



## Kicking a Bechor in Self-Defence

The *Mishnah* (5:4) discusses a case where one was being chased by an animal that was a *bechor* and kicked that animal. The *Mishnah* teaches that if, because of the kick, the *bechor* developed a *mum* such that it could not be offered as a *korban*, the *kohen* can slaughter and consume the *korban* based on that *mum*. This is despite the fact that if one deliberately inflicted a *mum* on a *bechor*, violating a biblical prohibition, one would need to wait for another *mum* to develop to slaughter the *bechor*.

The *Gemara* (35a) records two different versions of *Rav Papa's* comment on the *Mishnah*. The first is that the rule of the *Mishnah* only applies if the person kicked the animal whilst being pursued, but not if he kicked the animal after the fact. Even though it might appear obvious, the novelty is that one might think that the reason he kicked the animal was because he was upset that he was attacked and not because he wanted to inflict a *mum*. Nonetheless, this *mum* cannot be the basis on which to slaughter the *bechor*. The other version of *Rav Papa's* comments is that even if he kicked the animal after the pursuit, the rule in the *Mishnah* still applies.

The *Rambam* (*Bechorot* 2:11) rules like the second version of *Rav Papa's* statement – the more lenient version – as does the *Ramban*. The *Rosh* cites the *Ramban* and asks how we can rule like the lenient version. Considering that the prohibition of deliberately inflicting a *mum* is biblical, one would expect that we rule stringently in this case.<sup>1</sup>

To explain the *Ramban*, the *Rosh* suggests that perhaps the reason is that even though inflicting a *mum* is biblically prohibited, the prohibition of consuming the animal based on the *mum* is rabbinic. The *Mahri Kurkus* elaborates that the only difference between the two versions of *Rav Papa* is whether the animal can be consumed if kicked after the attack. Considering that that is a rabbinic issue, there is no issue with ruling leniently.<sup>1</sup>

The *Pri Yitzchak* (I: 40) however cites the *Ohr Zaruah* who rules like the first, more stringent version of *Rav Papa*. He cites the reasoning of the *Rabbeinu Tam* that when the prohibition is biblical, we rule like the more stringent version. The *Pri Yitzchak* however cites the suggestion of the *Rosh* and asks that the issue at hand, whether the animal can be consumed based on the *mum*, is rabbinic. Consequently, there should be no reason not to rule leniently. The *Pri Yitzchak* therefore explains that according to the *Ohr Zaruah*, since the core doubt relates to prohibition of inflicting a blemish – which is biblical – he rules stringently. This is even though the practical ramification is rabbinic.

The *Pri Yitzchak* continues by returning to the *Rambam* and *Ramban*. It is not certain that their reason for ruling leniently is because they understand that the issue is rabbinic. Instead, they might simply follow the principle that when two versions are cited in the *Gemara* we rule like the second understanding.<sup>2</sup>

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<sup>1</sup> The *Korban Asham* answers that the *Gemara* was referring to the *bechor* nowadays, where the prohibition of inflicting a *mum* is rabbinic. The *Pri Yitzchak* however understands from the *Rosh's* questions that even today the prohibition is biblical.

<sup>2</sup> The *Pri Yitzchak* explains that this indeed is the practice of the *Rambam* and other *Achronim*, where as he leaves it as a suggestion when considering the position of the *Ramban*.

## Revision Questions

בכורות ה' ד' – ו' י"א

- What is the law if a person inflicted a blemish to a *bechor* in "self-defence"? (ה' ד')
  - What are the three opinions regarding the trustworthiness of a shepherd regarding a blemish on a *bechor* that could have been inflicted by a human? (ה' ד')
  - Is a *kohen* trusted to say that he showed the blemish to an expert checker? (ה' ה')
  - Explain the debate regarding the required proficiency of those required to check a *bechor* whose front leg was severed. (ה' ה')
  - What is the law if one purchased a slaughtered *bechor* (that had a blemish), consumed some, and then it was discovered that the *bechor* was never shown to an expert? (ה' ו')
  - What other case is brought that is similar to the previous question and what is the law regarding that case? (ה' ו')
  - A wound to which part of the ear of a *bechor* would render it a *ba'al mum*? (ו' א')
  - What are the two opinions of the definition of a "dried ear" that is defined as a *mum*? (ו' א')
  - Name three types of *mumin* of the eyelid? (ו' ב')
  - What is the meaning of the term *tevalul*? (ו' ב')
  - According to *R' Channinah ben Antigonus*, how many times must a watery eye be examined in an eighty day period? (ו' ג')
  - What food must be eaten in order to prove that water in the eye is a lasting blemish? (ו' ג')
  - Is a pierced nose on an animal considered a blemish? (ו' ד')
  - Explain the *machloket* between *Tana Kama* and *R' Channinah ben Antigonus* regarding inspecting the gums for blemishes? (ו' ד')
  - If the tail of an animal is mutilated between the joints is that considered a blemish? (ו' ה')
  - If the top end of the tail is mutilated and bone is showing, is that considered a blemish? (ו' ה')
  - Is the following considered a blemish –
    - Five legs?
    - Three legs? (ו' ז')
  - Explain the term *shahul*? (ו' ז')
  - Explain the term *kasul*? (ו' ז')
  - What blemish did *Ila* enumerate which the *Chachamim* agreed with? (ו' ח')
  - What three blemishes did *Ila* enumerate which the *Chachamim* had not heard? (ו' ח')
  - If the ear of a kid is doubled and has one bone, is that considered a blemish? (ו' ט')
  - If the tail of a kid is like that of a pig or does not have three segments is it a blemish? (ו' ט')
  - Name three things that are blemishes and need not be measured? (ו' י')
- To which part of the animal's body must the tail reach to not be considered a blemish? (ו' י"א)

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21 December א' טבת	22 December ב' טבת	23 December ג' טבת	24 December ד' טבת	25 December ה' טבת	26 December ו' טבת	27 December ז' טבת
Bechorot 6:12-7:1	Bechorot 7:2- 3	Bechorot 7:4- 5	Bechorot 7:6- 7	Bechorot 8:1- 2	Bechorot 8:3- 4	Bechorot 8:5- 6

