

גָּמַר בְּשׁוֹלֵייהוּ – חֲזוּ לְהוּ.

אָמַר לִיה אָבִי: וְלִטְעֵמִיךָ, תִּקְשֵׁי לְךָ קִדְרוֹת דְּעֵלְמָא: דְּהָא סְתָם קִדְרוֹת דְּעֵלְמָא בֵּין הַשְּׂמֻשׁוֹת רוֹתְחוֹת הֵן, וְלֹא וְרָתָא אֶכְלִינָן מִיַּמְיָהוּ.

אֵלָּא, גָּמַר בְּיַדֵּי אָדָם – לֹא קָא מִבְּעֵיָא לֵן, כִּי קָא מִבְּעֵיָא לֵן – גָּמַר בְּיַדֵּי שְׁמַיָּם.

רַבִּי יְהוּדָה נְשִׂיאָה הוּוּ לִיה הָהוּא בּוֹכְרָא, שְׂדֵרִיָּה לְקַמְיָה דְּרַבִּי אָמִי. סָבַר דְּלֹא לְמַחְזִיגָהּ. אָמַר לִיה רַבִּי זְרִיקָא, וְאִיתִימָא רַבִּי יִרְמְיָה: רַבִּי יְהוּדָה וְרַבִּי שְׁמַעוֹן – הֲלֵכָה כְּרַבִּי יְהוּדָה. הֲדַר שְׂדֵרִיָּה לְקַמְיָה דְּרַבִּי יִצְחָק נִפְתָּח; סָבַר דְּלֹא לְמַחְזִיגָהּ. אָמַר לִיה רַבִּי יִרְמְיָה וְאִיתִימָא רַבִּי זְרִיקָא: רַבִּי יְהוּדָה וְרַבִּי שְׁמַעוֹן – הֲלֵכָה כְּרַבִּי יְהוּדָה.

אָמַר לִיה רַבִּי אָבָא: מַאי טַעֲמָא לָא שְׂבִקְתִּינְהוּ לְרַבְנָן לְמַעַבְדַּ עוֹבְדָא כְּרַבִּי שְׁמַעוֹן? אָמַר לִיה: וְאֵת מַה בִּידְךָ? אָמַר לִיה: הֲכִי אָמַר רַבִּי זְרִיקָא: הֲלֵכָה כְּרַבִּי שְׁמַעוֹן.

אָמַר מֵאן דְּהוּא: אֲזִיבִי וְאֶסֶק לְהֵתָם, וְאֶגְמְרָה לְשְׁמַעְתָּא מִפּוּמִיָּה דְּמָרָה. כִּי סָלִיק לְהֵתָם אֲשַׁכְחִיָּה לְרַבִּי זְרִיקָא. אָמַר לִיה: אָמַר מִן הֲלֵכָה כְּרַבִּי שְׁמַעוֹן? אָמַר לִיה: לֹא. אֲנָא מִסְתַּבְּרָא אָמְרִי.

מִדְּקִתְנִי בְּמִתְנִיתִין: רַבִּי שְׁמַעוֹן אָמַר: כָּל שְׂאִין מוּמּוֹ נִיבָר מִבְּעוֹד יוֹם – אִין זָה מִן הַמוּכָן, וְקִתְנִי לָהּ בְּבִרְיָתָא בְּלִשׁוֹן חֲכָמִים – שְׁמַע מִינָהּ: מִסְתַּבְּרָא פְּוִתִּיָּה.

And then when their cooking is finished, they once again become fit for eating. This demonstrates that even food that had temporarily been set aside because it had become inedible does not remain prohibited for the entire day.

Abaye said to him: And according to your reasoning that foods are temporarily considered *muktze* while being cooked, cooked dishes in general present a difficulty for you on Shabbat as well. As ordinary cooked dishes in general are still bubbling at twilight and not yet edible, and yet we partake of them later in the evening. This demonstrates that although the food was considered *muktze* at the critical moment of twilight, it is not prohibited for the duration of Shabbat.

Rather, it must be that we have no dilemma with regard to a food whose completion, which brings it to its finished and edible form, is entirely in the hands of a person, e.g., beans and lentils. Such foods are certainly not considered as *muktze* for all of Shabbat simply because they had become temporarily unfit for eating. Where we have a dilemma is with regard to an item whose completion is in the hands of Heaven, such as figs and grapes, which dry by the heat of the sun. This dilemma remains unresolved.

§ The Gemara returns to the issue of permitting firstborn animals. Rabbi Yehuda Nesia had a firstborn animal that acquired a blemish on a Festival, and he wished to serve it to priests staying at his house. He sent it to be presented before Rabbi Ami for examination, and Rabbi Ami thought that he should not examine it, in accordance with the opinion of Rabbi Shimon. Rabbi Zerika said to him, and some say it was Rabbi Yirmeya: The principle is that in cases of dispute between Rabbi Yehuda and Rabbi Shimon, the *halakha* is in accordance with the opinion of Rabbi Yehuda, who in this case permits examination of the firstborn. Rabbi Yehuda Nesia then sent the firstborn to be presented before Rabbi Yitzhak Nappaḥa, who likewise thought that he should not examine it. Rabbi Yirmeya said to him, and some say it was Rabbi Zerika: The principle is that in cases where Rabbi Yehuda and Rabbi Shimon disagree, the *halakha* is in accordance with the opinion of Rabbi Yehuda.<sup>N</sup>

Rabbi Abba said to Rabbi Yirmeya: What is the reason that you did not allow the Sages to act in accordance with the opinion of Rabbi Shimon? He said to him: And you, what do you have? Do you have a tradition that the *halakha* is in accordance with the opinion of Rabbi Shimon? Rabbi Abba said to him that Rabbi Zeira said as follows: The *halakha* in this case is in accordance with the opinion of Rabbi Shimon.

The Gemara relates that a certain unidentified person in Babylonia said:<sup>N</sup> May it be His will that I merit to go up there to Eretz Yisrael, and that I learn this teaching from the mouth of its Master; I will ask Rabbi Zeira himself for his opinion on this matter. When he went up there to Eretz Yisrael, he found Rabbi Zeira and said to him: Did the Master say that the *halakha* is in accordance with the opinion of Rabbi Shimon? Rabbi Zeira said to him: No, that is not what I said; rather, I said: It stands to reason<sup>N</sup> that this is so. It is reasonable to rule in accordance with Rabbi Shimon on this issue, although I do not have a definitive tradition to this effect.

Rabbi Zeira explains: Why do I think so? From the fact that it teaches in the mishna that Rabbi Shimon says: Any firstborn animal whose blemish is not perceptible while it is still day is not considered to be among the animals prepared prior to the Festival for use on the Festival. And a *baraita* taught the same ruling in the name of the Sages, indicating that this is the majority opinion. One should therefore learn from this that it stands to reason that the *halakha* is ruled in accordance with the opinion of Rabbi Shimon.

NOTES

Permitting firstborns on Festivals – הַתֵּרַת בְּכוֹרוֹת – בְּיּוֹם טוֹב: Similar discussions and questions are found in the Jerusalem Talmud. It is related there that the Sages were inclined to rule in accordance with Rabbi Meir, based on the usual principles with regard to halakhic decision making, until a *baraita* was cited in the name of bar Kappara that indicated that the *halakha* is in accordance with the opinion of Rabbi Shimon. It is possible that this is the same *baraita* cited here, which mentions Rabbi Shimon ben Menasya.

A certain person said – אָמַר מֵאן דְּהוּא: When the Gemara uses the phrase: A certain person, it usually means that the name of the person is completely unknown. However, some explain that here it is referring to one of the aforementioned Sages, Rabbi Yirmeya or Rabbi Zerika, who wished to question the author of this teaching directly (Rashash). The reading in the *Meiri* similarly ascribes the statement explicitly to Rabbi Yirmeya.

I said it stands to reason – מִסְתַּבְּרָא אָמְרִי: There are various levels of halakhic rulings, ranging from an absolute ruling issued to the public, to one that is given only to individuals, to a custom to follow a particular approach, or an inclination to favor a certain opinion. Rabbi Zeira's statement likewise displays a measure of reservation; although he was inclined to accept that opinion, he had no proof that it was the correct ruling (see *Bigdei Yom Tov*).

A firstborn... was slaughtered without the permission of an expert – בכור... וְנִשְׁחַט שְׂלֵא עַל פִּי מוֹמֵחַ – If one slaughters a firstborn without the permission of a Sage, then even if afterward he shows it to a Sage who confirms that it has a permanent blemish, it is prohibited. If an expert examines his own firstborn despite not being allowed to do so, the *halakha* is not stringent after the fact (*Pithei Teshuva*). If one cooks the meat of this improperly permitted animal, the pot that is used becomes prohibited for use and must be rendered kosher again. Nowadays, no one individual has the requisite expertise to examine animals, and animals are permitted by three people, who are considered like a Sage for the purposes of this *halakha* (*Pithei Teshuva*; *Shulhan Arukh*, *Yoreh De'a* 310:1).

NOTES

The examination of a firstborn when it is alive – ראיית בכור מחיים: Several justifications have been offered for this distinction between a firstborn and a *tereifa*. One explanation is that the presumptive status of a firstborn is that it is prohibited, as opposed to an animal being examined to determine whether or not it is a *tereifa*, whose initial presumptive status, once it has been properly slaughtered, is that it is permitted. According to the Rambam, the concern with regard to the possible desecration of the Festival applies only in the case of a firstborn (see *Bigdei Yom Tov*). Furthermore, the examination of a firstborn has monetary implications as well, as the Sage not only permits a prohibited item but also turns something that had been sacred property, i.e., an unblemished firstborn, into non-sacred property. His ruling therefore constitutes a civil judgment (see *Mahatzit HaShekel*).

A penalty and a decree – קנס וגזירה: The authorities disagree over whether this should be seen as a penalty imposed by Rabbi Meir or as a decree that he issued. This has practical significance in that there is a principle that the *halakha* is ruled in accordance with the opinion of Rabbi Meir with regard to his decrees but not his penalties. The difference is that a decree involves a prohibition against performing an action *ab initio* lest it lead one to violate a more serious prohibition, whereas a penalty addresses an improper action that has already been performed (see *Sefat Emet*).

מאי הוי עלה? אמר רב יוסף: תא שמע דתליא באשלי רבבי: דאמר רבי שמעון בן פוי אמר רבי יהושע בן לוי אמר רבי יוסי בן שאול אמר רבי משום קהלא קדישא דבירושלים, רבי שמעון וחבריו אמרו: הלכה ברבי מאיר.

אמרו: והא אינהו קשישי מניה טובא. אלא: בשיטת רבי מאיר אמרוה.

דתנן: השוחט את הבכור ואחר כך הראה את מומו, רבי יהודה מתייר, ורבי מאיר אומר: הואיל ונשחט שלא על פי מומחה – אסור. אלא: קסבר רבי מאיר ראיית בכור – לאו פראיית טרפה. ראיית בכור – מחיים, ראיית טרפה – לאחר שחיטה.

ומינה, ראיית טרפה – אפילו ביום טוב, ראיית בכור – מערב יום טוב.

אמר ליה אבוי: אטו התם ברואין מומין פליגי? בקנסא פליגי. דאמר רבא בר בר חנה אמר רבי יוחנן: בדוקין שבועין – כולי עלמא לא פליגי דאסור, משום דמשתנין.

כי פליגי – במומין שבגוף. רבי מאיר סבר: גזרינן מומין שבגוף אטו מומין שבועין, ורבי יהודה סבר: לא גזרינן.

אמר רב נחמן בר יצחק: מתניתין נמי דיקא, דקתני: רבי מאיר אומר: הואיל ונשחט שלא על פי מומחה אסור, שמע מניה: קנסא הוא דקא קניס, שמע מניה.

The Gemara asks: In the final analysis, what conclusion was reached about this matter? Whose opinion does the *halakha* follow? Rav Yosef said: Come and hear, as this matter hangs on great trees, meaning it is the subject of a dispute among the early Sages. As Rabbi Shimon ben Pazi said that Rabbi Yehoshua ben Levi said that Rabbi Yosei ben Shaul said that Rabbi Yehuda HaNasi said in the name of the holy community in Jerusalem: Rabbi Shimon ben Menasya and his colleagues said that the *halakha* is in accordance with the opinion of Rabbi Meir.

The Gemara wonders at the wording of this report: How could the holy community in Jerusalem have reported that Rabbi Shimon ben Menasya and his colleagues said that the *halakha* is in accordance with the opinion of Rabbi Meir? Aren't they much older than he? Why, then, would they have reported a *halakha* in his name? The Gemara answers: Rather, the holy community in Jerusalem said the following: Rabbi Shimon ben Menasya and his colleagues, who said that one may not examine blemishes on a Festival, spoke in accordance with the opinion of Rabbi Meir.

To which teaching of Rabbi Meir is the Gemara referring? It is as we learned in a mishna (*Bekhorot* 28a): If one slaughtered a firstborn before it was shown to a Sage and deemed permitted, and afterward he showed its blemish to a Sage, who confirmed that it was indeed a permanent blemish that permitted the animal to be slaughtered, Rabbi Yehuda permits it, as it had been established that the animal was blemished. And Rabbi Meir says: Since it was slaughtered without the permission of an expert,<sup>h</sup> it is prohibited. Apparently Rabbi Meir holds that the examination of a firstborn is not as simple a process as the examination of a *tereifa*, since it involves more than a mere examination of the body of the animal. The examination of a firstborn must be conducted when the animal is alive,<sup>n</sup> whereas the examination of a *tereifa* may be performed even after slaughtering.

And from this Rabbi Shimon ben Menasya and his colleagues inferred that the examination of a *tereifa*, which consists merely of clarifying the facts of the animal's physical state, may be done even on a Festival. On the other hand, the more stringent examination of a firstborn, which can be likened to the rendering of a judgment, a process with principles of its own, must be performed on the eve of the Festival.

Abaye said to Rav Yosef: Is that to say that there, in that mishna, Rabbi Yehuda and Rabbi Meir disagree about whether or not one may examine blemishes on a Festival? That was not their dispute; rather, they disagree with regard to the question of whether or not there is a penalty for one who acted improperly. As Rabba bar bar Hana said that Rabbi Yoḥanan said: If the blemish was in the eyelids, e.g., if a fissure developed there that disqualifies the animal, everyone, including Rabbi Meir, agrees that the animal is prohibited, because such a blemish changes its appearance after the slaughter. It is possible that after slaughter what was a temporary blemish will then look like a permanent one, and the animal will incorrectly be permitted retroactively.

When they disagree is in a case of blemishes in the body, e.g., if an ear had been cut off or a foreleg broken, which are prominent blemishes whose appearance does not change after death. Rabbi Meir holds that we issue a decree<sup>n</sup> that blemishes in the body are prohibited due to blemishes in the eye, and Rabbi Yehuda holds that we do not issue such a decree.

Rav Naḥman bar Yitzḥak said: The wording of the mishna in tractate *Bekhorot* is also precise according to this explanation, as it teaches that Rabbi Meir says: Since it was slaughtered without the permission of an expert who confirmed that this is a permanent blemish, it is prohibited. Learn from this that this is a penalty that Rabbi Meir imposes and nothing else. The Gemara concludes: Indeed, learn from this that this is the correct understanding of the mishna.

Ami of Vardina – אַמִּי וַרְדִּינָא: Ami of Vardina is mentioned in several places in the Talmud. According to Rashi, he is also known as Ami the Handsome [*Shefir Na'eh*], which is possibly a translation of Vardina or an analogous name. The position of the examiner of firstborns, an expert in the *halakhot* of firstborns, was considered an important one in earlier generations, as it required considerable familiarity with the nature of animals as well as extensive knowledge of *halakha*.

אַמִּי וַרְדִּינָא חָזִי בּוֹכְרָא דְבֵי נְשִׂאָה הָוּהּ, בְּיוֹמָא טָבָא לָא הָוּה חָזִי. אֲתוּ וְאָמְרוּ לֵיהּ לְרַבִּי אַמִּי. אָמַר לְהוֹ: שְׁפִיר קָא עֲבִיד דְלָא חָזִי. אֵינִי? וְהָא רַבִּי אַמִּי גּוֹפִיָה חָזִי. רַבִּי אַמִּי, כִּי חָזִי – מֵאֲתָמוּל הָוּהּ חָזִי.

**S** The Gemara relates that Ami of Vardina<sup>p</sup> was the examiner of firstborns in the household of the *Nasi*. On Festivals he would not examine firstborn blemishes. They came and told Rabbi Ami about this. He said to them: He does well not to examine them. The Gemara raises an objection: Is that so? But didn't Rabbi Ami himself examine firstborns for blemishes on a Festival? The Gemara answers: When Rabbi Ami would examine the blemishes of firstborns, it was on the day before the Festival that he would examine them, to see whether the blemishes were permanent or temporary.

## Perek III

## Daf 27 Amud b

וּבְיוֹם טוֹב שְׂוִילֵי קָא מְשַׁיִל הֵיכִי הָוּהּ עוֹבְדָא. כִּי הָא דְהָוּא גְבָרָא דְאֵייתִי בּוֹכְרָא לְקַמֵּיהּ דְרַבָּא אֲפֵנְיָא דְמַעְלֵי יוֹמָא טָבָא, הָוּהּ יֹתֵב רַבָּא וְקָא חִיף רִישָׁיהּ, דְלִי עֵינָיהּ וְחִוּיָהּ לְמוֹמִיָהּ. אָמַר לֵיהּ: זִיל הָאִידְנָא וְתָא לְמַחָר.

And on the Festival itself he would ask<sup>h</sup> only how the incident occurred, meaning that he would investigate the cause of the blemish, as in that case where a certain man who was a priest brought a firstborn before Rava, close to nightfall on a Festival eve. Rava was sitting and washing the hair on his head. He raised his eyes and saw the firstborn's blemish. He then said to the owner of the firstborn: Go now, and come back tomorrow.

כִּי אֲתָא לְמַחָר אָמַר: הֵיכִי הָוּהּ עוֹבְדָא? אָמַר לֵיהּ: הָוּהּ שְׂדֵיין שְׁעָרֵי בְּהַךְ גִּיסָא דְהוּצָא, וְהוּהּ אִיהוּ בְּאִידֶךָ גִּיסָא. בְּהַדִּי דְבָעֵי לְמִיכַל עֵייל רִישָׁיהּ וּפְרֻטִיהּ הוּצָא לְשַׁפּוֹתֶיהּ. אָמַר לֵיהּ: דְלָמָא אֲתָ גְרַמְתָּ לֵיהּ? אָמַר לֵיהּ: לָא.

When he came back on the following day, Rava said to him: How did the incident that caused the blemish occur? The owner said to Rava: Barley grains were scattered on one side of a fence of thorns, while the firstborn was standing on the other side. When it wanted to eat, it stuck its head through the fence and a thorn cut its lip. Rava said to the owner: Perhaps you caused the blemish by deliberately placing the barley on the other side of the fence? He said to him: No.

וּמִנָּא תִּימְרָא דְגְרַמָּא אָסוּר – דְתַנְיָא: "מוֹם לֹא יִהְיֶה בּוֹ", אֵין לִי אֶלְאָ שְׁלֹא יִהְיֶה בּוֹ מוֹם, מִנֵּין שְׁלֹא יִגְרוֹם לוֹ עַל יְדֵי דְבַר אַחֵר, שְׁלֹא יִבְיֵא בְצֶעַק אוֹ דְבַלְהָ וְיִנְחַח לוֹ עַל גְּבִי הָאָזְן כְּדִי שְׂיָבֵא הַכֶּלֶב וְיִטְלֶנוּ – תְּלַמּוּד לּוֹמַר "כָּל מוֹם", אָמַר "מוֹם" וְאָמַר "כָּל מוֹם".

The Gemara comments: And from where do you say that causing a blemish to an offering is prohibited? As it is taught in a *baraita*: It is written with regard to offerings: "There must not be any blemish in it" (Leviticus 22:21). I have only an explicit prohibition that it may not have a blemish; from where is it derived that one may not cause a blemish to it by means of something else, e.g., that he does not bring dough or a dried fig and place it on its ear so that a dog will come<sup>n</sup> and take it, thereby biting off part of the animal's ear and leaving it blemished? Therefore the verse states "any blemish." It says "blemish" and it says "any blemish"; the word "any" comes to teach that one may not cause a blemish.<sup>hN</sup>

## HALAKHA

On a Festival one may ask – בְּיוֹם טוֹב שְׂוִיל: If a Sage examines the blemish of a firstborn before a Festival and determines that it is one that could permit the animal to be slaughtered, he may investigate on the Festival itself whether the blemish had developed on its own, and permit it at that stage (*Shulhan Arukh, Orah Hayyim 498:9*).

Causing a blemish in a firstborn – גְּרִימַת מוֹם לְבָכוֹר: It is prohibited to inflict a blemish on a firstborn, even in the case of an uncertain firstborn (*Arukh HaShulhan*), and one who does so is liable to receive lashes. It is likewise prohibited to indirectly cause the animal to develop a blemish. If one does so, or if he instructs a gentile to inflict a blemish, the firstborn may not be slaughtered on the basis of that blemish; rather, one must wait until it develops a different blemish. If the animal is slaughtered based on the first blemish, the meat is permitted after the fact (*Shakh; Shulhan Arukh, Yoreh De'a 313:1*).

## NOTES

So that a dog will come – כְּדִי שְׂיָבֵא הַכֶּלֶב – Although dogs do not usually eat dough, which means it is unlikely that one will come and take it along with a piece of the animal's ear, the Sages were nevertheless concerned about this possibility due to the severity of the prohibition against intentionally causing a blemish to such an animal (*Rashash*).

Checking the blemishes of firstborns – בִּיּוֹר מוֹמֵי בָכוֹר: When a firstborn is born in a Jew's flock or herd, the owner of the animal should care for it for up to three months and then give it

to a priest. Following the destruction of the Temple, the priests could do nothing with the animal until it developed a blemish; consequently they became suspected of inflicting or indirectly causing blemishes to such animals, so that they could benefit from them. The Sages therefore decreed that when a blemish develops, the priest must bring witnesses to attest that it occurred on its own. The early authorities address the question of whether witnesses must also come and testify that it was not caused by a person (see *Meiri*).



**Halla** that became ritually impure – חלה: See Rashi to *Tosafot*, who ask why the *halla* may not be used as fuel or given to the priest's animal, as is the *halakha* with regard to *teruma*, *teruma* being the priest's property, to be eaten when pure and used for other purposes when impure. Rashi seems to indicate that it is prohibited to burn *teruma* and sacred objects on a Festival, even for one's own benefit (see Rabbi Ovadya Bartenura). Others suggest that this prohibition is similar to the general prohibition against deriving benefit from *nolad*, an item or situation that came into being on Shabbat or a Festival. Since the *halla* was previously fit for human consumption and is now suitable only for fuel or animal food, it is similar to an animal that died, and it is therefore prohibited to move it due to the prohibition of *nolad* (Rabbi Aharon HaLevi).

Let us say that we learned the unattributed mishna not in accordance with Rabbi Shimon – לימא תגן סתמא דלא כרבי שמעון: The early authorities point out that this fits well with the discussion in the Gemara, since it has been established that Rabbi Yehuda HaNasi was stringent with regard to Festivals and ruled in accordance with Rabbi Yehuda concerning the issue of *muktze*. In fact, Rabbi Aharon HaLevi holds that this is not to be read as a question but as confirmation that this is indeed the case. The author of the *Shitta Mekubbetzet* explains the question as follows: If the mishna is not in accordance with the opinion of Rabbi Shimon, why didn't the Gemara at the beginning of the tractate cite it as proof that Rabbi Yehuda HaNasi rules in accordance with the opinion of Rabbi Yehuda with regard to Festivals?

Rabbi Shimon was in disagreement – חלוק: According to this approach, Rabbi Shimon deems *muktze* only items that a person actively set aside from use, e.g., drying figs and raisins, but not other items (Rashba).

#### HALAKHA

**Teruma** that became ritually impure – תרומה: *Teruma* or *halla* that becomes ritually impure on a Festival is *muktze* and may not be moved (Rambam *Sefer Zemanim, Hilkhot Yom Tov* 2:16).

An animal that died on a Festival – בהמה שמתה: With regard to an animal that dies on a Festival, if it was dangerously ill beforehand, it may be moved and cut up for dogs. If it was not dangerously ill, it is considered *muktze* and may not be moved, as the *halakha* is in accordance with the opinion of Rabbi Yehuda with regard to *muktze* on a Festival (*Shulhan Arukh, Orach Hayyim* 518:6).

**מתני'** בהמה שמתה – לא זיזנה ממקומה. ומעשה ושאלו את רבי טרפון עליה, ועל החלה שנטמאת, ונכנס לבית המדרש ושאל. ואמרו לו: לא זיזים ממקומם.

**גמ'** לימא תגן סתמא דלא כרבי שמעון, (דהגן) רבי שמעון אומר: מחתכין את הדלועין לפני הבהמה, ואת הנבלה לפני הקלבים. רבי יהודה אומר: אם לא היתה נבלה מערב שבת – אסורה.

אפילו תימא רבי שמעון, מודה רבי שמעון בבבלי חיים שמתו, שאסורין.

הניחא למר בר אממר משמיה דרבא, דאמר: מודה היה רבי שמעון בבבלי חיים שמתו שאסורין – שפיר. אלא למר בריה דרב יוסף משמיה דרבא, דאמר: חלוק היה רבי שמעון אפילו בבבלי חיים שמתו שמוותרים, מאי איכא למימר?

תרגומה ועירי בבהמת קדשים. דיקא נמי דקתני: עליה ועל החלה שנטמאת. מה חלה – דקדישא, אף בהמה – דקדישא.

אלא טעמא – דקדישא, הא דחולין – שריא. הניחא למר בריה דרב יוסף משמיה דרבא, דאמר חלוק היה רבי שמעון אף בבבלי חיים שמתו שמוותרין – שפיר. אלא למר בר אממר משמיה דרבא, דאמר: מודה היה רבי שמעון בבבלי חיים שמתו שאסורין, מאי איכא למימר?

**MISHNA** With regard to an animal that died, one may not move it from its place on a Festival. And such an incident once occurred and they asked Rabbi Tarfon about it. And on that same occasion they also asked him about *halla* that had been separated from dough and then became ritually impure on a Festival.<sup>N</sup> Such *halla* is not fit to be eaten by anyone, nor may it be used in any other manner, e.g., as animal feed or as fuel for a fire, on that day. Rabbi Tarfon entered the study hall and inquired about these matters, and the Sages said to him: One may not move them from their place.<sup>H</sup>

**GEMARA** The Gemara suggests: Let us say that we learned the unattributed mishna not in accordance with the opinion of Rabbi Shimon.<sup>N</sup> As we learned in a mishna (*Shabbat* 156b) that Rabbi Shimon says: One may cut up gourds for an animal on Shabbat so that it can eat them more easily, and similarly, one may cut up an unslaughtered animal carcass for dogs. Rabbi Yehuda says: If it was not an animal carcass already on the eve of Shabbat, but rather it died on Shabbat itself, it is prohibited. Since Rabbi Yehuda distinguishes between an animal that died on Shabbat and one that died before Shabbat, it would appear that Rabbi Shimon holds that one may move an animal carcass and feed it to dogs even if it died on Shabbat. Accordingly, the mishna that prohibits moving an animal that died on a Festival<sup>I</sup> seems to conflict with Rabbi Shimon's opinion.

The Gemara rejects this argument: The mishna can be understood even if you say that it is in accordance with the opinion of Rabbi Shimon, as Rabbi Shimon nevertheless concedes in the case of animals that were entirely healthy at twilight but died on the Festival that they are prohibited. Since they were healthy at twilight, the owner had no intention at that point in time of feeding them to dogs, and they are therefore prohibited as *muktze*. The *baraita*, on the other hand, is referring to an animal that had been sick on the previous day; since the owner knew that it was close to death, he had in mind to feed it to his dogs after it died.

The Gemara asks: This works out well according to the opinion of Mar bar Ameimar in the name of Rava, who said that Rabbi Shimon concedes in the case of animals that died on the Festival without having been mortally sick the day before that they are prohibited on the Festival due to *muktze*; according to this opinion, it is well. However, according to the opinion of Mar, son of Rav Yosef, in the name of Rava, who said that Rabbi Shimon was in disagreement<sup>N</sup> even in the case of animals that died suddenly, and he holds that they are permitted, what is there to say? The unattributed mishna appears to contradict this opinion.

The Gemara answers: Ze'iri explained it as follows: The mishna is referring to a sacred animal that died; since it is sacred property, one may not derive benefit from it, and therefore one may not give it to dogs. The Gemara comments: The language of the mishna is also precise according to this interpretation, as it teaches: They asked Rabbi Tarfon about it and about *halla* that became ritually impure, from which it may be inferred: Just as *halla* is sacred, so too, the animal mentioned here is one that was sacred, rather than a non-sacred animal.

The Gemara asks: Rather, according to this explanation, the reason that the animal may not be moved is that the animal was sacred; but if it was a non-sacred animal that died, it would be permitted to move it. If so, this works out well according to the opinion of Mar, son of Rav Yosef, in the name of Rava, who said that Rabbi Shimon was in disagreement even in the case of animals that died, and he holds that they are permitted; according to this opinion, it is well, as one can say that the mishna, which indicates that one may move an animal that died on a Festival, is in accordance with the opinion of Rabbi Shimon. However, according to the opinion of Mar bar Ameimar in the name of Rava, who said that Rabbi Shimon concedes in the case of animals that died that they are prohibited, what is there to say? The mishna is in accordance with neither Rabbi Shimon nor Rabbi Yehuda.

With an...animal in danger, and all agree with regard to the ruling – **במסוכנת ודברי הכל** – Both the earlier and the later authorities were puzzled by the statement here that all agree with regard to the ruling. In fact, Rashi omits these words, and his version reads only: In danger. The Rif, however, retains this statement in his version, and Rabbi Zerahya HaLevi, as well as the Ran and others, explains that it means that Rabbi Yehuda agrees with Rabbi Shimon that an animal in danger is not *muktze*, as the owner had it in mind the day before; and if it was entirely healthy, one view holds that even Rabbi Shimon agrees with Rabbi Yehuda.

Alternatively, some explain that this statement that all agree does not refer to the dispute between Rabbi Yehuda and Rabbi Shimon at all but rather to the amoraic dispute concerning Rabbi Shimon's opinion, whether he is lenient even with regard to animals that died on the Festival itself. The wording of the Gemara fits well with this explanation (*Meiri*; see *Mishhat Aharon*).

**One may not register – אין נמנין**: Some explain that this does not mean one may not stipulate a price for the purchase of meat, as that is clearly engaging in commerce and is obviously prohibited. Rather, it means that people may not join together to purchase meat as a group, even in a permitted manner, as this has the appearance of an act of commerce (Rabbi Ovadya Bartenua). In the Jerusalem Talmud it is stated that although one may not register to have a portion of an animal on a Festival, if several people have already done so, it is permitted to join them.

**One may not register...but one may register – אין נמנים...אבל נמנים**: One should register to have a portion of an animal on the eve of a Festival *ab initio*, but if one did not manage to do so, he may use the permitted methods mentioned in the Gemara to do so on the Festival, without stipulating a sum (*Etz Yosef*).

הקא במאי עסקינן – במסוכנת, ודברי הכל.

The Gemara answers: **With what are we dealing here?** It is with a case where the animal was in danger of dying the day before, and the owner had in mind to feed it to his dogs after it died, and all agree with regard to the ruling.<sup>N</sup> Therefore, according to Rabbi Shimon, an allowance is granted to move the animal if it was a non-sacred animal and it had been in danger prior to the Festival; and if the animal was sacred, even he agrees that it is prohibited, as it may not be fed to dogs.

מתני' אין נמנין על הבהמה לכתחלה ביום טוב, אבל נמנין עליה מערב יום טוב, ושוחטין ומחלקין ביניהם.

**MISHNA** One may not register<sup>N</sup> to have a portion of an animal on a Festival *ab initio*, since it is prohibited to divide up an animal into portions for different people, as this is similar to conducting business, a weekday activity, on a Festival. **But one may register<sup>N</sup> for the animal on the eve of the Festival, and then those who registered for the animal may slaughter and divide it between them on the Festival itself in accordance with the agreement reached the day before.** The next day, each pays the slaughterer according to his portion of the animal.

גמ' מאי אין נמנין? אמר רב יהודה אמר שמואל: אין פוסקין דמים לכתחלה על הבהמה ביום טוב. היכי עביד? אמר רב: מביא שתי בהמות ומעמידן זו אצל זו, ואומר: זו כזו.

**GEMARA** The Gemara asks: **What is the meaning of: One may not register?** Rav Yehuda said that Shmuel said: **One may not fix a sum of money and set a particular price for each portion of an animal on a Festival<sup>N</sup> ab initio.** The Gemara asks: **What should one do on a Festival to divide up the animal without fixing a price?** Rav said: **He should bring two animals and stand them one next to the other and say: Is this one equal in value to the other one?** If the purchasers confirm that this is the case, then after the Festival they assess the value of the animal that is identical to the animal that had been slaughtered on the Festival, and in that way they establish the amount that each person must pay.

תנא נמי הכי: לא יאמר אדם לחברו "הריני עמך בסלע" "הריני עמך בשתיים", אבל אומר לו: "הריני עמך למחצה ולשליש ולרביע".

**This is also taught in a baraita that states: A person may not say to another on a Festival: I am hereby in partnership with you in this animal that you are about to slaughter for the value of a sela, or: I am hereby in partnership with you for two sela. However, he may say to him: I am hereby in partnership with you for half the animal, or for a third or a quarter, without stipulating the value of that share, and after the Festival they may determine how much each share is worth.**

#### HALAKHA

**Fixing a sum of money on a Festival – פסיקת דמים ביום טוב**: It is prohibited to stipulate a price for an animal on a Festival. Therefore, one may not say to a butcher: Give me meat on credit for a particular amount. Nor may one say to another person about to slaughter an animal: I am in partnership with you in this animal for a stipulated amount. Rather, they should divide up the animal into parts in accordance with local custom and without fixing a sum. It is also permitted to bring another animal similar to the one that will be slaughtered and state: This one is like that one, and then determine the price of each portion after the Festival according to the second animal.

Some authorities maintain that if one buys the animal from a gentile, it is prohibited to do so even by using a second animal to determine the price of its parts (Rema). The reason is that since it is unusual to enter into such a partnership with a gentile, it appears more similar to a sale (*Magen Avraham*). However, one may accept an item on credit even from a gentile, if its price is fixed and he does not explicitly mention a sum of money. Some are lenient even with regard to an item whose price is not fixed, but it is proper to be stringent in such a case (*Shulhan Arukh HaRav, Shulhan Arukh, Orach Hayyim 500:1*).