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לעיר ואם בישראל ק״ק פרעסבורג המעטירה, ושם חלקת מחוקק ספון, זי״ע

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Explanations and Summaries
Indexes of Sources & Subjects

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A NOTE ON METHODOLOGY

The Nature of this Work

This volume presents an original English elucidation and commentary, prepared through a combination of advanced language and translation technology and human editorial oversight. The methods employed were carefully configured to adhere to Orthodox Jewish *hashkafa* and to preserve fidelity to the original Hebrew text. Even so, this edition does not carry the authority of a translation prepared and certified by a full team of rabbinic scholars.

Usage and Limitations

This translation is intended as a tool to help advanced learners access the depth of the original work. It is **not** intended to replace the original Hebrew source, nor to serve as a substitute for study under a qualified teacher.

Because the nuance of Torah study often transcends any single method of preparation, we ask the reader to keep two things in mind:

1. **Verification:** Any novel insight, ruling, or conclusion drawn from this translation should be checked against the original Hebrew.
2. **Consultation:** All practical questions or derived lessons should be discussed with and verified by a qualified rabbinic authority before being relied upon.

The goal of this edition is to make these teachings accessible to a wider audience, but the responsibility for accurate understanding and practical application remains with the reader.



Dedication

This volume is respectfully dedicated to the enduring legacy of Rabbi Moshe Sofer, the Chasam Sofer, whose Torah stands as a pillar of *mesorah*, illuminating the Jewish people with clarity, courage, and unwavering fidelity to *halachah*.



This Kornitzer Edition of the *Shailos u'Teshuvos Chasam Sofer*, presenting the original Hebrew text together with faithful annotation and elucidated English, is offered with humility and gratitude, to broaden access to his sacred teachings while preserving their integrity and sanctity.



It is sponsored by the Kornitzer family, direct descendants of the Chasam Sofer, as an expression of thanksgiving to Hashem for the privilege of transmitting his Torah and ensuring that his voice continues to be studied and lived in every generation.



May the merit of learning this *sefer* bring blessing to all who engage with it, and may we soon merit, with the coming of *Moshiach*, to hear new *chiddushim* in Torah from the Chasam Sofer himself. And may this work serve toward fulfilling the longing so often expressed by the Lubavitcher Rebbe—that through the spread of Torah we hasten the true and complete *Geulah*, and *Moshiach* will come speedily in our days, ממש.



תשובה 1

Mumar L'Avodah Zarah's Status for Shechitah

Food Laws > Laws of Prohibitions of Eating from a Living Animal

Summary

Correspondent and Context: The Chasam Sofer writes to Rabbi Betzalel of Prague. He answers several questions on different sugyos.

The Question (Sha'ila): The first question concerns the Shach's dispute with the Bach about a *mumar l'avodah zarah* performing shechitah. A second question concerns Tosfos in Chullin 100b. R. Yochanan seems to permit *efshar l'sochto* in Avodah Zarah but forbid it in Chullin 108a.

The Ruling (Teshuvah): On shechitah, the Chasam Sofer accepts the Bach's conclusion over the Shach. Rashi, the Rashba, the Beis Yosef, and the Rambam support it. Still, the Shach correctly rejects the Bach's proof from Tosfos. On *efshar l'sochto*, the two passages follow different Amoraim.

Shulchan Aruch Background: Yoreh Deah 2 rules that a gentile's shechitah is *neveilah*, even if he does not worship idols. A *mumar* who eats *neveilos l'tei'avon* may slaughter if a Jew checks his knife. The Bach and Shach dispute whether a *mumar l'avodah zarah* is disqualified like a gentile or retains the status of a circumcised Jew.

Key Disputes (Machlokes): The Rashba explains why the decree against the Kutim changed over time. In R. Meir's day, only a minority were idolaters. By R. Avahu's day, the Kutim had become corrupt and the decree was accepted. The Chasam Sofer says a *mumar l'avodah zarah* keeps *bris milah* but loses *bris Torah*. A woman has the reverse status. He also distinguishes circumcision of a Jew from circumcision for conversion. Only conversion requires intent for the sake of Judaism. Finally, he supports Rashi against Tosfos on *saleik*. Abaye can answer the Menachos case without using *saleik*.

Peace and all good to my beloved friend, the Rabbi, the celebrated luminary, a tower of strength, a master of keen analysis, the honorable our teacher Rabbi Betzalel R"B, may his light shine, Domash of the holy community of Prague.

I hastened and did not delay to fulfill his requests, etc. Regarding his question on the words of the Shach, Yoreh Deah, Siman 2, subsection 16. The correspondent raised a difficulty in the Shach's ruling there concerning the status of a **mumar** (apostate) for purposes of shechitah. **I will copy for him what is written in my marginal notes there. Regarding what the Shach wrote, that the halacha is not in accordance with the Bach.**[1] **And I wrote: In accordance with the reasoning of the Bach, so it is explicitly indicated from Rashi on 3b, s.v. "chutz" — see there.**[2] Rashi's distinctions among disqualified slaughterers support the Bach. **And the Rashba in his Chiddushim on 4b, s.v. "lo eima lach," etc.**[3] The Rashba's analysis of the sugya likewise supports the Bach's conclusion. **And so wrote the Beis Yosef in his name, under the heading "u'mumar ochel," etc.**[4] The Beis Yosef cites the Rashba here. **And as it appears to my humble opinion, this is also the view of the Rambam.**[5] **For a mumar is certainly not worse than a gentile who is not**

שָׁלוֹם וְכָל טוּב לִידִיד נַפְשִׁי הָרַב הַמאה"ג הַמְפוּרָסִים תֵּל תַּלְפִּיּוֹת בַּעַל פִּיפְיּוֹת כְּבוֹד מו"ה בְּצַלְאֵל ר"ב נ"י דּוֹמַ"ש דְּקְהִלַּת קֹדֶשׁ פְּרָאג.

חַשְׁתִּי וְלֹא הִתְמַהְמַהְתִּי לְמַצּוֹתָיו וְכוּ' עַל דִּבְרֵי קְשָׁיָתוֹ בְּדִבְרֵי הש"ך יוֹרֶה דֵּעָה סִימָן ב' סְעִיף קָטָן ט"ז אַעְתִּיק לוֹ מַה שֶּׁכָּתוּב אֶצְלִי בַּגְּלָיוֹן שָׁם עַל מַה שֶּׁכָּתַב הש"ך דְּלֹא כְּהַב"ח וְכָתַבְתִּי וּכְסִבָּרַת הַב"ח כֵּן מַשְׁמַע לְהֶדְיָא מִפֵּרוּשׁ רַשְׁ"י ג' עַמּוּד ב' דִּיבּוּר הַמַּתְחִיל חוּץ עַיֵּין שָׁם וְהָרַשְׁב"א בְּחִדּוּשָׁיו ד' עַמּוּד ב' דִּיבּוּר הַמַּתְחִיל לֹא אֵימָא לָךְ וְכוּ' וְכֵן כָּתַב בֵּית יוֹסֵף מִשְּׁמוֹ בְּדִיבּוּר הַמַּתְחִיל וּמוּמָר אוֹכֵל וְכוּ' וְכַנִּרְאֶה לַעֲנִיּוּת דַּעְתִּי דַּעַת הָרַמְבַּ"ם דְּהֵרֵי לֹא גָּרַע מִגּוֹי שֶׁאֵינוֹ עוֹבֵד עֲבוֹדָה זָרָה לְפִי מַה שֶּׁכָּתַבְתִּי לְעֵיל עַל הַגְּלָיוֹן סְעִיף קָטָן ב' בְּדַעַת הָרַמְבַּ"ם וְדֵלֹא

[1] Bach, Yoreh Deah 2.

[2] Rashi, Chullin 3b, s.v. "chutz" — The Gemara states: "חוּץ מֵחֵרֵשׁ שׁוֹטֶה וְקָטָן, דְּאַפִּילּוּ דִּיעֲבַד נָמֵי לָא, שֶׁמָּא יִשְׁהֶה, שֶׁמָּא יִדְרֹס, וְשֶׁמָּא יַחֲלִידוּ" — "Except for a deaf-mute, an imbecile, and a minor, whose shechitah is invalid even post facto, lest they delay, press, or conceal." Rashi's commentary here distinguishes the types of disqualification, supporting the Bach's differentiated treatment of various categories of invalid slaughterers.

[3] Rashba, Chiddushim, Chullin 4b, s.v. "lo eima lach" — The Rashba discusses the status of various mumarim: "סברוה הא מני רבי יהודה היא... ואע"ג דאהדר ביה רב אחא התם, לא מאתקפתא ותיובתא הדר ביה, אלא מסברא דנפשיה הדר ביה." The Rashba analyzes the Tannaitic basis for the distinction between a mumar who sins for appetite and one who sins to rebel.

[4] Beis Yosef, Yoreh Deah 2, s.v. "u'mumar ochel."

[5] Rambam, Hilchos Shechitah — The Rambam rules: "וְגָדַר גָּדוֹל גָּדְרוּ בַּדָּבָר שֶׁאֲפִלּוּ עַכּוּ"ם שֶׁאֵינוֹ עוֹבֵד עֲבוֹדָה זָרָה שְׁחִיטָתוֹ נְבֵלָה" — "They enacted a great safeguard: even a non-Jew who does not worship idolatry, his shechitah is neveila." The Chasam Sofer argues that the Rambam's formulation regarding a non-idolatrous gentile sheds light on the status of a mumar l'avodah zarah, who is no worse.

כְּמוֹ שֶׁכָּתַב שָׁם מִיהוּ הַב"ח כָּתַב כֵּן אַהֲתוֹסְפוֹת וְשַׁפִּיר הִקְשָׁה עָלָיו שִׁפְתֵי כֹהֵן וּלְעֵיל בְּסָעִיף קָטָן ב' עַל מַה שֶּׁכָּתַב הַשִּׁפְתֵי כֹהֵן שֶׁהַחֲכָמִים גָּזְרוּ עַל הַכּוּתִים אֲפִלּוּ שְׁאֵינוֹ עוֹבֵד עֲבוֹדָה זָרָה כָּתַבְתִּי הַיְינוּ לְמַאן דְּחָיֵישׁ לְמִיעוּטָא כַּמְבוֹאָר לְהֶדְיָא בש"ס דַּף ו' וְאָמְנָם אֲנַן מָצָאנוּ עַתָּה דְּרוּבָּם עוֹבֵד עֲבוֹדָה זָרָה וּכְמוֹ שֶׁכָּתַב רַשְׁבָּ"א שָׁם וְאִם כֵּן הַיְינוּ גּוֹי עוֹבֵד עֲבוֹדָה זָרָה וְעַל כֵּן הַגִּירְסָא כְּמוֹ שֶׁכָּתַב בֵּית יוֹסֵף וְכֶסֶף מִשְׁנֶה וְדוּק עַד כָּאן לְשׁוֹנִי שָׁם:

an idolater. A **mumar l'avodah zarah** is circumcised, so he is no worse than a non-idolatrous gentile. **According to what I wrote above in the marginal notes on sub-section 2, regarding the view of the Rambam. And not as he [the Shach] wrote there.** The Chasam Sofer disagrees with the Shach's interpretation of the Rambam in that sub-section. **However, the Bach wrote this [argument] based on Tosfos.** He distinguishes the Bach's conclusion from his proof from Tosfos. **And the Shach rightfully challenged him on that. And above, in sub-section 2, regarding what the Shach wrote — that the Sages decreed regarding the Kutim (Samaritans) even when they were not idolaters — I wrote that this is according to the one who is concerned for the minority.** R. Meir acted because he takes even a minority of idolaters into account. **As is explicitly stated in the Talmud on daf 6.**[6] **However, we have now found that the majority of them are idolaters. As the Rashba wrote there. And if so, they have the status of a gentile who is an idolater. And therefore the correct reading is as the Beis Yosef and the Kesef Mishneh wrote. Examine this carefully. Thus far are my words there.**

וּבְחִדּוּשַׁי לְמַסֶּכֶת עֲבוֹדָה זָרָה כ"ו עַמּוּד ב' כָּתַבְתִּי וְזֶה לְשׁוֹנִי וְדַע דְּצָרִיךְ לְעַיֵּין בְּשִׁמְעְתִּין לְפִי מַה שֶּׁכָּתַב רַשְׁבָּ"א בְּחִדּוּשָׁיו דְּאִיתָא שָׁם דְּרַבִּי מֵאִיר גָּזַר עַל הַכּוּתִים וְלֹא קִבְּלוּ מִינֵיהּ וּבִימֵי ר' אַבּוֹהוּ קִבְּלוּהוּ וְכָתַב רַשְׁבָּ"א שָׁם דְּבִימֵי רַבִּי מֵאִיר עֲדַיִין לֹא עוֹבֵד עֲבוֹדָה זָרָה אֶלָּא הַמִּיעוּט וְרַבִּי מֵאִיר הוּא דְּחָיֵישׁ לְמִיעוּט לָכֵן לֹא קִבְּלוּהוּ מִינֵיהּ מַה שֶּׁאֵין כֵּן בִּימֵי ר' אַבּוֹהוּ שֶׁכְּבָר נִתְקַלְקְלוּ כֻּלָּם קִבְּלוּ מִינֵיהּ וְאִם כֵּן בִּשְׁמַעְתִּין דְּאַיְירֵי רַבִּי מֵאִיר וְרַבִּי יְהוּדָה מִמַּה נַּפְשָׁךְ אִי בְּסָתָם כּוּתִים הָא בִּימֵי רַבִּי מֵאִיר וְרַבִּי יְהוּדָה עֲדַיִין לֹא נִתְקַלְקְלוּ רוּבָּם וְרַבִּי יְהוּדָה הָא לֹא חָיֵישׁ לְמִיעוּטָא וְאַמַּאי פָּסוּל מִילָתוֹ וְאִי אַיְירֵי בְּכוּתִי דְּיָדְעִינַן בֵּיהּ דְּעוֹבֵד עֲבוֹדָה זָרָה אִם כֵּן מַאי טַעְמָא דְּרַבִּי יְהוּדָה לְמַאן דְּאָמַר לֹא תִּיפּוֹךְ דְּאַרְמָאֵי פָּסוּל מִדְּאוֹרַיְיתָא אִם כֵּן הוּא הַדִּין לְמוּמָר לַעֲבוֹדָה זָרָה כְּכוּתִי וּמַאי טַעְמָא מַכְשִׁיר כּוּתִים וּמְשׁוּם הָכִי נִרְאֶה לִי דְּמוּמָר לַעֲבוֹדָה זָרָה הֲוֶה שַׁפִּיר בַּעַל בְּרִית מִילָה עַל כָּל פָּנִים שֶׁהֲרֵי הוּא נִימוֹל עַל כָּל פָּנִים וְנֶהְיֶה בִּבְרִית תּוֹרָה לֵיתָא מִכָּל מָקוֹם בִּבְרִית מִילָה אִיתָא וְלֹא אִימַּעֵט מִוְאַתָּה אֶת בְּרִיתִי תִּשְׁמֹר

And in my novellae on Masechta Avodah Zarah 26b, I wrote —[7] **and these are my words: Know that it requires investigation in our sugya. According to what the Rashba wrote in his Chiddushim.**[8] **For it is stated there that R. Meir decreed regarding the Kutim. And [the other Sages] did not accept it from him. And in the days of R. Avahu, they accepted it. And the Rashba wrote there that in the days of R. Meir, only the minority were idolaters. And R. Meir is the one who is concerned for the minority.** This is the well-known principle that R. Meir, unlike the other Sages, takes the minority into account. **Therefore they did not accept it from him.** Since the other Sages do not follow the minority, R. Meir's decree was premature in their eyes. **Unlike in the days of R. Avahu, when they had all already become corrupted — then they accepted it from him. And if so, in our sugya which discusses R. Meir and R. Yehudah —** Avodah Zarah 26b records a dispute over whether a Kuti may circumcise a Jew.[9] **whichever way you look at it —** The Chasam Sofer now poses a dilemma. **If we are discussing ordinary Kutim — then in the days of R. Meir and R. Yehudah, the majority had not yet become corrupted. And R. Yehudah does not hold that we need to be concerned for the minority.** Since R. Yehudah follows the majority, and the majority of Kutim were not idolaters, why would R. Yehudah disqualify them? **So why does he disqualify his circumcision?** R. Yehudah says a Kuti circumcises for Mount Gerizim. But he normally follows the majority. **And if we are discussing a Kuti whom we know to be an idolater — then what is R. Yehudah's reasoning, according to the opinion that does not reverse the text? that a gentile is disqualified from circumcision by Torah law —** (the verse "And you shall keep My covenant" [Bereishis 17:9] is understood to exclude non-Jews, who are not party to

[6] Chullin 6a — The Gemara discusses the basis for the Sages' decree regarding the Kutim and whether it depends on concern for the minority.

[7] Rashba, Chiddushim, Avodah Zarah 26b — The Rashba provides the chronological framework: in R. Meir's time, only a minority of Kutim had adopted idolatry, and R. Meir decreed against them because he is concerned for the minority. By R. Avahu's time, the majority had become idolaters, and the decree was universally accepted.

[8] Avodah Zarah 26b — The Gemara records the braisa: "יִשְׂרָאֵל מָל אֶת הַכּוּתִי, וְכוּתִי לֹא יָמוּל יִשְׂרָאֵל, מִפְּנֵי שֶׁמָּל לְשֵׁם הַר גְּרִזִים, דִּבְרֵי רַבִּי יְהוּדָה. אָמַר לוֹ רַבִּי יוֹסֵי: וְכִי הֵיכָן מָצִינוּ מִילָה מִן הַתּוֹרָה לִשְׁמָהּ?" — "A Jew may circumcise a Kuti, but a Kuti should not circumcise a Jew, because he circumcises for the sake of Mount Gerizim — these are the words of R. Yehudah. R. Yossi said to him: Where do we find that milah from the Torah must be for its own sake?"

[9] Bereishis 17:9 — "וְאַתָּה אֶת בְּרִיתִי תִּשְׁמֹר" — "And you shall keep My covenant." This verse is the source for the requirement that the one performing milah be "within the covenant."

the covenant, from performing circumcision) **then the same should apply to an apostate to idolatry, like a Kuti.** The Gemara considers whether to reverse the Tannaim's opinions. **And why does he validate the Kutim['s circumcision, at least on a Biblical level]?** R. Yehudah objects only to the Kuti's intent toward Mount Gerizim. This suggests the circumcision is valid by Torah law. Yet a gentile is disqualified by Torah law. **Therefore it appears to me that a mumar l'avodah zarah is indeed a possessor of the covenant of circumcision, at the very least. For he is circumcised in any case. And although he lacks the covenant of Torah — nevertheless he possesses the covenant of circumcision.** He distinguishes **bris milah**, the covenant of circumcision, from **bris Torah**, the covenant of Torah observance. **And he is not excluded from [the verse] "And you shall keep My covenant."**[10] A circumcised **mumar** remains within the covenant and may perform milah on others. **And the reverse is true of a woman, who does possess the covenant of keeping the Torah's commandments — but does not possess the covenant of circumcision. And this is not in accordance with the Even Ozer on the Shulchan Aruch, Orach Chaim, Siman 189. [See Chasam Sofer, Orach Chaim, Siman 117.] Thus far are my words in my novellae there.**

וְהַהֵיפֶךְ בְּאִשָּׁה דְּאִיתָא בִּבְרִית קִיּוּם מִצְוֹת הַתּוֹרָה וְלֵיתָא בִּבְרִית מִילָה וְזֶה הוּא דְּלֹא כְּאֶבֶן עוֹזֵר בְּשָׁלְחָן עָרוּךְ אוֹרַח חַיִּים סִימָן קפ"ט [עַיֵּין חתם סופר אוֹרַח חַיִּים סִימָן קי"ז] עַד כָּאן לְשׁוֹנִי בְּחִדּוּשֵׁי שָׁם:

And see the She'ilas Yaavetz, volume 2, Siman 164.[11] The She'ilas Yaavetz is a work by R. Yaakov Emden. **He poses a contradiction between R. Yossi in [Masechta] Avodah Zarah daf 26 — who says: "Where do we find milah [that requires it to be performed] for its own sake?" — against R. Yossi in Yevamos 46b.**[12] In Yevamos, R. Yossi's position regarding conversion implies that milah **does** require specific intent for the sake of Judaism. **See there, that he shook the world with this contradiction.** The Yaavetz saw this as a major difficulty. **And no expert can resolve it.** The Yaavetz offered a reward to anyone who could answer it. **But with all due respect to his great honor, there isn't even a hint of a difficulty. For granted, here — regarding an uncircumcised Jew — we do not require milah lishmah. It is sufficient that his foreskin be cut off. But there in Yevamos, regarding a gentile who enters under the wings of the Divine Presence by means of milah — If it is not performed for the sake of Judaism, how can he enter under the wings of the Divine Presence?** Conversion requires intent because the circumcision must bring the person into Judaism. **And this is simpler than an egg in kutcha.** This proverb means that the answer is very obvious. **[See below, Siman 300.]**

וְיַעֲיֵין שְׁאֵלַת יעב"ץ חֵלֶק ב' סִימָן קס"ד רָמֵי רַבִּי יוֹסִי דַּעֲבוֹדָה זָרָה דַּף כ"ו דְּאָמַר הֵיכָן מָצִינוּ מִילָה לִשְׁמָהּ אַדְּרַבִּי יוֹסִי דִּיבָמוֹת מ"ו עַמּוּד ב' עַיֵּין שָׁם שֶׁהִרְעִישׁ עוֹלָם בְּסִתְירָה וְלֵית בַּר נַגָּר דְּיִפַּרְקִינַהּ וּבְמָחִילַת כְּבוֹדוֹ הַגָּדוֹל אֲפִלּוּ רֵיחַ קְשָׁיָא לֵיתֵיהּ דִּבְשִׁלְמָא הָכָא בְּיִשְׂרָאֵל עָרֵל לֹא בָּעֵינַן מִילָה לִשְׁמָהּ רַק שֶׁתּוּכְרַת עָרְלָתוֹ וְהָתָם בִּיבָמוֹת בְּגוֹי שֶׁנִּטְּלָה תַּחַת כַּנְפֵי שְׁכִינָה עַל יְדֵי מִילָה אִם אֵינָהּ לְשֵׁם יַהֲדוּת בַּמֶּה יִכָּנֵס תַּחַת כַּנְפֵי שְׁכִינָה וְהוּא פָּשׁוּט יוֹתֵר מִבֵּיצָא בְּכוּתְחָא [עַיֵּין לְקַמָּן סִימָן ש']:

Regarding his question on Tosfos, Chullin 100b.[13] **That the opinion in [Masechta] Avodah Zarah which permits even when water fell in at the end — would hold that "efshar l'sochto mutar" — [if something] can be squeezed out, it is permitted.** Tosfos discusses a mixture permitted even when water was added last. This seems to treat extractable forbidden flavor as insignificant. This rule treats forbidden flavor as absent when it can be extracted. **And the esteemed Rabbi [the questioner], may his**

עַל דִּבְרֵי קֻשְׁיָתוֹ בְּתוֹסָפוֹת חוּלִין ק' עַמּוּד ב' דְּמַאן דְּאָמַר בַּעֲבוֹדָה זָרָה דְּשָׁרֵי אֲפִלּוּ נָפַל מַיִם לְבַסּוֹף יִסְבּוֹר אֶפְשָׁר לְסָחְטוֹ מֻתָּר וְהוּקְשָׁה לִפְרֵי מְגַדִּים הָרַב נִי' הָא אַלִּיבָּא דְּרַבִּי יוֹחָנָן קָאָמַר לְמִלְתָא וְאֵיהוּ סְבִירָא לֵיהּ לְקַמָּן ק"ח עמוד א' אֶפְשָׁר לְסָחֲטוֹ אָסוּר גַּבְרָא רַבָּא קַחֲזִינָא

[10] She'ilas Yaavetz, vol. 2, siman 164 — The Yaavetz writes: "סתירה עצומה אליבא דחד תנא... דרמינא דר' יוסי אדר' יוסי. ולא אשכחנא לה פתר" — "A tremendous contradiction according to one Tanna... I posed R. Yossi against R. Yossi, and I cannot find a resolution." He further offers a reward: "ומאן דמתרגם לי הני תרי אליבא דחד תנא. מחזיקנא ליה טיבותא."

[11] Yevamos 46b — The Gemara discusses conversion requirements: "בְּטָבַל וְלֹא מָל — כּוּלֵּי עָלְמָא לָא פְּלִיגִי דְּמַהְנֵי, כִּי פְּלִיגִי בְּמָל וְלֹא טָבַל" — "If he immersed but did not circumcise — all agree it is effective; they disagree regarding one who circumcised but did not immerse." The context involves whether milah for conversion requires specific intent.

[12] Chullin 100b — The Gemara discusses the principle of *min u'mino v'davar acher*: "סַלֵּק אֶת מִינוֹ כְּמִי שֶׁאֵינוֹ, וְשֶׁאֵין מִינוֹ רָבֶה עָלָיו וּמְבַטְּלוֹ" — "Remove the like kind as if it were not there, and [assess whether] the unlike kind is sufficient to nullify it."

[13] Pri Megadim — The difficulty regarding Tosfos on Chullin 100b and the apparent contradiction in R. Yochanan's position on *efshar l'sochto* between Avodah Zarah and Chullin 108a.

light shine, found this difficult.[14] **For this statement follows the view of R. Yochanan. And he [R. Yochanan] himself holds later on 108a that "efshar l'sochto asur" — if it can be squeezed out, it is forbidden!**[15] **I see that a great man [raised this question].** He considers this a strong question. **And as a resolution I would say: They are [a dispute among different] Amoraim. There in Avodah Zarah, [the ruling is] according to R. Yochanan —** who holds **efshar l'sochto mutar**. **And later on 108, [the ruling] follows the other Amoraim in the Avodah Zarah [sugya].** Those Amoraim hold **efshar l'sochto asur**.

וּלְתִיּוּבְתָּא הֲוָה אָמִינָא אֲמוֹרָאֵי נִינְהוּ הָתָם בַּעֲבוֹדָה זָרָה אַלִּיבָּא דְּר' יוֹחָנָן וּלְקַמָּן ק"ח קָאֵי לְאִינָךְ אֲמוֹרָאֵי דַּעֲבוֹדָה זָרָה:

And I will awaken his heart with what I wrote in my novellae on Chullin 108 — regarding Tosfos, s.v. "d'amar Rava," etc. Saleik es mino k'mi she'eino treats the like kind as absent. Tosfos and Rashi disagree about where Rava applies it. **And in my humble opinion, Rashi is correct. For if you do not say this, it is difficult regarding Abaye [in the sugya] above.** Tosfos's reading creates a problem for Abaye because he rejects **saleik**. **Since he [Abaye] does not answer using "saleik" — What will he answer regarding that case in Menachos?**[16] The Menachos case involves forbidden oil mixed with permitted oil and flour. It seems to require **saleik**. **Rather, it must be that there [in Menachos] the matter is different. For the questioner [in Menachos] initially assumed — that the [permitted] oil, which is the same kind [as the prohibited oil], prevents the fine flour, which is a different kind, from nullifying the [prohibited] oil of the minchah, which is liquid.** The questioner thought the two oils formed one block that the flour could not nullify. **And therefore he challenged: the same kind mixed with its same kind cannot be nullified! And to this he could have answered simply: Granted that oil mixed with other oil [of the same kind] cannot be nullified. Nevertheless, a small amount of [forbidden] oil that is mixed with the fine flour is nullified [by the flour]. And we do not need to say "remove the like kind as if it were not there." For even if it [the permitted oil] is considered as if it is present — it simply does not negate the power of the fine flour to nullify the small amount of [forbidden] oil. And through this, it becomes a case of "ribbe shamnah" — it had too much oil.** Nullification may work, but counting all the oil creates a separate problem: the minchah has too much oil. **And the fact that Rava said there [in Menachos] "remove" [the like kind] — This is because for Rava, the truth is indeed so. For according to his interpretation in Chullin 100, we say "remove" [the like kind].**[17] **Therefore he said here too [in Menachos], "remove." But Abaye, who does not hold of "remove" — he answered in Menachos as I wrote.** Abaye instead says the flour nullifies the forbidden oil without **saleik**. **And if so, Rava's main statement refers to the earlier passage [Chullin 100b], in accordance with Rashi.** Rava's use of **saleik** in Menachos applies his earlier ruling in Chullin, as Rashi explains. **And the words of Tosfos require further examination.**

וְאָעוֹרֵר לְבָבוֹ בְּמַה שֶּׁכָּתַב בְּחִדּוּשַׁי לְחוּלִין ק"ח בְּתוֹסָפוֹת דִּיבּוּר הַמַּתְחִיל דְּאָמַר רָבָא וְכוּ' וּלְפִי עֲנִיּוּת דַּעְתִּי הַדִּין עִם רש"י דְּאִי לָא תֵּימָא הָכִי קָשֶׁה אַאַבַּיֵי דִּלְעֵיל דְּלָא מְשַׁנֵּי סָלִיק מָה יַּעֲנֶה מֵהַהִיא דִּמְנָחוֹת אֶלָּא עַל כָּרְחָךְ הָתָם מִלְּתָא אַחֲרִיתִי הִיא דַּהֲוָה סָלְקָא דַּעְתָּךְ דְּהַמַּקְשֶׁן דְּהַשְׁתָּא מִינוֹ מְעַכֵּב אֶת הַסֹּלֶת שְׁאֵינוֹ מִינוֹ לְבַטֵּל אֶת הַשֶּׁמֶן שֶׁל מִנְחָה שְׁהִיא רַכָּה וּמְשׁוּם הָכִי הֲוָה פָּרִיךְ הָא מִין בְּמִינוֹ לָא בָּטֵיל וְעַל זֶה הָיָה יָכוֹל לְתָרֵץ בְּפִשְׁיטוּת נְהִי דְּהַשְׁתָּא הַמִּתְעָרֵב עִם שֶׁמֶן אַחֵר לָא בָּטֵיל מִכָּל מָקוֹם מְעַט שֶׁמֶן הַמִּתְעָרֵב עִם הַסֹּלֶת בָּטֵל וְלָא צְרִיכִים לוֹמַר סָלִיק מִינֵיהּ כְּמִי שֶׁאֵינוֹ דַּאֲפִלּוּ יִהְיֶה כְּמִי שֶׁיֶּשְׁנוֹ רַק שֶׁלֹּא יְבַטֵּל אֶת הַכֹּחַ הַסֹּלֶת מִלַּבֵּט מְעַט שֶׁמֶן וְעַל יְדֵי זֶה הֲוָה לֵיהּ רִבָּה שַׁמְנָהּ וְהָא דְּאָמַר רָבָא הָתָם סָלִיק הַיְינוּ מִשּׁוּם דְּלָרָבָא הָאֱמֶת כֵּן הוּא דְּלִפְי אוּקְמְתָא דִּילֵיהּ בְּחוּלִין ק' אָמְרִינַן סָלִיק עַל כֵּן אָמַר הָכִי נַמִּי סָלִיק אֲבָל אַבַּיֵי דְּלֵית לֵיהּ סָלֵק תֵּירֵץ בְּמִנְחוֹת כְּמוֹ שֶׁכָּתַבְתִּי וְאִם כֵּן עִיקַּר דִּבְרֵי רָבָא אַלְעֵיל קָאֵי וּכְרש"י וְדִבְרֵי תּוֹסָפוֹת צָרִיךְ עִיּוּן:

Pressburg, Tuesday, 21 Adar, [5]580.

פְּרַעשְׁבּוּרג יוֹם ג' כ"א אֲדָר ק"פ לִפְרָט קָטָן.

[14]Chullin 108a — The Gemara states: "אָמַר אַבַּיֵי: טַעְמוֹ וְלֹא מַמָּשׁוֹ בְּעָלְמָא — דְּאוֹרַיְיתָא" — "Abaye said: Flavor without substance in general is [prohibited] by Torah law." The sugya discusses the significance of absorbed flavor, which is the context for the rule regarding *efshar l'sochto*.

[15]Menachos — The Gemara there discusses a case involving the oil of a *minchah* offering where the question of *min b'mino* (like kind in like kind) and nullification arises.

[16]See footnote 12 above.

[17]Footnote 17

תשובה 2

Aged Shochet with Contradicting Witnesses on Knife Defect

Food Laws > Laws of Treifot • *Laws of Governance > Laws of Accepting Testimony* • *Laws of Governance > Laws of False Witnesses and Scheming Witnesses*

Summary

Correspondent and Context: The Chasam Sofer addresses Rabbi Eliyahu Neiman, Av Beis Din of Reitz. Rabbi Neiman asked about an elderly communal shochet and analyzed the relevant Tosfos in Eruvin.
The Question (Sha'ila): An elderly communal shochet had long been accepted as an expert. Two witnesses said they found his knife defective after slaughter several months earlier. Two other witnesses contradicted them at the same proceeding. A recent test showed that he could no longer feel a defect in a knife blade. Rabbi Neiman asks whether this proves that he already lacked this ability at the earlier time. If so, the affected meat and vessels would be prohibited retroactively. Alternatively, his ability may have declined only recently.
The Ruling (Teshuvah): The Chasam Sofer rules that all the meat and vessels from the day the witnesses saw the problem are prohibited at least rabbinically. Under Torah law, *trei u'trei* leaves the matter in its original *chazakah*. The Sages nevertheless treat it as a real doubt in matters of Torah law. Since shechitah is a Torah-level matter, their stringency applies. His present loss of sensitivity does not prove earlier incompetence. Such decline is natural in old age, so it does not support either set of witnesses.
Shulchan Aruch Background: The discussion centers on Shulchan Aruch, Yoreh Deah, Siman 1, concerning who may slaughter. It says that most regular slaughterers are presumed experts when they are unavailable for examination. The Rema requires certain knowledge that the shochet once received formal certification (*kabbalah*). The Chasam Sofer discusses the Taz and Nekudos HaKesef in Siman 1. He also cites their comments in Siman 397 about conflicting testimony concerning death.
Key Disputes (Machlokes): The Chasam Sofer first discusses the dispute between R. Meir and R. Yossi about *trei u'trei*. Both preserve the original *chazakah* under Torah law. R. Meir allows a current deficiency to support one set of witnesses, while R. Yossi still follows the original *chazakah*. The Chasam Sofer limits R. Meir's rule. It applies when the earlier status was expected to continue, such as the purity of terumah. It does not apply when the later change is natural, such as aging or death. He then discusses the Agudah and the Rashba regarding *rov metzuyin mumchin*. The Agudah uses the majority to infer that a regular shochet was originally competent. The Rashba requires definite evidence of earlier certification, and the Rema follows him. Once certification is known, the majority adds nothing. It also cannot establish continued competence after enough time has passed for the shochet's ability to decline.

שָׁלוֹם וְכָל טוּב לִידִיד נַפְשִׁי הָרַב הַגָּאוֹן מְאוֹר הַגּוֹלָה הַמְפֻלָּג כְּבוֹד מוֹרֵנוּ הָרַב אֵלְיָהוּ נַיְימָאן אב"ד דִּקְהִלַּת קֹדֶשׁ רַייץ יָגֵן עָלֶיהָ אֱלֹהִים.

Peace and all good to my dear friend, the Rabbi, the illustrious Gaon, the outstanding luminary of the exile, our honored master, Rabbi Eliyahu Neiman, Av Beis Din of the holy community of Reitz, may God protect it.

נַפְשִׁי הַיָּפָה בִּשְׁאֵלָתוֹ עַל דְּבַר שׁוֹחֵט מֻמְחֶה לָרַבִּים זָקֵן וּבָא בַּיָּמִים שֶׁהֵעִידוּ עָלָיו שְׁנֵי עֵדִים שֶׁמָּצְאוּ סַכִּינוֹ פָּגוּם אַחַר שְׁחִיטָה לִפְנֵי אֵיזֶה חֳדָשִׁים וּבָאוּ שְׁנֵי וְהַכְחִישׁוּם בְּאוֹתוֹ מַעֲמָד וְאָמְנָם עַתָּה נִסּוּהוּ וְאֵינֶנּוּ מַרְגִּישׁ בְּפִגְימָה וְנִסְתַּפֵּק מַעֲלָתוֹ אִי נֵימָא מִדְּעַכְשָׁיו אֵינוֹ מַרְגִּישׁ גַּם לְמַפְרֵעַ לֹא הִרְגִּישׁ וְנֶאֱסַר כָּל הַכֵּלִים לְמַפְרֵעַ מִיּוֹם שֶׁהֻזְכִּירוּ הָעֵדִים אוֹ לֹא דְּנֵימָא הַשְׁתָּא הוּא דְּאִתְרַע. וְעֵינָיו שָׁפִיר חָזוּ בְּדִבְרֵי טוּרֵי זָהָב סִימָן א' וּנְקֻדּוֹת הַכֶּסֶף שָׁם אֶלָּא מַעֲלָתוֹ יָרַד לְעוֹמֶק הָעִנְיָן בְּדִבְרֵי תּוֹסָפוֹת עֵירוּבִין ל"ה עַמּוּד ב' סוֹף דִּבּוּר הַמַּתְחִיל ר' יִרְמְיָה וְכוּ'. אֲהוּבִי יְדִיד נַפְשִׁי קְצוּרָן שֶׁל דְּבָרִים כָּךְ הוּא שְׁנֵי

His pleasant inquiry regarding a shochet who is an established expert for the public, who is old and advanced in years, (his age is relevant because it raises the possibility that his sensory abilities have declined) **that two witnesses testified about him that they found his knife defective after slaughter** (a defective knife may invalidate the shechitah) **some months ago, and two [others] came and contradicted them at that very occasion.** This creates **trei u'trei**: two sets of witnesses who contradict each other. **And indeed, now they tested him and he cannot feel a defect [on a knife blade].** A shochet must be able to feel a nick in the knife blade. **And his honor was uncertain whether we say: since now he cannot feel, retroactively also he did not feel [it], and all the vessels are prohibited retroactively from the day the witnesses mentioned [the defect], or not — that we say it is only now that his status became impaired. And his honor properly consulted the Taz, Siman 1, and the Nekudos HaKesef there.** These sources discuss the framework for evaluating contradicting testimony regarding a shochet's competence. **But his honor delved into the depths of the matter in Tosfos, Eruvin 35b, at the end of the passage beginning "R' Yirmiya," etc.**

כִּתְּי עֵדִים קַיְּימָא לַן הָוָה סְפֵיקָא דְּרַבָּנָן רוֹצֶה לוֹמַר מִדְּאוֹרַיְיתָא אוֹקֵי הָנֵי לְגַבֵּי הָנֵי וּכְמַאן דְּלֵיתְנְהוּ דָּמֵי וּמִלְּתָא אִשְׁתָּאַר בַּחֲזָקָה קַמַּיְיתָא וְהַיְינוּ נִכְסֵי דְּבַר שָׁטְיָא דִּכְתוּבוֹת כ' עַמּוּד א' וּמֵזֶּה הִקְשׁוּ תּוֹסָפוֹת בְּעֵירוּבִין ל"ו עַמּוּד א' דִּבּוּר הַמַּתְחִיל הָכָא בִּשְׁנֵי וְכוּ' וְנִרְשַׁם בְּטָעוּת כְּתוּבוֹת כ"ו וְטָעוּת סוֹפֵר הוּא וְצָרִיךְ לוֹמַר כְּתוּבוֹת כ' אֶלָּא מִדְּרַבָּנָן מַחְמִירִינַן שֶׁיִּהְיֶה סְפֵיקָא וְהַיְינוּ בְּמִילֵי דְּאוֹרַיְיתָא אֲבָל בְּמִידֵי דְּרַבָּנָן דְּמַסְהֲדֵי עֲלָהּ תְּרֵי וּתְרֵי נִשְׁאָר בַּחֲזָקָה קַמַּיְיתָא וְלֹא אַחְמְרִי בֵּיהּ רַבָּנָן וְהַיְינוּ תֵּירוּץ קָמָא בְּתוֹסָפוֹת כְּתוּבוֹת כ"ו עַמּוּד ב' וּבְתוֹסָפוֹת עֵירוּבִין ל"ו עַמּוּד א' הַנָּזְכָּר לְעֵיל נִדְפַּס בְּטָעוּת וְאֵין לוֹ שַׁחַר וְכָךְ צָרִיךְ לְהַגִּיהַ אַף עַל גַּב בְּפֶרֶק ב' דִּכְתוּבוֹת כ' עַמּוּד א' אָמְרִינַן אוֹקֵי תְּרֵי לַהֲדֵי תְּרֵי בְּדְאוֹרַיְיתָא שָׁאנֵי רָצָה לוֹמַר לְרַבִּי מֵאִיר קַיְימִינַן דְּעֵירוּב דְּאוֹרַיְיתָא וּבְדְאוֹרַיְיתָא אָסוּר מִדְּרַבָּנָן עַל כָּל פָּנִים וּבָזֶה לֹא פְּלִיג רַבִּי יוֹסִי אֶלָּא סְבִירָא לֵיהּ עֵירוּב דְּרַבָּנָן תּוּ תֵּירְצוּ תּוֹסָפוֹת בְּעֵירוּבִין אִי נַמִּי הָכָא הַשְׁתָּא וַדַּאי טְמֵאָה הִיא וְכָוָנָתָם לְתֵירוּץ שֵׁנִי בִּכְתוּבוֹת כֵּיוָן דְּטְמֵאָה לְפָנֵינוּ אֲפִלּוּ הָוָה סְבִירָא לֵיהּ לְרַבִּי מֵאִיר תְּחוּמִין דְּרַבָּנָן כֵּיוָן דְּאִתְרַע לְפָנֵינוּ לֹא אָמְרִינַן אוֹקֵי תְּרֵי בַּהֲדֵי תְּרֵי וְשָׁם בִּכְתוּבוֹת הִקְשׁוּ תּוֹסָפוֹת מִמְּקֻוֶה דְּלֹא אָזְלִינַן בָּתַר הַשְׁתָּא וְתֵירְצוּ הֵיכִי דְּאִיכָא כַּת אַחַת דְּמוֹצִיא מִידֵי חֲזָקָה וְרֵיעוּתֵיהּ מְסַיְּיעַ לְאוֹתָהּ כַּת אִתְרַע כַּת הַשְּׁנִיָּה וְהָכָא בְּעֵירוּבִין לֹא חָשׁוּ תּוֹסָפוֹת לְהַאֲרִיךְ בָּזֶה דְּסָמְכוּ עַל מַה שֶּׁכָּתְבוּ כָּן לְעֵיל סוֹף דִּבּוּר הַמַּתְחִיל ר' יִרְמְיָה וּמִכָּל מָקוֹם אֵינוֹ מֻחְלָט לְדִינָא אֶלָּא בְּהָא פְּלִיגִי רַבִּי מֵאִיר וְרַבִּי יוֹסִי דְּלְרַבִּי יוֹסִי אֲפִלּוּ בִּשְׁנֵי כִּתֵּי עֵדִים וְאִתְרַע לְפָנֵינוּ מִכָּל מָקוֹם דַּיְינִינַן לֵיהּ כִּמְקֻוֶה אַחֲזָקָה קַמַּיְיתָא.

My beloved, dear friend: the summary of the matter is as follows. Two contradicting sets of witnesses — the established halachah is that this constitutes a doubt of rabbinic origin. That is to say: from Torah law, we set these [witnesses] against those, and they are as if they do not exist. And the matter remains in its original presumed status. Because the witnesses cancel each other out, Torah law preserves the shochet's prior **chazakah** of competence. **This is [the principle derived from] the case of the property of bar Shatya in Kesubos 20a.** In that case, two groups dispute whether a property sale was valid. The property remains in its earlier status. **And from this, Tosfos in Eruvin 36a, d.h. "hacha bishni," etc., raised a difficulty.** Tosfos question why, if **trei u'trei** simply maintains the **chazakah**, certain cases are treated stringently. **And it is noted there [as a cross-reference to] Kesubos 26 — but this is a scribal error, and it should read Kesubos 20. Rather, it is only rabbinically that we impose stringency to treat it as a doubt. And this [stringency] applies specifically in matters of Torah law. But in a matter of rabbinic law where two [witnesses] and two [witnesses] testify about it, it remains in its original status, and the Sages did not impose stringency upon it. And this is the first answer of Tosfos in Kesubos 26b. And in Tosfos Eruvin 36a mentioned above, [this answer] was printed with errors and is nonsensical. And this is how it should be emended: "Even though in Chapter 2 of Kesubos 20a we say 'establish two against two' in a matter of Torah law it is different."**[1] **This means: We are dealing with R. Meir's view, who holds that eruv [i.e., the prohibition of Shabbos boundaries] is of Torah-level origin. And in Torah-level matters, it is prohibited at least rabbinically. And in this principle, R. Yossi does not disagree. Rather, his position is that eruv is rabbinic [in nature]. Further, Tosfos in Eruvin answered alternatively: "Or alternatively, here she is now certainly impure."** This is Tosfos' second answer. It relies on a current, observable deficiency (**rei'usa de'hashta**). **And their intent corresponds to the second answer in [Tosfos] Kesubos.** Tosfos in Eruvin is abbreviating the more detailed discussion found in Tosfos Kesubos. **Since she is impure before us, even if R. Meir held that techumin is rabbinic, since the matter has been weakened before us, we do not say "establish two against two."** The observable current impurity (**rei'usa**) tips the scales, breaking the stalemate between the two sets of witnesses. **And there in Kesubos, Tosfos raised a difficulty from [the case of] a mikveh, where we do not follow the current status.** In the mikveh case, even though the mikveh is currently lacking water, we do not retroactively invalidate immersions — seemingly contradicting the principle that current deficiency undermines the **chazakah**. **And they answered: Where there is one set [of witnesses] that removes [the matter] from its original chazakah, and the current deficiency supports that set, the other set is weakened. And here in Eruvin, Tosfos did not bother to elaborate on this, because they relied on what they wrote above at the end of d.h. "R' Yirmiya." And nevertheless, [this second principle] is not conclusive as practical law. Rather, this is the subject of dispute between R. Meir and R. Yossi.** Whether current **rei'usa** can break the **trei u'trei** stalemate is itself disputed. **For according to R. Yossi, even with two sets of witnesses and current deficiency before us, we nevertheless adjudicate it like the mikveh case — maintaining the original chazakah.**

וְנִרְאֶה לִי אֲפִלּוּ לְרַבִּי מֵאִיר נַמִּי לֹא אָמְרִינַן כֵּן אֶלָּא כְּגוֹן תְּרוּמָה וְנִטְמֵאת וְכַדּוֹמֶה דַּחֲזָקָה קַמַּיְיתָא הָיָה שֶׁהִיא

And it appears to me that even according to R. Meir, we do not apply this principle (the principle is that a current deficiency supports one set of witnesses about the past) **except in cases like terumah that became impure,**

[1] Eruvin 35b–36a — The Gemara states: "קסבר רבי יוסי: תחומין דרבנן" — R. Yossi holds that *techumin* (Shabbos boundary limits) are rabbinic in nature. The Gemara resolves the apparent contradiction in R. Yossi's rulings by explaining that his leniency regarding eruv stems from *techumin* being rabbinic, while he is stringent regarding *tumah* (impurity) which has a Torah-level basis.

טְהוֹרָה וּלְעוֹלָם לֹא תִּטְמָא דְּכָל מִילֵּי אוֹקְמֵיהּ אַחֲזָקָה קַמַּיְיתָא שֶׁכֵּן יִהְיֶה לְעוֹלָם וְהַשְׁתָּא חָזִינַן דְּטָמֵאָה לְפָנֵינוּ נִמְצָא זֹאת הָרְיעוּתָא מְסַיְּיעָא לְהַהִיא כַּת שֶׁהוֹצִיאָה מֵחֲזָקָה רִאשׁוֹנָה וּמִשּׁוּם הָכִי אָמְרִינַן מִדְּהַשְׁתָּא טְמֵאָה מֵעִיקָּרָא נַמֵּי טְמֵאָה אֲבָל שְׁנֵי אוֹמְרִים מֵת בְּנִיסָן וּשְׁנֵי אוֹמְרִים לֹא מֵת בְּנִיסָן וְהַשְׁתָּא בְּאִיָּיר נִמְצָא מֵת בְּוַדַּאי וּכְגוֹנֵי דְּתוֹסָפוֹת בְּחוּלִּין צ"ו עַמּוּד א' דִּבּוּר הַמַּתְחִיל פְּלַנְיָא וְכוּ' אִי אֵירַע כֵּן בִּשְׁנֵי כִּתֵּי עֵדִים גַּם רַבִּי מֵאִיר יוֹדֶה דְּלֹא נֵימָא מִדְּהַשְׁתָּא מֵת מֵעִיקָּרָא נַמֵּי מֵת דְּמָה רְאָיָה הִיא זוֹ וְכִי מֵעִיקָּרָא הֲוָה לַן חֲזָקָה שֶׁלֹּא יָמוּת לְעוֹלָם וְאֵין מִיתָה דְּהַשְׁתָּא מְגָרַע כֹּחַ סָהֲדֵי שֶׁאָמְרוּ בְּנִיסָן חַי הָיָה וְלֹא מְסַיְּיעָא לְכַת שֶׁאוֹמְרִים מֵת הָיָה וְעַיֵּין טוּרֵי זָהָב וּנְקוּדוֹת הַכֶּסֶף סִימָן שצ"ז וְהֵיוֹת כֵּן יֵשׁ לְתְמַהּ עַל תֵּירוּץ תּוֹסָפוֹת דִּיבָמוֹת ס"ח עַמּוּד א' דִּיבּוּר הַמַּתְחִיל רֵישָׁא וְכוּ' דַּאֲפִלּוּ נְדָחַק דְּמַיְּירֵי בִּשְׁנֵי כִּתֵּי עֵדִים וְאָתְיָא נַמֵּי כְּרַבִּי מֵאִיר מִכָּל מָקוֹם מִדְּהַשְׁתָּא בֶּן ט' לֹא אִיתְרַע חֶזְקַת הַמְּעִידִים שֶׁהָיָה מְעִיקָּרָא בֶּן ח' וְדִבְרֵיהֶם תְּמוּהִים כְּמוֹ שֶׁכָּתַב מהרי"ט:

and similar cases, where the original chazakah was that it is pure and will never become impure. For in all matters, we establish something on its original chazakah [assuming] that it will remain so forever. And now we see that it is impure before us — it follows that this current deficiency supports that set [of witnesses] who removed it from its original chazakah. And therefore we say: since now it is impure, from the beginning it was also impure. But [in a case where] two say he died in Nissan and two say he did not die in Nissan, and now in Iyar he is found certainly dead, as in the type of case discussed by Tosfos in Chullin 96a, d.h. "planya," etc., if such a case occurred with two sets of witnesses, even R. Meir would concede that we would not say "since now he is dead, from the beginning he was also dead." For what proof is this? Did we originally have a chazakah that he would never die? The original **chazakah** of being alive does not imply immortality; death is an expected eventuality. **And the death of now does not diminish the force of the witnesses who said he was alive in Nissan, nor does it support the set that says he was [already] dead.** Since death is inevitable, the fact that he is dead now provides no information about whether he was dead in Nissan. **And see the Taz and Nekudos HaKesef, Siman 397.** These sources discuss the framework of contradicting witnesses in the context of testimony about death. **And this being so, there is reason to wonder at the answer of Tosfos in Yevamos 68a, d.h. "reisha," etc.**[2] **For even if one strains to say it deals with two sets of witnesses and accords also with R. Meir, nevertheless, from the fact that he is now nine [years old], the chazakah of the witnesses who testified that he was originally eight is not weakened.** Just as death is the natural progression of life, reaching age nine is the natural progression from age eight. The current age provides no retroactive evidence about his age at an earlier time. **And their words are puzzling, as the Maharit wrote.**[3]

וּבְמַאי דְּקָמַן בְּוַדַּאי מִן הַתּוֹרָה אוֹקֵי תְּרֵי לַהֲדֵי תְּרֵי וְאוֹקֵי גַּבְרָא אַחֲזָקָתֵיהּ אַף עַל גַּב דְּאִתְרַע לְפָנֵינוּ דְּקַיְּימָא לַן כְּרַבִּי יוֹסֵי דְּלֹא כְּרַבִּי מֵאִיר וּמִכָּל שֶׁכֵּן דְּהַרְגָּשָׁה עָבִיד שֶׁלְּעֵת זִקְנוּת יֶחֱלַשׁ גֶּבֶר וְיֹאבַד חוּשׁ הַהַרְגֵּשׁ וְאִם כֵּן אֲפִלּוּ רַבִּי מֵאִיר מוֹדֶה דְּאֵין רֵיעוּתָא דְּהַשְׁתָּא מְגָרַע כֹּחַ סָהֲדֵי דְּמִסַּהֲדֵי אַכְּשְׁרוּתוֹ דְּמֵעִיקָּרָא אַךְ תְּרֵי וּתְרֵי סְפֵיקָא דְּרַבָּנָן הוּא לְכוּלֵּי עָלְמָא וּמִדְּרַבָּנָן אָסוּר בְּאִיסּוּר דְּאוֹרַיְיתָא וּבְהָא לֹא פְּלִיגִי רַבִּי מֵאִיר וְרַבִּי יוֹסֵי רַק לְרַבִּי יוֹסֵי תְּחוּמִין דְּרַבָּנָן אֲבָל בְּאִיסּוּר דְּאוֹרַיְיתָא מוֹדֶה וְהָכָא שְׁחִיטָה דְּאוֹרַיְיתָא הוּא וְאִם כֵּן אֲפִלּוּ לֹא נִמְצָא רֵיעוּתָא לְפָנֵינוּ נַמֵּי כָּל הַבָּשָׂר וְהַכֵּלִים אֲסוּרִים מִדְּרַבָּנָן בִּלְי סָפֵק מִיּוֹם שֶׁרָאוּ הָעֵדִים הַאי עוֹבְדָא:

And in our case before us, certainly from Torah law we establish two against two and we maintain the man on his original chazakah (— his longstanding status as a competent, authorized shochet) **even though there is current deficiency before us, for the established halachah follows R. Yossi and not R. Meir. And all the more so regarding tactile sensitivity, which naturally changes, for in old age a man weakens and loses his sense of touch.** Loss of sensitivity in old age is natural. Like death, it proves nothing about an earlier time. **And if so, even R. Meir would concede that the current deficiency does not diminish the force of the witnesses who testified to his original competence.** His earlier competence was not expected to last forever. His current decline therefore proves nothing about the past. **However, two against two is a rabbinic-level doubt according to all opinions. And it is rabbinically prohibited in a matter of Torah-level prohibition. And in this, R. Meir and R. Yossi do not disagree. It is only that R. Yossi holds techumin is rabbinic, But in a matter of Torah-level prohibition, he concedes [to stringency]. And here, shechitah is a Torah-level matter.** Therefore, the rabbinic stringency for **trei u'trei** applies. **And if so, even if no current deficiency had been found before us, all the meat and vessels would still be prohibited rabbinically without any doubt, from the day the witnesses observed this occurrence.**

וּמִכָּל שֶׁכֵּן שֶׁנִּמְצָא רֵיעוּתָא לְפָנֵינוּ נַמֵּי דְּדִבְרֵי נְקוּדוֹת הַכֶּסֶף סִימָן א' תְּמוּהִים מַה שֶּׁכָּתַב דְּהָכָא אִיכָּא תַּרְתֵּי חֲזָקָה וְרוּבָּא

And all the more so since current deficiency was also found before us. The current deficiency strengthens the ruling, but it is not its basis. **[Parenthetically,] the words of the Nekudos HaKesef in Siman 1 are puzzling. For**

[2] Yevamos 68a — The Gemara discusses: "ובן תשע שנים וכו'. קא סלקא דעתין, בשומרת יבם לבן תשע ויום אחד" — the legal implications of intercourse by a boy of nine years and one day with a *yevamah*. Tosfos there (d.h. "reisha") attempt to resolve a difficulty by invoking the principle that current status retroactively supports one set of witnesses, which the Chasam Sofer finds problematic.

[3] Maharit (R. Yosef di Trani).

דְּרוֹב מְצוּיִין מוּמְחִים וְאִי אֶפְשָׁר לְהַסְבִּיר דָּבָר זֶה הָא רשב"א צוֹוֵחַ אֵיךְ שַׁיָּיךְ רוֹב מְצוּיִין וַהֲרֵי הוּא מִן הַמִּיעוּט דְּקָמַן שֶׁהוּא מָצוּי וְאֵינוֹ מוּמְחֶה וְחָלִילָה לֹא נֶעְלַם זֶה מֵהָאַגּוּדָה וְלֹא נִשְׁתַּבֵּשׁ בָּזֶה אֶלָּא הָאַגּוּדָה סְבִירָא לֵיהּ אֲפִלּוּ לֹא נָטַל קַבָּלָה מֵעוֹלָם עַל כָּל פָּנִים סָמְכִינַן שֶׁמִּסְתָּמָא לֹא הִתְחִיל בַּתְּחִלָּה לִהְיוֹת מָצוּי אֵצֶל שְׁחִיטָה לוּלֵי שֶׁהָיָה אָז מוּמְחֶה אֶלָּא אַחַר כָּךְ שָׁכַח אֲבָל תְּחִלָּה בְּוַדַּאי הָיָה מוּמְחֶה שֶׁרוֹב כֵּן הוּא וְכֵיוָן שֶׁמִּכֹּחַ הָרוֹב יָדְעִינַן שֶׁבְּוַדַּאי הָיָה פַּעַם אַחַת מוּמְחֶה הֲוָה לֵיהּ כְּאִלּוּ נָטַל קַבָּלָה בְּפָנֵינוּ וּכְמוֹ שֶׁכָּתַב הָרֹא"ש פֶּרֶק קַמָּא דְּחוּלִּין גַּבֵּי גְּבִינוֹת וְתוֹסָפוֹת רֵישׁ נִדָּה עַיֵּין שָׁם וַהֲוָה לֵיהּ מוּחְזָק וְאָמְרִינַן הַשְׁתָּא הוּא דְּאִתְרַע וְרשב"א סְבִירָא לֵיהּ כֵּיוָן דְּעַכְשָׁיו הוּא מָצוּי אֵצֶל שְׁחִיטָה וְאֵינֶנּוּ מוּמְחֶה אֵין לָנוּ שׁוּם חֶזָקָה עָלָיו לְמַפְרַע שֶׁמִּתְּחִלָּה בְּוַדַּאי הוּחְזַק לֹא אָמְרִינַן כֵּן אֶלָּא בְּמִי שֶׁנָּטַל קַבָּלָה פַּעַם אַחַת בְּוַדַּאי וְהִכְרִיעַ רמ"א כְּרשב"א דְּבָעִינַן שֶׁיָּדְעִינַן בְּוַדַּאי שֶׁנָּטַל קַבָּלָה וְהַשְׁתָּא שְׁיָדְעִינַן שֶׁנָּטַל קַבָּלָה אִם כֵּן מַה יוֹעִיל צֵירוּף רוֹב מְצוּיִין מִמָּה נַפְשָׁךְ בְּיוֹם שֶׁנָּטַל קַבָּלָה וּזְמַן מָה אַחַר כָּךְ בְּסָמוּךְ אֲפִלּוּ לֹא הָיָה רוֹב מְצוּיִין מוּמְחִים הֲרֵי הוּא הָיָה מוּמְחֶה שֶׁנָּטַל קַבָּלָה וְאַחַר כָּךְ בִּזְמַן שֶׁנּוּכַל לְתָלוֹת מִדְּהַשְׁתָּא שָׁכַח מֵעִיקָּרָא נַמִּי שָׁכַח מַה יוֹעִיל רוֹב מְצוּיִין וְכִי נֵימָא מִסְתָּמָא אִי הָיָה שָׁכַח הָיָה פּוֹרֵשׁ עַצְמוֹ וְלֹא הָיָה נִמְצָא אֵצֶל שְׁחִיטָה דְּרוֹב מְצוּיִין מוּמְחִים זֶה אֵינוֹ דְּהֲרֵי לְפָנֵינוּ שֶׁשָּׁכַח עַתָּה וַעֲדַיִן לֹא פּוֹרֵשׁ וְאֵינוֹ רוֹצֶה לְפָרוֹשׁ מֵהַשְׁחִיטָה וּלְאַבֵּד הַמְּחָאָתוֹ וְדִבְרֵי נְקוּדוֹת הַכֶּסֶף צָרִיךְ עִיּוּן [וְעַיֵּין פְּלֵתִי שֶׁמְּחַלֵּק בֵּין שָׁכַח תַּלְמוּדוֹ וּבֵין אָבַד כֹּחַ הַרְגָּשָׁתוֹ] עַל כָּל פָּנִים לְפִי עֲנִיּוּת דַּעְתִּי כָּל הַבָּשָׂר וְהַכֵּלִים מִיּוֹם שֶׁהֵזִכִּירוּ הָעֵדִים אֲסוּרִים מִדְּרַבָּנָן מִיהַת הַנִּרְאֶה לַעֲנִיּוּת דַּעְתִּי כָּתַבְתִּי וְחָתַמְתִּי אֲנִי נְאוּם:

he writes that here there are two [supporting factors]: a chazakah and a majority, since most who are found [slaughtering] are experts.[4] **But it is impossible to explain this reasoning. For the Rashba objected: How is "most who are found [slaughtering]" applicable? Behold, he is from the minority that is before us — one who is found [slaughtering] yet is not an expert!** The Rashba argues that a general majority cannot establish this man's expertise when his lack of expertise is before us. **And God forbid that this escaped the Agudah, nor was he mistaken in this.** The Chasam Sofer defends the Agudah from the Rashba's critique. **Rather, the Agudah holds that even if he never received formal certification, we can still rely [on the presumption] that presumably he did not originally begin to be found at slaughtering unless he was then an expert.** The Agudah's logic is that no one becomes a regular slaughterer without initially being competent. **Rather, he subsequently forgot. But at first he was certainly an expert, for the majority is so.** The **rov** is used not to evaluate his current status, but to establish that he was **originally** competent. **And since through the force of the majority we know that he was certainly once an expert, it is as if he received certification before us. As the Rosh writes in the first chapter of Chullin regarding cheeses, and Tosfos at the beginning of [Masechta] Niddah — see there. And he is thereby established [as competent], and we say it is only now that his status was impaired.** With the **chazakah** of prior expertise established via the **rov**, we presume competence continued until proved otherwise. **But the Rashba holds that since now he is found at slaughtering and is not an expert, we no longer have a chazakah upon him retroactively. That he was certainly established from the beginning — we do not say this. Rather, [we only invoke a chazakah] for someone who certainly received certification once. And the Rema ruled like the Rashba, that we require knowing with certainty that he received certification.**[5] **And now, since we know he received certification, what benefit does the addition of "most who are found [are experts]" provide?** Given the Rema's ruling, our case necessarily involves a shochet with verified prior certification. **Either way: On the day he received certification and for some time shortly thereafter, even without the majority of those found being experts, he himself was an expert who received certification. And later, at the time when we could attribute: "since now he has forgotten, originally too he had forgotten," what benefit does "most found [are experts]" provide? Shall we say that presumably, if he had forgotten, he would have withdrawn himself and would not be found at slaughtering — since most found [there] are experts? This is not [valid], for behold, before us he has forgotten now and still has not withdrawn.** The present case disproves this claim: the shochet has lost his ability but has not retired. **And he does not wish to withdraw from slaughtering and lose his established position. And the words of the Nekudos HaKesef require further investigation. [And see the Pleisi, who distinguishes between one who forgot his halachic knowledge and one who lost the strength of his tactile sense.]**[6] **In any case, in my humble opinion, all the meat and vessels from the day the witnesses testified are prohibited at least rabbinically. What appears to my humble opinion I have written and signed, thus I declare:**

[4] SA, Yoreh Deah 1:1 — The Shulchan Aruch rules: "שרוב הרגילין לשחוט הם בחזקת מומחין ומוחזקין. בד"א בשאינו לפנינו או מותר לאכול משחיטתו וסומכים. אבל אם הוא לפנינו צריך לבדקו אם הוא מומחה על החזקה" — most who regularly slaughter are presumed experts, but only when the individual is not before us; if he is before us, he must be examined. The Rema (in his glosses there) rules that we require definite knowledge that the shochet once received formal certification.

[5] SA, Yoreh Deah 1:1 — The Shulchan Aruch rules: "שרוב הרגילין לשחוט הם בחזקת מומחין ומוחזקין. בד"א בשאינו לפנינו או מותר לאכול משחיטתו וסומכים. אבל אם הוא לפנינו צריך לבדקו אם הוא מומחה על החזקה" — most who regularly slaughter are presumed experts, but only when the individual is not before us; if he is before us, he must be examined. The Rema (in his glosses there) rules that we require definite knowledge that the shochet once received formal certification.

[6] Pleisi, Yoreh Deah, Siman 1.

Pressburg, the eve of Tuesday, 28 Teves [5]581.

פְּרַעשְׁבורְג נֶגֶהּ לְיוֹם ג' כ"ח טֵבֵת תקפ"א לִפְרָט קָטָן:

תשובה 3

Unreliable Shochet's Nicked Knife and Retroactive Prohibition

Food Laws > Laws of Treifot • *Food Laws > Mitzvot Related to Slaughter*

Summary

Correspondent and Context: A rabbinic colleague asks about a shochet who repeatedly failed to detect nicks on his knife after slaughter.
The Question (Sha'ila): After a shochet declared eight animals kosher, a youth found many nicks on his knife. The shamash confirmed this, but the shochet felt nothing. The question is whether the meat and vessels that absorbed its taste are retroactively prohibited.
The Ruling (Teshuvah): The Chasam Sofer prohibits the meat. The youth and shamash establish that the last animal is prohibited. The other seven are also prohibited, because once the last animal is prohibited and his checks between slaughters cannot be trusted, all the meat and fat left from these animals is *safek neveilah*. Separately, any sheep and goat meat from his slaughtering is also not permitted, because he failed to clear wool, hair, and dirt from their necks. He also suspects that the shochet is a *paslan* and cannot be trusted in matters of prohibition. For earthenware vessels, he says one may rely on the lenient view after 24 hours when the loss would be great, because *ta'am ke'ikar* may be rabbinic.
Shulchan Aruch Background: The relevant sources are Shulchan Aruch Yoreh Deah 1 on a shochet's competence; 18:12 on a lost knife; 39:16–17 on conflicting reports about a detached lung; and 127 on a single witness who prohibits.
Key Disputes (Machlokes): The Chasam Sofer first distinguishes the Knesses HaGedolah from the Pelesi on whether lost sensation creates a retroactive concern. From Bava Basra 153b and Kiddushin 79b, he argues that present status controls when no *chezkas mamon* opposes it. He then reads Kiddushin 66a–b to show that Rava strengthens the rule: when a claim can be checked, one prohibiting witness is believed even when contradicted. He explains that Tosfos' reading of *shlach v'achvi* extends this rule even when another witness contradicts him.

Concerning the matter of the shochet whose chazakah was compromised, because nicks were found on his knife multiple times after slaughter and he did not feel them, whether to retroactively prohibit the vessels. This raises whether his loss of sensation is a persistent condition. If the meat was prohibited, vessels that absorbed its taste may require kashering or disposal. **The Knesses HaGedolah, in his glosses on the Beis Yosef, Siman 1, note 35,**[1] (the Knesses HaGedolah [R' Chaim Benveniste] discusses the case of a shochet who lost his ability to detect knife defects) **and there he ruled as a matter of halachah that loss of sensation comes all at once, in an instant. And one should not prohibit retroactively.** Since the loss arose at one moment, earlier slaughters remain presumed valid. **And even according to what the Pelesi wrote at the end of sub-section vav, s.v. "yihyeh eich she'yihyeh,"**[2] (the Pelesi is R' Yonasan Eybeschutz, author of Kereisi u'Pleisi) **that regarding loss of sensation, one should be stringent retroactively. Because since his knife is not in the presumption of having been checked — then inevitably he slaughtered multiple times with a defective knife without noticing. See there.** Once his checks are unreliable, the knife no longer has a presumption of being checked. **Nevertheless, here where his chazakah was not compromised before slaughter but only after slaughter —** The problem may arise only after slaughter, when exertion weakens the shochet's sense of touch. **And as is apparent from his words, to attribute it to weak-**

עַל דְּבַר הַשּׁוֹחֵט שֶׁאִתְרַע חֶזְקָתוֹ שֶׁנִּמְצְאוּ אַחֲרָיו כַּמָּה פְּעָמִים פְּגִימוֹת בַּסַּכִּין אַחַר שְׁחִיטָה וְלֹא הִרְגִּישׁ אִם לֶאֱסֹר הַכֵּלִים לְמַפְרֵעַ הִנֵּה בִּכְנֶסֶת הַגְּדוֹלָה בְּהַגָּהוֹת בֵּית יוֹסֵף סִימָן א' אוֹת ל"ה וְשָׁם פָּסַק לַהֲלָכָה דְּשִׁכְחַת הַרְגָּשָׁה בָּאָה בְּפַעַם אַחַת כְּרֶגַע וְאֵין לֶאֱסֹר לְמַפְרֵעַ וַאֲפִלּוּ לְמַה שֶּׁכָּתַב בַּפִּלְתִּי סוֹף סְעִיף קָטָן וי"ו בְּדִיבּוּר הַמַּתְחִיל יִהְיֶה אֵיךְ שֶׁיִּהְיֶה דְּבִשְׁכְחַת הַהַרְגָּשָׁה יֵשׁ לְהַחְמִיר לְמַפְרֵעַ מִשּׁוּם דְּכֵיוָן שֶׁסַּכִּינוֹ אֵינֶנּוּ בְּחֶזְקַת בָּדוּק אִם כֵּן מִמֵּילָא שָׁחַט כַּמָּה פְּעָמִים בְּסַכִּין פָּגוּם מִבְּלִי מֵשִׂים עַיִן שָׁם מִכָּל מָקוֹם הָכָא שֶׁלֹּא אִתְרַע חֶזְקָתוֹ קֹדֶם שְׁחִיטָה רַק אַחַר שְׁחִיטָה וְכַנִּרְאֶה מִדְּבָרָיו לְתֹלוֹת בְּחוּלְשָׁה וְעָלוּף מֵחֲמַת הַשְּׁחִיטָה אִם כֵּן לֹא שַׁיְיכִי דִּבְרֵי הַפִּלְתִּי הַנִּזְכָּר לְעֵיל דְּהָא עַל כָּל פָּנִים הָיָה סַכִּינוֹ בְּחֶזְקַת בָּדוּק בְּכָל פַּעַם קֹדֶם שְׁחִיטָה וְהִנֵּה מַעֲלָתוֹ

[1] Knesses HaGedolah (R' Chaim Benveniste), Haggahos Beis Yosef, Yoreh Deah, Siman 1, os 35.
[2] Pelesi (Kreisi u'Pleisi, R' Yonasan Eibeshitz), Yoreh Deah, Siman 1, end of s.k. vav (6), s.v. "yihyeh eich she'yihyeh."

נִתְעַוֵּר לוֹמַר דְּכָל הַמְקִילִין הָאַחֲרוֹנִים אֵינוֹ אֶלָּא בְּשֶׁנּוֹטֵל קַבָּלָה וְהוּחְזַק עַל כָּל פָּנִים אָז אָמְרִינַן הַשְׁתָּא הוּא דְּאִתְרַע אֲבָל לְמַפְרֵעַ מוֹקְמִינַן אַחֶזְקָתֵיהּ בִּשְׁעַת נְטִילַת הַקַּבָּלָה מַה שֶּׁאֵין כֵּן זֶה שֶׁלֹּא אִתְרַע חֶזְקָתוֹ אֶלָּא אַחַר שְׁחִיטָה וְלָזֶה לֹא הוּחְזַק מֵעוֹלָם כִּי לֹא הֶעֱמִידוּהוּ עַל הַנִּסָּיוֹן בָּזֶה כַּיָּדוּעַ וְהִנֵּה דָּבָר גָּדוֹל דִּבֵּר בָּזֶה הַגַּם דִּלְכַאוֹרָה יֵשׁ לְפַקְפֵּק וְלוֹמַר אַדַּרְבָּא אָזְלִינַן בָּתַר רוּבָא אוֹ אֲפִלּוּ כּוּלֵי עָלְמָא שֶׁלֹּא שָׁמַעְנוּ שֶׁהוּרַע כֹּחָם עַל יְדֵי שְׁחִיטָה דַּאֲפִלּוּ בְּעִלְּוֹף הַמּוּבְאָר בש"ס סְבִירָא לְהוּ לְכַמָּה פּוֹסְקִים דְּלָהָכִי אָמְרִינַן לְעַלּוֹפֵי לֹא חָיְישִׁינַן וְלֹא אָמְרִינַן רוֹב מְצוּיִים אֵצֶל שְׁחִיטָה מוּחְזָקִים הֵם מִשּׁוּם דְּעָדִיף מֵרוֹב וְלֹא חָיְישִׁינַן לֵיהּ כְּלָל אֲפִלּוּ לְכַתְּחִלָּה וְנֶהְי דַּאֲנַן מַחְמְרִינַן וּמַצְרִיכִים שֶׁיִּשְׁחֹט הַשּׁוֹחֵט שְׁלֹשָׁה תַּרְנְגוֹלִים לִפְנֵי הָרַב כְּדֵי שֶׁיַּחֲזִיק גַּם כֵּן בְּעִנְיָן זֶה שֶׁלֹּא יִתְעַלֵּף מִכָּל מָקוֹם הָא קָמָן דְּלְעִנְיַן עֵיפוּת דְּשְׁחִיטָה שֶׁיֵּאָבֵד הַרְגָּשָׁתוֹ עַל יְדֵי זֶה לְהָא לֹא חָיְישִׁינַן וְלֹא בָּדְקִינַן לֵיהּ מִשּׁוּם דְּלֹא שְׁכִיחַ כְּלָל וְאִם כֵּן בְּהַאי גַּבְרָא נָמֵי נֵימָא נֶהְי דְּעָיֵיף וְאָבַד הַרְגָּשָׁתוֹ מִכָּל מָקוֹם נֵימָא הַשְׁתָּא הוּא דְּאִתְרַע וְיָצָא מֵרוּבָא דְּעָלְמָא וְדִלֹּא כְּדִבְרֵי מַעֲלָתוֹ

ness and faintness caused by the slaughter. The correspondent attributed the shochet's loss of sensation to physical fatigue from the act of slaughter itself. **Then the words of the aforementioned Pelesi are not relevant.** The Pelesi's reasoning does not apply if the shochet could check the knife before slaughter. **For after all, his knife was in the presumption of having been checked each time before slaughter. And behold, your honor was inspired to say that all the lenient Acharonim apply their leniency only when he received kabbalah.** The correspondent says this leniency applies only to a formally examined and certified shochet. **And he was established as competent — at least then we say "it is now that he became compromised." But retroactively we maintain his chazakah from the time he received his kabbalah. Unlike this one whose chazakah was not compromised except after slaughter. And for this he was never established.** His certification never tested whether he retained sensation after slaughter. **For they never tested him on this, as is known. And behold, he spoke a great thing in this matter. Although at first glance one can question this and say: On the contrary, we follow the majority.** Perhaps we should follow the general presumption that most people do not suffer this problem. **Or even all people — we have not heard that their faculties are impaired by slaughter. For even regarding fainting mentioned in the Talmud —** (the Gemara discusses the concern that a shochet might faint during slaughter) **several poskim hold — that the reason we say "we do not worry about fainting" is — and we do not merely say "most who are involved in shechitah are established as competent." Because it is better than a mere majority, and we do not worry about it at all, even lechatchilah. And granted that we are stringent and require the shochet to slaughter three chickens before the rabbi — So that he should also be established regarding this matter — that he will not faint. Nevertheless, we see that regarding fatigue from slaughter causing him to lose his sensation through it — This we do not worry about and we do not test him for it. Because it is not common at all. And if so, regarding this man too, let us say: Granted that he became fatigued and lost his sensation — Nevertheless, let us say "it is now that he became compromised." And he departed from the majority of people — and not as your honor suggested.**

וּמִכָּל מָקוֹם נִרְאֶה לִי כִּדְבָרָיו מֵהָא דַּאֲמַרִינַן בְּבָבָא בַּתְרָא קנ"ג עַמּוּד ב' מִי מוֹצִיא מִיַּד מִי וְכוּ' רַב נַחְמָן אָמַר אִם בָּרִיא הוּא עָלָיו לְהָבִיא רְאָיָה שֶׁהָיָה שָׁכִיב מְרַע וְאִם שָׁכִיב מְרַע הוּא עֲלֵיהֶם לְהָבִיא רְאָיָה שֶׁהָיָה בָּרִיא וּפָסַק שָׁם רַשְׁבָּ"ם כְּרַב נַחְמָן וַאֲפִלּוּ לְהָרַמְבַּ"ם וְכֵן פָּסַק הַשֻּׁלְחָן עָרוּךְ כְּרַבִּי יַעֲקֹב מִשּׁוּם דְּמְבוֹאָר דְּהַיְינוּ טַעְמָא מִשּׁוּם חֶזְקַת מָמוֹן עָדִיף אֲבָל אִי לֹא הָיָה לְהוֹצִיא מִיַּד הַמּוּחְזָק הָוָה אָזְלִינַן בָּתַר הַשְׁתָּא כַּמְבוֹאָר הֵיטֵב בַּסּוּגְיָא דְּקִידּוּשִׁין ע"ט עַמּוּד ב' וְזֶה נִרְאֶה לִי דַּעַת רמ"א בְּחוֹשֶׁן מִשְׁפָּט סִימָן רנ"א בְּהַאי דִּינָא שֶׁלֹּא כָּתַב שֶׁאִם אֵין אֶחָד מֵהֶם מוּחְזָק שֶׁיַּחֲלֹקוּ כְּמוֹ שֶׁהִרְגִּישׁ הסמ"ע שָׁם וְנִרְאֶה לִי מִשּׁוּם דַּאָזְלִינַן בָּתַר הַשְׁתָּא

Nevertheless, it appears to me that his words are correct. From that which we say in Bava Basra 153b:[3] **"Who extracts from whom," etc.** The case concerns a disputed gift. The parties disagree whether the giver was healthy or on his deathbed. **Rav Nachman said: If he is currently healthy, he must bring proof that he was a shechiv mera.** Since a **shechiv mera**'s gift can be retracted upon recovery, the person's current status determines the burden of proof. **And if he is currently a shechiv mera, they [the recipients] must bring proof that he was healthy. And the Rashbam there ruled like Rav Nachman.**[4] The Rashbam, the standard commentary on Bava Basra, follows Rav Nachman's approach. **And even according to the Rambam, and similarly the Shulchan Aruch ruled like R' Yaakov — Because it is explained that the reason is that chezkas mamon prevails.** This result follows because **chezkas mamon**, the presumption favoring the possessor, is stronger. **But if there were no issue of extracting from the one in possession — we would follow the present status. As is well explained in the sugya of Kiddushin**

[3] Bava Basra 153b. The Gemara discusses the case of one who distributed his property and the dispute about whether he was healthy or a *shechiv mera* at the time.

[4] Rashbam, Bava Basra 153b. The Rashbam is the standard commentary on Bava Basra, authored by R' Shmuel ben Meir, Rashi's grandson.

כְּשֶׁאֵין אֶחָד מֵהֶם מוּחְזָק וְלֹא נֵימָא יַחֲלֹקוּ

79b.[5] The Gemara there discusses competing presumptions regarding a person's status. **And this appears to me to be the view of the Rema in Choshen Mishpat Siman 251.**[6] **In that law, where he did not write that if neither of them is in possession, they should divide. As the Sma noted there.**[7] **And it appears to me that this is because we follow the present status when neither of them is in possession. And we do not say they should divide.**

וְהִנֵּה מְבוֹאָר הָתָם בש"ס דְּקִידּוּשִׁין דְּכוּלֵי עָלְמָא בְּחֶזְקַת בְּרִיאִים נִינְהוּ וּמַאן דְּאָמַר שְׁכִיב מְרַע הָיָה בָּעֵי לְמֵיפַק נַפְשֵׁיהּ מֵחֶזָקָה יְעוּיֵן שָׁם וְעוֹד הָתָם בְּוַדַּאי הָיָה לָזֶה הָאִישׁ חֶזְקַת בְּרִיאִים מְבוֹרֶרֶת שֶׁהֲרֵי פַּעַם אַחַת הָיָה בָּרִיא בְּלִי סָפֵק אֲפִלּוּ הָכִי כְּשֶׁהוּא שְׁכִיב מְרַע לְפָנֵינוּ אָמְרִינַן מֵעִיקָּרָא נָמֵי שְׁכִיב מְרַע הָיָה הֵיכָא דְּלֵיכָא חֶזְקַת מָמוֹן הַמִּתְנַגְּדוֹת וּלְרַב נַחְמָן אֲפִלּוּ לְהוֹצִיא מָמוֹן אָמְרִינַן הָכִי אִם כֵּן קַל וָחוֹמֶר הָכָא שֶׁזֶּה הָעֲיֵפוּת מֵחֲמַת שְׁחִיטָה חוֹלִי וְחוּלְשָׁה הִיא בָּאֵיבָרִים וְאִם כֵּן אִי נֵימָא אֲפִלּוּ כּוּלֵי עָלְמָא בְּחֶזְקָתָן בְּרִיאִים לְעִנְיַן שֶׁמִּשּׁוּם הָכִי אֵין צָרִיךְ לְנַסּוֹת הַשּׁוֹחֵט שֶׁנּוֹטֵל קַבָּלָה עַל זֶה מִכָּל מָקוֹם זֶה הָאִישׁ אֲשֶׁר הוּא חַלּוּשׁ לְפָנֵינוּ בְּעִנְיָן זֶה אָמְרִינַן מִדְּהַשְׁתָּא חַלּוּשׁ מֵעִיקָּרָא נַמִּי חַלּוּשׁ וּמִכָּל שֶׁכֵּן שֶׁהֲרֵי לֹא הָיָה לוֹ חֶזְקָה מְבוֹרֶרֶת מֵעוֹלָם שֶׁהֲרֵי אֶפְשָׁר שֶׁכָּךְ נוֹלַד וְנִתְגַּדֵּל מֵעוֹלָם וְאֵין חֶזְקָה מְנַגֶּדֶת וַאֲדַרְבָּה בְּהֵמָה בְּחֶזְקַת שֶׁאֵינָהּ וְבוּחָה קַיְמָא אִם כֵּן מִכָּל שֶׁכֵּן שֶׁיֵּשׁ מָקוֹם לִסְבָרַת מַעֲלָתוֹ לְהַחְמִיר

And behold, it is explained there in the Talmud of Kiddushin —[8] **that all people are in the presumption of being healthy. And one who claims he was a shechiv mera needs to remove himself from this chazakah. See there. And furthermore, there the man certainly had a clear established chazakah of being healthy. For once upon a time he was definitely healthy. Even so, when he is a shechiv mera before us — we say he was a shechiv mera from the outset too. Where there is no conflicting chezkas mamon. And according to Rav Nachman, even to extract money we say this. If so, a fortiori here — where this fatigue from slaughter is a sickness and weakness in the limbs. And if so, even if we say that all people are in their chazakah of being healthy — so that for this reason there is no need to test the shochet receiving kabbalah on this — Nevertheless, this man who is weak before us in this matter — we say: since he is now weak, he was weak from the outset too. And all the more so, for he never had a clear chazakah to the contrary.** Unlike that case, this shochet may never have been free of this weakness. **For it is possible that he was born this way and always grew up like this. And there is no opposing chazakah. And on the contrary, an animal stands in the presumption of being unslaughtered.** Until properly slaughtered, the animal remains presumed prohibited. This supports the stringent view. **If so, all the more so there is room for your honor's reasoning to be stringent.**

However, despite all this, it appears to me that one may be lenient. Since before slaughter, the chazakah of his sensation was not undermined. Therefore, every knife with which he slaughtered was in the presumption of having been checked. And we say: maintain the knife in its chazakah. And it is like one who slaughtered many animals and did not check the knife between slaughters, and the knife was lost. Where we maintain all of them in the presumption of being permitted. As explained in the poskim and in the Shulchan Aruch, Siman 18, Se'if 12.[9]

אַךְ בְּכָל זֶה נִרְאֶה לִי לְהָקֵל כֵּיוָן דְּקוֹדֶם שְׁחִיטָה לֹא אִתְרַע חֶזְקַת הַרְגָּשָׁתוֹ אִם כֵּן כָּל הַסַּכִּין שֶׁשָּׁחַט בָּהֶם הָיָה בְּחֶזְקַת בָּדוּק וְאָמְרִינַן אוֹקְמֵיהּ סַכִּין בְּחֶזְקָתוֹ וַהֲוָה לֵיהּ כְּשָׁחַט בְּהֵמוֹת הַרְבֵּה וְלֹא בָּדַק הַסַּכִּין בֵּין שְׁחִיטָה לִשְׁחִיטָה וְנֶאֱבַד הַסַּכִּין דְּמוֹקְמִינַן כֻּלָּם בְּחֶזְקַת הֶתֵּר כַּמְבוֹאָר בַּפּוֹסְקִים וּבְשֻׁלְחָן עָרוּךְ סִימָן י"ח סְעִיף י"ב

However, all this is when there is no other deficiency. But since this shochet, after slaughtering eight animals and declaring them kosher — A youth found his knife full of nicks. And the shamash also checked after him and found it to be as the youth said. And the shochet did not feel anything. And if so, there are two witnesses against him. And moreover, even if there were only one witness contradicting him regarding the

אָמְנָם כָּל זֶה אִי לֵיכָא שׁוּם רִיעוּתָא אַחֶרֶת אֲבָל הֵיוֹת כִּי שׁוֹחֵט זֶה אַחַר שֶׁשָּׁחַט שְׁמוֹנָה בְּהֵמוֹת וְהִכְשִׁירָם מָצָא נַעַר אֶחָד סַכִּינוֹ מְלֵאָה פְּגִימוֹת וּבָדַק גַּם הַשַּׁמָּשׁ אַחֲרָיו וּמָצָא שֶׁכֵּן הוּא כִּדְבָרֵי

[5]Kiddushin 79b. The Gemara cites the Mishnah from Mikvaos: "אָמַר רַבִּי שִׁמְעוֹן: מַעֲשֶׂה בְּמִגּוֹרָה שֶׁל דְּסָקִים בְּיַבְנֶה שֶׁהָיְתָה עוֹמֶדֶת בְּחֶזְקַת שְׁלֵימָה, וּמָדְדוּ וְנִמְצֵאת חֲסֵירָה – כָּל טְהָרוֹת שֶׁנַּעֲשׂוּ עַל גַּבָּהּ הָיָה רַבִּי טַרְפוֹן מְטַהֵר, וְרַבִּי עֲקִיבָא מְטַמֵּא." R' Tarfon maintains the mikveh's chazakah of being complete, while R' Akiva maintains the person's chazakah of being tamei. The sugya illustrates the principle that in the absence of *chezkas mamon*, we follow the present status (*hashta*).

[6]Rema, Choshen Mishpat 251.

[7]Sma (Sefer Me'iras Einayim), Choshen Mishpat 251.

[8]See footnote 5 above. The Gemara in Kiddushin 79b establishes that all people are in the presumption of being healthy (*bechezkas beri'im*).

[9]SA, Yoreh Deah 18:12. This se'if rules that when one slaughtered many animals without checking the knife between slaughters and the knife was subsequently lost, all the animals are maintained in the presumption of being permitted, based on the knife's pre-slaughter chazakah.