separated? Simply to serve as (another) gift to the *kohanim*. He compares this *mitzvah* with *pidyon ha'ben* – "redeeming" the first-born male. Consequently, if the lamb was separated, but not given to the *kohen*, then the *mitzvah* has not been fulfilled. Since the entire *mitzvah* is one of *netina* and not one of redemption, in cases of doubt, the issue is purely financial and separating a lamb is unnecessary.

The *Minchat Chinnuch* uses this understanding of *R' Shimon* to explain the *Tosfot* above. The *Gemara* concluded that our *Mishnah* must be according to *R' Yehuda*. Considering the position of *R' Shimon*, since the "redemption" is purely financial, then in cases of doubt *arifa* would also be unnecessary. Redemption and *arifa* are linked, and according to *R' Shimon*, since redemption is not necessary in cases of doubt, then we need not be concerned for the *mitzvah* of *arifa* either and no redemption would be required.

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¹ The distinction presented follows a similar pattern to the explanation of the debate between the *Chachamim* and *R' Ilay* regarding *reishit ha'gez* in last week's article.

Revision Questions

חולין י"ב: ג' – ה'

- Once the eggs have hatched till when does the *mitzvah* apply? (י"ב: ג')
- What is the law of the mother bird returns? (י"ב: ג')
- Can one take the mother and shoo away the children? (י"ב: ג')
- What is the law if the eggs were taken, returned to the nest and the mother bird returned? (י"ב: ג')
- Explain the debate regarding the punishment for one that takes mother bird. (י"ב: ד')
- Can one take the mother bird for the purpose of purifying the *metzarah*? (י"ב: ה')
- What does the *Mishnah* learn from this *mitzvah* and its reward? (י"ב: ה')

בכורות א': א' – ב': ד'

- List the five ways, through dealing with a *Nochri*, one can be exempt from *peter chamor*? (From where is this law learnt?) (א': א')
- Are *Levi'im* obligated in *peter chamor*? (א': א')
- What principle does the *Mishnah* lay down for a kosher animal that gives birth to what appears to be a non-kosher animal and vice versa? (א': ב')
- Does that principle apply to the law of *peter chamor*? (א': ב')
- What is the law if a donkey's first birth is: (ג': א')
 - Twin males?
 - A male and female?
- What is the law if the product from two donkeys' first births was a total of a male and female? (ג': א')
- Regarding the previous case, what if one of the donkeys had given birth before? (א': ד')
- What animal is used to redeem a *peter chamor*? (ד': א')
- If this animal has a *mum* can it be used? (ד': א')
- If this animal is slaughtered can it be used? (ה': א')
- Explain the debate if the animal that was used for *peter chamor* was redeemed. (ו': א')
- Explain the debate if the *peter chamor* died after it was redeemed but before the *seh* was given to the *kohen*. (ו': א')
- What must one do if they do not wish to redeem the *peter chamor*? (ו': א')
- Which option takes precedence? (ז': א')
- Which three other *mitzvot* also have "options" and what is the precedence? (ז': א')
- List the five ways, through dealing with a *Nochri*, one can be exempt from *bechor*? (From where is this law learnt?) (א': ב')
- Are *Levi'im* obligated in *bechor*? (א': ב')
- What are the differences if an animal had a blemish, was sanctified and then redeemed or if an animal was sanctified, then developed a blemish and was then redeemed? (List seven.) (ב': ב'-ג')
- Which cases are the exceptions to the previous question? (ב': ב')
- What is the law regarding a first born animal from an animal sanctified for a *korban* but then developed a *mum*? (ג': ב')
- In which case does the *Tana Kama* and *R' Shimon ben Gamliel* argue whether the offspring from "iron sheep" belonging to a *Nochri*, has the status of a *bechor*? (ד': ב')

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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mishnahyomit.com/shiurim

Rabbi Chaim Brown
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http://www.dafyomi.co.il/calend
ars/myomi/myomi-thisweek.htm

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
8 March י"ב אדר	9 March י"ג אדר	10 March י"ד אדר	11 March ט"ו אדר	12 March ט"ז אדר	13 March י"ז אדר	14 March י"ח אדר
Bechorot 2:5-6	Bechorot 2:7-8	Bechorot 2:9-3:1	Bechorot 3:2-3	Bechorot 3:4-4:1	Bechorot 4:2-3	Bechorot 4:4-5

