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Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Sun, Jun 5 2022 ■ ו' סיון תשפ"ב
סימן תצ"ח סעיף ט'-י'

Overview

Siman 498 Seif 9:

A bechor nowadays that cannot be slaughtered without a blemish may not be examined on Yom Tov by a Torah scholar to determine whether it is blemished. Even if the Torah scholar violated the halacha and examined the bechor and discovered that it indeed does have a blemish, it may not be slaughtered. If the bechor was born blemished and the Torah scholar examined it and confirmed that it is blemished, it may be slaughtered. If the animal was examined before Yom Tov and the Torah scholar confirmed it was blemished he may inquire on Yom Tov if the blemish developed on its own and if so permit it for slaughter. If a bechor falls into a pit it is prohibited to bring it out since it is prohibited to slaughter it. One should instead provide it with food where it is in the pit.

- It doesn't matter whether the blemish developed on Yom Tov or not, the animal may not be examined since it appears as though one is "repairing" – מתקן — which is prohibited on Yom Tov. (M.B. 50)
- It is permitted to examine the animal and research the halacha as long as one does not issue a ruling to others. (M.B. 51)
- The reason the bechor may not be slaughtered is that it is muktzah since one never expected to be able to slaughter the bechor on Yom Tov. Poskim explain that this prohibition applies even according to those who maintain that the injunction of muktzah does not apply on Yom Tov. (M.B. 52)
- Shulchan Aruch refers to a bechor that was born blemished on Yom Tov and is not muktzah since before Yom Tov it was fit for consumption as part of its mother. See Biur Halacha for the halacha if it was born on Yom Tov unblemished and then developed a blemish. (M.B. 53)
- In other words he researched that the blemish is permanent but did not inquire whether the owner was negligent in causing the blemish. Research about this point is permitted on Yom Tov. (M.B. 54)
- Moving an animal that will not be slaughtered is prohibited. (M.B. 55)

Siman 498 Seif 10:

If an animal and its offspring fell into a pit one may remove one animal with the intent to slaughter it and then decide not to slaughter that animal. Afterwards one may employ subterfuge and remove the second animal and then slaughter either animal.

- Animals, in general, may be removed even though one does not slaughter it since it is fit to be slaughtered and may become needed later on but when it comes to an animal and its offspring one of them may not be slaughtered and moving it would involve a violation of muktzah and thus the subterfuge is necessary. (M.B. 57)
- The use of subterfuge is permitted because the animal would otherwise suffer and in order to prevent a loss. (M.B. 58)
- The implication is that one of the animals must be slaughtered. Many Poskim, however, maintain that one may choose not to slaughter either one but Rashba contends that one should be slaughtered so that the subterfuge is not so evident. (M.B. 59)

Halacha Highlight

Slaughtering a bechor on Yom Tov

Shulchan Aruch Siman 498 Seif 9

אבל אם נולד במומו

But if it was born blemished

Shulchan Aruch (סע' ט') rules that nowadays that one may not slaughter a bechor unless a Torah scholar examines it and confirms that it has a permanent blemish, it is prohibited for a Torah scholar to examine a bechor to confirm that the blemish is permanent. The rationale behind this halacha is that by ruling that the bechor is blemished it appears as though one is fixing the animal (מתקן) which is prohibited on Yom Tov (מ"ב סק"נ). Even if a Torah scholar examined the animal in violation of halacha, the animal may not be slaughtered since it is muktzah (מ"ב סק"ק נ"ב). If, however, the animal was born on Yom Tov with a blemish and a Torah scholar examined the blemish the bechor may be slaughtered on Yom Tov. The reason the bechor is not muktzah in this case is that at the onset of Yom Tov the, not yet born, bechor was fit to be consumed as part of its mother. Since the bechor is not muktzah and a Torah scholar confirmed that the animal is permanently blemished it may be slaughtered.

Biur Halacha (ד"ה אבל אם נולד) presents a debate regarding a bechor that was born on Yom Tov unblemished but developed a blemish on that day. Pri Chadash asserts that according to the position that maintains that an item cannot be muktzah for part of Shabbos, the bechor may be slaughtered. Since it was inside of its mother at the onset of Yom Tov it cannot be muktzah being that items cannot be muktzah for part of Shabbos and once the Torah scholar examined the blemish and confirmed that it is permanent there is no restriction that remains that prevents one from slaughtering the bechor. Biur Halacha disagrees with this conclusion and cites Meiri who maintains that there is a category called דחוי גמור—something that was permanently rejected and that category of muktzah can apply even for part of the day. Based on Meiri's comments it seems that Biur Halacha rejects Pri Chadash's position.