Bechoros 37 – Good Morning Raboisai

1️⃣ Everyone Is Believed Regarding a Mum of Maaser Behemah

The Mishnah teaches:

הכל נאמנין על מומי מעשר

Everyone is believed to say that a Mum on an animal of Maaser Behemah happened naturally and was not deliberately created.

Why?

👉 The owner had an easier opportunity to create a Mum before the animal became Kadosh.

Before Maaser was designated, the animals were ordinary Chullin and there was no Issur of creating a Mum.

2️⃣ Why Not Just Blemish the Tenth Animal?

The Gemara asks:

👉 How would the owner know beforehand which animal will emerge tenth?

He cannot simply position a blemished animal at the front of the pen because:

לא יבקר בין טוב לרע

👉 One may not deliberately arrange the animals according to which are good or blemished for Maaser.

The answer:

If he really wanted to avoid the problem, he could have created Mumim throughout the flock before the Maaser process began.

Therefore, we do not suspect him of deliberately blemishing the Maaser animal afterward.

Who Can Rule on an Obvious Mum?

3️⃣ An Obvious Mum

The Mishnah discusses a Bechor with an unmistakable Mum, such as:

- It is blind.

- A front leg is missing.
- A rear leg is broken or missing.

These are obvious Mumim which do not require specialised expertise merely to recognise.

The Tanna Kama says:

👉 Three ordinary members of the community can permit the Bechor based on such a Mum.

4️⃣ Rebbi Yosi Requires a Mumcheh

Rebbi Yosi disagrees.

Even if the Mum appears completely obvious:

👉 A Mumcheh – an expert Chacham – is required.

Even twenty-three ordinary people cannot replace the Mumcheh.

The Machlokes is therefore not about whether the defect is obvious.

👉 It is about who has the authority to rule on it.

5️⃣ When Three Laymen Are Enough

The Gemara explains that three ordinary people may rule on an obvious Mum:

👉 When no Mumcheh is available.

But if a qualified expert is available:

👉 One should go to the Mumcheh.

The permission to use three laymen is not meant to bypass an available Chacham.

Hataras Nedarim

6️⃣ A Similar Rule by Nedarim

The Daf compares this to Hataras Nedarim.

A Neder may be released by:

👉 One qualified Chacham,

or, when such a Chacham is unavailable:

👉 Three ordinary people who understand the basic Halachos once they are explained to them.

They do not all need to be major Talmidei Chachamim.

7️⃣ Rebbi Yehudah's Requirement

Rebbi Yehudah is stricter regarding the group of three.

He requires:

👉 One of the three to be a Chacham.

The other two must at least be capable of understanding the relevant Halachos when they are explained.

The opposing view allows three suitable laymen when there is no Chacham available.

8️⃣ Halachah Is Not Like Rebbi Yosi

Rav Chanan says in the name of Rav:

👉 The Halachah is not like Rebbi Yosi.

Therefore, an obvious Mum does not always require a Mumcheh.

Where no Mumcheh is available:

👉 Three laymen can permit the Bechor.

9️⃣ Did Rav Teach the Same Halachah Twice?

The Gemara notices that Rav appears to have taught essentially the same ruling twice:

- Three people may permit a Bechor when no Mumcheh is available.
- The Halachah is not like Rebbi Yosi, who requires a Mumcheh.

Why would Rav repeat himself?

The Gemara explains:

👉 Rav may only have explicitly stated one of these teachings.

The other was then logically derived from it.

Therefore, there is no necessary repetition.

A Bechor Was Sold Without a Valid Mum

🔟 The Buyer Discovers the Truth

The Mishnah discusses a serious case.

A Bechor was sold as though it had a valid Mum and could be eaten.

The buyer ate some of the meat.

Later it was discovered:

👉 The Mum had never been properly established.

The buyer had unknowingly eaten meat that was forbidden to him.

1️⃣1️⃣ The Seller Returns the Money

The Mishnah rules:

👉 The seller must return the money.

Even regarding the meat that the buyer already ate:

👉 The buyer receives his money back.

What remains of the Bechor:

👉 Must be buried.

The buyer is not expected to pay for having eaten something that he never wanted to eat in its prohibited state.

Selling Treifah as Kosher

1️⃣2️⃣ The Same Principle Applies to Treifah

The Mishnah gives another example.

Someone sells meat as kosher.

Later:

👉 It is discovered to be Treifah.

The seller must refund the buyer.

If some meat remains:

👉 The buyer returns it.

If the buyer already sold the remaining Treifah meat to a non-Jew or fed it to dogs:

👉 That remaining value is taken into account.

Can Enjoyment Disappear Retroactively?

1️⃣3️⃣ “But He Enjoyed the Steak!”

The buyer may have eaten the entire steak and thoroughly enjoyed it.

Why should he receive his money back?

Because once he discovers that the food was something he considers disgusting or forbidden:

👉 His original Hana’ah can effectively be destroyed by the later knowledge.

The pleasure he experienced while eating is no longer considered the benefit he thought he was purchasing.

1️⃣4️⃣ Things a Person Is Disgusted to Discover He Ate

Rebbi Shimon distinguishes between foods where the discovery causes genuine disgust and foods where it merely creates a Halachic problem.

Examples of disgusting discoveries include:

👉 Neveilah and Treifah.

A person who discovers afterward that he ate such meat may feel that the entire eating was repulsive.

Therefore:

👉 The seller must refund him.

1️⃣5️⃣ Forbidden but Not Disgusting

Other foods may be prohibited without producing the same reaction.

Examples discussed include:

- Bechor meat whose Mum was not properly permitted.

- Tevel.
- Yayin Nesech.

The food itself may have been perfectly good.

👉 The buyer's objection is primarily its prohibited status rather than the physical food being repulsive.

This can affect whether the seller must refund the value of what was already consumed.

1️⃣6️⃣ Did the Buyer Cause the Seller a Loss?

The Gemara also considers whether eating the item actually caused the seller a financial loss.

For example, if the buyer ate the specific part containing the Mum:

👉 The seller may no longer be able to show the Mum to an expert afterward.

Similarly, with Tevel:

👉 Had the produce remained, Terumos and Maasros could potentially have been separated.

And prohibited wine may sometimes retain monetary value through permitted sale to a non-Jew.

Therefore, the financial calculation depends on:

👉 What could legally have been done with the item had the buyer not consumed it.

אלו מומין – The Mumim of Bechor

1️⃣7️⃣ Mumim of the Ear

The Daf begins the detailed discussion of Mumim.

Regarding the ear, the Mishnah includes:

👉 A missing piece of the cartilage.

👉 A split or crack.

👉 A hole of the required size.

👉 An ear that has dried out.

These can qualify as permanent Mumim.

1️⃣8️⃣ How Large Must a Crack Be?

For a split in the ear:

👉 Even a very small split can qualify.

The Gemara describes the Shiur as enough for the fingernail to catch on the defect.

The defect therefore does not need to be enormous.

1️⃣9️⃣ The Size of a Hole

A hole in the ear must reach a particular Shiur:

👉 Approximately the size of a Karshinah.

The Daf discusses the exact size and compares it with other small measurements.

2️⃣0️⃣ What Is a “Dried-Out” Ear?

The Tanna Kama defines an ear as sufficiently dried when:

👉 It can be pierced without producing blood.

Rebbi Yosi ben HaMeshulam gives a stronger description:

👉 It is so dry that when handled, it crumbles.

The Gemara examines whether these represent different Shiurim.

Where Do These Mumim Come From?

2️⃣1️⃣ The Torah Gives Examples

The Torah gives examples such as:

פסח או עור

👉 Lame or blind.

But the Mishnah lists many additional Mumim.

How do we know they are included?

The Gemara initially examines the Pesukim through the structure of:

👉 Klal U'Prat U'Klal.

2️⃣ 2️⃣ Klal U'Prat U'Klal

The Torah first speaks generally about a Mum.

It then gives specific examples:

👉 Lame and blind.

It then returns to a general expression:

👉 Kol Mum Ra – any bad Mum.

With a Klal U'Prat U'Klal:

👉 We include Mumim that resemble the examples given by the Torah.

2️⃣ 3️⃣ What Do Lame and Blind Have in Common?

The examples given by the Torah have important characteristics:

👉 They are clearly visible.

👉 They are permanent.

A blind eye will not regain its sight, and a missing limb will not regrow.

Therefore:

👉 A genuine Mum must resemble these characteristics.

2️⃣ 4️⃣ What About a Hole in the Ear?

A difficulty remains.

An animal with a small hole in its ear:

👉 Can still hear perfectly well.

The ear continues performing its normal function.

So it does not perfectly resemble blindness or a missing leg.

The Gemara therefore turns to another method of deriving the additional Mumim:

👉 Ribui – the Torah's broader language includes additional permanent defects.

Internal and Temporary Mumim

2️⃣5️⃣ Why Not Every Internal Defect?

If the Torah broadly includes Mumim, perhaps even every defect inside the mouth should qualify.

The Gemara explains:

👉 The Torah requires a significant Mum.

A defect hidden deep inside and not sufficiently apparent does not necessarily qualify.

This connects to the earlier discussion of defects in the gums and mouth.

2️⃣6️⃣ A Temporary Mum Is Not Enough

What if the animal has a defect that will heal?

For example:

👉 A temporary injury or broken limb that will recover.

This is not treated like the permanent Mumim described by the Torah.

A Mum that will disappear:

👉 Does not permanently remove the animal from its original status.

2️⃣7️⃣ Proof From Pidyon of Kodshim

The Gemara brings Pesukim concerning redemption of a Kadosh animal that becomes unfit for the Mizbeach.

The Torah's concept of a Baal Mum refers to:

👉 An animal that cannot return to being offered as a Korban.

A temporary condition that will heal:

👉 Is therefore insufficient.

And if such a defect cannot permit redemption of Kodshim:

👉 It cannot be enough to permit Shechitah of a Bechor either.

Human or Natural Mum

2️⃣ 8️⃣ Does It Matter How the Mum Happened?

Regarding the relevant Mumim, it does not matter whether the defect occurred:

👉 Bidei Adam – through human action,

or:

👉 Bidei Shamayim – naturally.

If it is a genuine qualifying Mum:

👉 The physical defect itself has the necessary status.

Of course, deliberately creating the Mum may create a separate prohibition or Knas, as discussed on the previous Dafim.

The Shiur of the Ear Defect

2️⃣ 9️⃣ Fingernail Test

For certain ear defects, the Gemara describes the minimum size:

👉 Enough for the fingernail to catch on the damaged area.

For a hole:

👉 The Shiur is the size of a Karshinah.

These measurements define when the physical defect is substantial enough to qualify as a Mum.

Retziah of an Eved Ivri

3️⃣ 0️⃣ A Tiny Hole Can Matter for a Kohen

The Gemara compares this to Retziah of an Eved Ivri.

An Eved Ivri who chooses to remain after his period of service:

👉 Has his ear pierced.

The piercing can be performed with various sharp instruments, including something as small as a needle.

But there is a problem if the Eved is a Kohen:

👉 Piercing his ear could make him a Baal Mum and disqualify him from Avodah.

3️⃣ 1️⃣ Two Different Shiurim

This seems difficult.

For a Bechor, we required a larger hole – the size of a Karshinah.

Yet a tiny needle hole can create a Mum in a Kohen.

The Gemara distinguishes:

👉 To permit a Bechor for Shechitah, Chazal require the larger Shiur.

But:

👉 To disqualify a Kohen from Avodah, even the smaller defect can be significant.

The standards are therefore not identical.

📌 Key Chazarah

- Everyone is believed regarding a Mum of Maaser Behemah because the owner could have blemished the animals before Kedushah.
- He cannot deliberately position a blemished animal to become the tenth because of Lo Yevaker Bein Tov L'Ra.
- An obvious Mum such as blindness or a missing limb can be ruled on by three laymen when no Mumcheh is available.
- Rebbi Yosi requires a Mumcheh even for an obvious Mum.
- The Halachah is not like Rebbi Yosi.
- Hataras Nedarim similarly can be performed by three suitable laymen when no Chacham is available.
- Rav did not necessarily repeat the same Halachah twice; one statement may have been derived from the other.
- If Bechor meat was sold as permitted and later found not to have a valid Mum, the seller may have to refund the buyer.
- A similar rule applies when Treifah was sold as kosher.

- Discovering afterward that one ate Neveilah or Treifah can destroy the original sense of Hana'ah.
- Rebbi Shimon distinguishes between foods that are genuinely disgusting to the buyer and foods that are merely prohibited.
- The financial calculation also depends on whether the consumed item still had permitted monetary value.
- Mumim of the ear include missing cartilage, a split, a sufficiently large hole and a dried-out ear.
- A crack can qualify when the fingernail catches on it.
- A hole has a Shiur of approximately a Karshinah.
- A dried ear can be defined by the absence of blood when pierced; Rebbi Yosi ben HaMeshulam describes an ear dry enough to crumble.
- The Torah's examples of blindness and lameness teach important characteristics of a Mum: it is visible and permanent.
- A temporary Mum that will heal is not sufficient.
- A genuine Mum may arise naturally or through human action, although deliberately creating it raises a separate issue.
- The Daf compares the ear of a Bechor with Retziah of an Eved Ivri and the Mumim that disqualify a Kohen.
- A smaller defect can disqualify a Kohen from Avodah than the Shiur required to permit a Bechor for Shechitah.

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