

1. Talmud Bavli, Chullin 74a-b, 75b (Davidson Edition translation)

מתני' השוחט את הבהמה ומצא בה בן שמנה חי או מת או בן תשעה מת קורעו ומוציא את דמו

MISHNA: In the case of one who slaughtered an animal and found within it an eight-month-old fetus, i.e., one that was not full term, whether it was alive or dead, or a nine-month-old fetus, i.e., one that was full term, that was dead, that fetus is permitted by virtue of the slaughter of its mother, as it is considered part of its mother. Therefore, its blood is considered part of its mother's blood and is prohibited, so one must tear the fetus and remove its blood before it may be consumed.

מצא בן תשעה חי טעון שחיטה וחייב באותו ואת בנו דברי ר"מ וחכמים אומרים שחיטת אמו מטהרתו

If he found within it a live nine-month-old fetus, it requires its own slaughter, as it is considered an independent full-fledged animal, and if one slaughters both the mother and fetus on the same day, one is liable for violating the prohibition against slaughtering an animal itself and its offspring on the same day; this is the statement of Rabbi Meir. And the Rabbis say: Even when the fetus is nine months old, it is still considered part of its mother, and the slaughter of its mother renders it permitted for consumption.

ר"ש שזורי אומר אפילו בן חמש שנים וחורש בשדה שחיטת אמו מטהרתו קרעה ומצא בה בן ט' חי טעון שחיטה לפי שלא נשחטה אמו:

Rabbi Shimon Shezuri says: Even if the fetus emerged alive and is now five years old and plowing in the field, the earlier slaughter of its mother rendered it permitted and it does not require slaughter before it is eaten. But if one tore an animal, i.e., he killed it without slaughtering it, and inside he found a live nine-month-old fetus, everyone agrees that the fetus requires its own slaughter because its mother was not slaughtered.

גמ' א"ר אלעזר א"ר אושעיא לא הילכו בו אלא על עסקי שחיטה בלבד למעוטי מאי למעוטי חלבו וגידו

GEMARA: Rabbi Elazar says that Rabbi Oshaya says: The Sages discussed the permissibility of a live nine-month-old fetus found inside a slaughtered animal only with regard to the matter of whether it requires its own slaughter. The Gemara asks: What does Rav Oshaya's statement serve to exclude? Rav Oshaya's statement indicates that with regard to other matters all agree that it is considered an independent animal, with the associated prohibitions. The Gemara suggests: It serves to exclude its fat, i.e., the fats that are prohibited in a regular animal, such as the fat of the kidneys and innards, and its sciatic nerve.

חלבו דמאי אילימא חלבו דשליל מפלג פליגי דתניא גיד הנשה נוהג בשליל וחלבו אסור דברי ר"מ ר' יהודה אומר אינו נוהג בשליל וחלבו מותר וא"ר אלעזר א"ר אושעיא מחלוקת בבן ט' חי והלך ר"מ לשיטתו ור' יהודה לשיטתו

The Gemara asks: The fat of which part? If we say that this is referring to the fat of the fetus, that is difficult because the Sages disagree as to whether or not it is permitted, as it is taught in a baraita: The prohibition of the sciatic nerve applies to a fetus and its fat is prohibited; this is the statement of Rabbi Meir. Rabbi Yehuda says: The prohibition of the sciatic nerve does not apply to a fetus, and its fat is permitted. And Rabbi Elazar says that Rabbi Oshaya says: This dispute concerns a live nine-month-old fetus, and Rabbi Meir follows his standard line of reasoning, which he expressed in the mishna, that such a fetus is considered an independent full-fledged animal; and Rabbi Yehuda follows his standard line of reasoning, as expressed by the Rabbis in the mishna, that such a fetus is considered a part of the mother.

אלא חלבו דגיד מפלג פליגי דתניא גיד הנשה מחטט אחריו בכל מקום שהוא וחותר שמנו מעיקרו דברי ר"מ רבי יהודה אומר גוממו עם השופי

Rather, say that Rabbi Elazar is referring to the fat of the sciatic nerve of the fetus, which all agree is permitted. The Gemara rejects this as well: But the Sages also disagree with regard to that, as it is taught in a baraita: With regard to the sciatic nerve, one scrapes around it to remove it entirely in any place that it is found in the thigh, and one cuts out its fat completely, even those fats that are sunk into the flesh; this is the statement of Rabbi Meir. Rabbi Yehuda says: One cuts out the nerve and the fat that is level with the flesh of the thigh, but there is no obligation to remove all traces of the fat.

אלא אי אתמר הכי אתמר א"ר אלעזר אומר ר' אושעיא לא הילכו בו אלא על עסקי אכילה בלבד למעוטי רובעו וחורש בו

Rather, if Rabbi Oshaya's statement was stated, it was stated like this: Rabbi Elazar says that Rabbi Oshaya says: The Sages discussed the permissibility of the fetus only with regard to matters of consumption, i.e., whether or not it must be slaughtered in order to permit its flesh and whether or not the fat and the sciatic nerve are permitted. This statement serves to exclude only one who copulates with the animal, or one who plows with it together with an animal of a different species, as everyone agrees that these prohibitions apply to such a fetus just as they do to any other animal.

א"ר שמעון בן לקיש לדברי המתיר בחלבו מתיר בדמו לדברי האוסר בחלבו אוסר בדמו ורבי יוחנן אמר אף לדברי המתיר בחלבו אוסר בדמו

§ A related amoraic dispute is cited concerning a live nine-month-old fetus found inside a slaughtered animal: Rabbi Shimon ben Lakish said: According to the statement of Rabbi Yehuda, who permits the fat, he also permits its blood; according to the statement of Rabbi Meir, who prohibits its fat, he also prohibits its blood. And Rabbi Yoḥanan said: Even according to Rabbi Yehuda, who permits its fat, he prohibits its blood.

איתיביה רבי יוחנן לר"ש בן לקיש קורעו ומוציא את דמו א"ר זירא לומר שאין ענוש כרת

Rabbi Yoḥanan raised an objection to Rabbi Shimon ben Lakish from the mishna, which states with regard to an eight-month-old fetus, whether alive or dead, or a dead nine-month-old fetus, found inside a slaughtered animal, that since it is considered part of the mother its blood is prohibited. Therefore, one must tear the fetus and remove its blood before it may be consumed. The mishna prohibits the blood but apparently permits the rest of the fetus, including its fat, which contradicts the opinion of Rabbi Shimon ben Lakish. In resolution of this difficulty, Rabbi Zeira said: Rabbi Shimon ben Lakish meant to say only that the consumption of blood lost as the fetus died is not punishable by excision from the World-to-Come [karet], whereas Rabbi Yoḥanan holds that it is.

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איבעיא להו מהו לפדות בבן פקועה אליבא דר"מ לא תיבעי לך דכיון דאמר טעון שחיטה שה מעליא הוא

§ A dilemma was raised before the Sages: What is the halakha with regard to redeeming a firstborn donkey with a ben pekua? Can one perform the mitzva, as stated in the Torah: “And every firstborn of a donkey you shall redeem with a lamb” (Exodus 13:13), with this animal? The Gemara elaborates: According to the opinion of Rabbi Meir do not raise the dilemma, as, since he says a ben pekua requires slaughter, evidently it is a full-fledged lamb, and therefore it can certainly be used to redeem a donkey.

כי תיבעי לך אליבא דרבנן דאמרי שחיטת אמו מטהרתו מאי כיון דאמרי שחיטת אמו מטהרתו כבשרא בדיקולא הוא או דילמא כיון דרהיט ואזיל ורהיט ואתי שה קרינא ביה

When should you raise the dilemma? Raise it according to the opinion of the Rabbis, as they say that the slaughter of its mother renders it permitted. What is the halakha in this case? Does one say that since the Rabbis say that the slaughter of its mother renders it permitted, it is apparent that despite being physically alive, a ben pekua is halakhically regarded like meat placed in a pot, which cannot be used to redeem a donkey (see Bekhorot 12a)? Or perhaps, since the animal is running back and forth, i.e., it is alive, we call it a lamb and it can be used?

...

רבי שמעון שזורי אומר אפילו וכו': היינו תנא קמא אמר רב כהנא הפריס על גבי קרקע איכא בינייהו

§ The mishna teaches that Rabbi Shimon Shezuri says: Even if a nine-month-old fetus emerged alive and is now five years old and plowing in the field it does not require slaughter. The Gemara asks: This opinion of Rabbi Shimon Shezuri is identical to that of the first tanna, i.e., the Rabbis. What difference is there between them? Rav Kahana said: The difference between them is a case where the fetus stood upon the ground. According to the opinion of the first tanna, once the fetus walks on the ground there is a rabbinic decree requiring that it be slaughtered before it is consumed, lest people mistakenly permit other animals without slaughter. Rabbi Shimon Shezuri disagrees and holds that it does not require slaughter.

אמר רב משרשיא לדברי האומר חוששין לזרע האב בן פקועה הבא על בהמה מעלייתא הולד אין לו תקנה

Rav Mesharshiyya said: According to the statement of the one who says that when defining the status of an animal one needs to be concerned with its paternity, if a ben pekua copulated with a full-fledged animal, the

offspring has no rectification. Although when the mother and father are each a ben pekua the offspring is permitted without ritual slaughter, if the father is a ben pekua but the mother is not, the offspring is simultaneously defined as requiring slaughter, based on the mother, and being excluded from the requirement for slaughter, based on the father. Therefore, no act of slaughter can permit it.

אמר אביי הכל מודים בקלוט בן פקועה שמותר מאי טעמא כל מלתא דתמיהא מידכר דכירי לה אינשי איכא דאמרי אמר אביי הכל מודים בקלוט בן קלוטה בן פקועה שמותר מאי טעמא תרי תמיהי מידכר דכירי אינשי

Abaye says: Everyone, i.e., even the first tanna, who requires the slaughter of a ben pekua that stood upon the ground, agrees with regard to a ben pekua with non-cloven hooves that was found inside a kosher animal, that it is permitted by virtue of the slaughter of its mother. What is the reason for this? It is that people remember any bizarre matter, and there is no concern that if it is permitted without slaughter, people will mistakenly permit regular animals without slaughter. Some say that Abaye said: Everyone agrees with regard to a ben pekua with non-cloven hooves found inside an animal with non-cloven hooves that was itself born to a kosher animal, that the fetus is permitted without slaughter even if it stood on the ground. What is the reason? It is that people remember two bizarre matters.

אמר זעירי אמר ר' חנינא הלכה כר"ש (בן) שזורי וכן היה רבי שמעון שזורי מתיר בבנו ובן בנו עד סוף כל הדורות ר' יוחנן אמר הוא מותר ובנו אסור

Ze'eiri says that Rabbi Ḥanina says: The halakha is in accordance with the opinion of Rabbi Shimon ben Shezuri that a ben pekua is permitted without slaughter even if it stood upon the ground. And similarly, Rabbi Shimon Shezuri would permit without slaughter the offspring of a ben pekua and the offspring of its offspring, and so on to the end of all future generations. Rabbi Yoḥanan says: It, the ben pekua itself, is permitted, but its offspring is prohibited unless it is slaughtered.

אדא בר חבו הוה ליה בן פקועה דנפל דובא עליה אתא לקמיה דרב אשי א"ל זיל שחטיה א"ל האמר זעירי אמר ר' חנינא הלכה כר"ש שזורי וכן היה ר"ש שזורי מתיר בבנו ובן בנו עד סוף כל הדורות ואפילו ר' יוחנן לא קאמר אלא בנו אבל איהו לא

The Gemara relates: Adda bar Ḥavu had a ben pekua that was attacked by a bear and was about to die. He came before Rav Ashi to inquire what to do. Rav Ashi said to him: Go and slaughter it before it dies so that you can eat it, in accordance with the opinion of the first tanna that if a ben pekua stood upon the ground it requires slaughter. Adda bar Ḥavu said to Rav Ashi: But doesn't Ze'eiri say that Rabbi Ḥanina says: The halakha is in accordance with the opinion of Rabbi Shimon Shezuri that a ben pekua is permitted without slaughter even if it stood upon the ground, and similarly, Rabbi Shimon Shezuri would permit without slaughter the offspring of a ben pekua and the offspring of its offspring, and so on to the end of all future generations? And even Rabbi Yoḥanan, who disagreed, said his dissenting opinion only with regard to its offspring, but with regard to a ben pekua itself, he did not disagree that it is permitted.

אמר ליה רבי יוחנן לדברי ר"ש שזורי קאמר

Rav Ashi said to Adda bar Ḥavu: Rabbi Yoḥanan was speaking according to the statement of Rabbi Shimon Shezuri, i.e., he said that even Rabbi Shimon Shezuri permits only a ben pekua itself, but not its offspring. But Rabbi Yoḥanan himself agrees with the first tanna that a ben pekua that stood upon the ground is prohibited without slaughter.

והאמר רבין בר חנינא אמר עולא אמר רבי חנינא הלכה כרבי שמעון שזורי ולא עוד אלא כל מקום ששנה ר"ש שזורי במשנתנו הלכה כמותו

Adda bar Ḥavu persisted: But didn't Ravin bar Ḥanina say that Ulla says that Rabbi Ḥanina says with regard to a different issue: The halakha is in accordance with the opinion of Rabbi Shimon Shezuri; and moreover, not only is the halakha in accordance with his opinion with regard to this matter, but in any place where Rabbi Shimon Shezuri taught a halakha in our Mishna, the halakha is in accordance with his opinion?

אמר ליה אנא כי הא סבירא לי דאמר רבי יונתן הלכה כר"ש שזורי במסוכן ובתרומת מעשר של דמאי

Rav Ashi said to Adda bar Ḥavu: I hold in accordance with this statement of Rabbi Yonatan, as Rabbi Yonatan says: The halakha is in accordance with the opinion of Rabbi Shimon Shezuri in the case of one who is dangerously ill, and in the case of teruma of the tithe of doubtfully tithed produce [demai], but not in other cases, e.g., in the case of his disagreement with the first tanna concerning a ben pekua.

2. Rambam, Hilchot Ma'achalot Assurot, 5:14, 7:3, 8:1 (Chabad.org translation)

מצא בה עובר חי אע"פ שהוא בן תשעה חדשים גמורין ואפשר שיחיה אינו צריך שחיטה אלא שחיטת אמו מטהרתו ואם הפריס על גבי קרקע צריך שחיטה:

If one finds a living fetus [in the womb of a slaughtered animal] - even though it has been carried for nine months, and it is possible that it will live, it does not require ritual slaughter. Instead, it is acceptable because of the slaughter of its mother. If it steps on the ground, it requires ritual slaughter.

השוחט בהמה ומצא בה שליל כל חלבו מותר ואפילו מצאו חי מפני שהוא כאבר ממנה ואם שלמו לו חדשיו ומצאו חי אף על פי שלא הפריס על הקרקע ואינו צריך שחיטה חלבו אסור וחיביבין עליו כרת ומוציאין ממנו כל החוטין והקרומות האסורין כשאר הבהמות:

When a person slaughters an animal and finds a fetus in its womb, all of its fat is permitted. [This applies] even if the fetus is alive, because it is considered as a limb of [the mother]. If it was carried for the full period of gestation and discovered to be alive, its fat is forbidden and one is liable for kerat for partaking of it. [This applies] even if [the fetus] never stepped on the ground and does not require ritual slaughter. [Instead,] we must remove all the forbidden strands of tissue and membranes from it as [is required] with regard to other animals.

גיד הנשה נוהג בבהמה וחיה הטהורין ואפילו בנבלות וטרפות שלהן ונוהג בשליל ובמוקדשין בין קדשים הנאכלים בין קדשים שאינן נאכלין ונוהג בירך של ימין ובירך של שמאל

[The prohibition against partaking of] the gid hanesheh applies with regard to kosher domesticated animals and wild beasts, even nevelot and trefot. It applies to a fetus and to animals that have been consecrated, both those consecrated [for sacrifices] of which we partake and for sacrifices of which we do not partake. It applies to [the gid] on the right thigh and that on the left thigh.

3. Selections from Tur, Yoreh De'ah 13, 64, 65

השוחט בהמה ומצא בה עובר בין אם הוא בן שמונה או בן תשעה בין חי בין מת מותר ואין טעון שחיטה וחלבו מותר ודמו אסור. וה"מ דבן ט' חי אי טעון שחיטה שלא הפריס ע"ג קרקע אבל הפריס ע"ג קרקע טעון שחיטה ראויה וכל שפוסל בשאר שחיטות פוסל בו וחלבו אסור אבל כל שאר טרפות אין אוסרין אותו... בן ט' שנמצא במעי שחוטה וגדל ובא על הבהמה והוליד אותו הולד אין לו תקנה בשחיטה...

If one slaughtered an animal and found a fetus in it, whether it is an 8 or 9 month old, whether it is alive or dead, it is permitted and does not require slaughter, and its Chelev is permitted and its blood is prohibited. And [the ruling] that a 9 month old does not require slaughter is specifically where it had not stepped on the ground, but if it already had stepped on the ground, it requires slaughter [to be eaten], and anything that would prohibit other slaughterings prohibits it, and its Chelev is prohibited... A 9 month old that was found in the womb of a slaughtered animal and grew older and mated with an animal, [the baby produced] has no [ability to be eaten kosherly] through slaughter...

השוחט בהמה ומצא בה עובר לא שנא בן ח' או בן ט' בין אם חי או מת חלבו מותר והא דחלב בן ט' חי מותר דוקא שלא הפריס על גבי קרקע אבל הפריס ע"ג קרקע אסור והרמב"ם אסרו אפילו לא הפריס ע"ג קרקע ולא נהירא

One who slaughters an animal and finds a fetus inside it, whether it is 8 or 9 months [developed] or dead or alive, its fats are permitted. And this ruling that the fats of a 9 month [developed animal] are permitted is specifically where it did not walk on the ground, but if it walked on the ground, it is prohibited. The Rambam prohibited them even if it did not walk on the ground, and it does not seem correct.

ואינו נוהג בשליל ובכל שאינו טעון שחיטה

[The prohibition of Gid Hanasheh] is not practiced on a fetus or on an animal that does not require slaughter.

4. Shulchan Aruch, Yoreh De'ah 13:2, 64:2, 65:7 (edited Sefaria Community translation for 13:2)

השוחט את הבהמה ונמצאת כשרה ומצא בה עובר בן ח' בין חי בין מת. או בן ט' מת. מותר אבאכילה ואינו טעון בשחיטה ואם מצא בה בן ט' חי אם הפריס על גבי קרקע טעון שחיטה אבל שאר טרפות אינו אוסר דאותו ואם לא הפריס על גבי קרקע אינו טעון שחיטה. ואם פרסתו קלוטות פ"י שפרסתו כולה א' ואינה סדוקה (או שהיה בו שום שאר דבר תמוה) (הגהות אשירי) אף על פי שהפריס על גבי קרקע אינו טעון שחיטה ויש מגמגמין ובדבר:

One who slaughters an animal and finds it Kosher, then found inside a fetus of 8 (months), whether alive or dead, or a fetus of 9 (months) dead, it may be eaten and does not require slaughter. And if he finds inside a fetus

of 9 (months) that is alive: if it stood on the ground, it requires slaughter, but other treifot do not prohibit it. If it did not place its hooves on the ground it does not require slaughter. And if its hooves are fused even though it stood on the ground, it does not require slaughter. And some are in doubt.

השוחט את הבהמה ומצא בה עובר בן שמונה או בן תשעה בין חי בין מת חלבו וגידו מותר והא דבבן תשעה מותר דוקא כשלא הפריס על גבי קרקע אבל אם הפריס על גבי קרקע אסור ויש אומרים שאם שלמו לו חדשיו ומצאו חי אע"פ שלא הפריס על גבי קרקע חלבו אסור וחייבין עליו כרת ומוציאין ממנו כל החוטים והקרומים האסורים בשאר הבהמות.

One who slaughters an animal and found an 8 or 9 month old fetus in it, whether it is alive or dead, its Chelev and Gid Hanasheh are permitted. And [the ruling] that a 9 month old is permitted, that is specifically when it did not step on the ground, but if it stepped on the ground, it is prohibited. And some say that if it had completed its months and he found it alive, even if it hasn't stepped on the ground, its Chelev is prohibited, and one would be liable for karet. And one must remove all of the [relevant animal parts] that would contain prohibited fats in other animals.

אינו נוהג בשליל כל שאינו טעון שחיטה וי"א שנוהג בו אם שלמו לו חדשיו ומצאו חי (ונהגו להחמיר כסברא האחרונה) (קבלת ר"י בן חביב):

[Removing the Gid Hanasheh] is not practiced on a fetus, so long as it does not require Shechitah, and some say it does if it has completed its months and he found it alive (and the custom is to be stringent following the latter opinion).

5. Rabbi Dovid Lichtenstein, Headlines 2, Page 409-410, 414-415 – Is Ben Pekua Meat the Solution to Prohibitive Kosher Meat Prices?

Rav Weitman raised a different objection to this policy, claiming that in today's day and age, a פקועה בן extracted before full gestation must be treated no differently than a fully-gestated בן פקועה. The reason why *halacha* treats a בן פקועה differently, Rav Weitman asserts, is because in ancient times, an animal born in the eighth month was not expected to survive. The *Piskei Ha-Rid (Chullin 72b)* writes:

עגל בן שמונה, אף על פי שיצא חי, אין במינו שחיטה והרי הוא כמת שחיתו אינו חיות.

A calf [extracted from its mother after] eight [months] — even though it left [its mother] alive, its type does not require slaughtering, and it is considered dead, because its life is not real life.

The *Shach* (Y.D. 13:9) similarly writes that a בן פקועה is “considered dead” — כמת. Rav Weitman further notes that when the *Shulchan Aruch* discusses the status of the offspring of a בן פקועה, it speaks specifically of a fully-gestated fetus who grows and mates:

בן ט' חי שנמצא במעי שחוטתו כשרה וגדל ובא על בהמה דעלמא...

There seems to be only one reason why the *Shulchan Aruch* speaks in this context about a בן ט' — because the author could not envision a situation of a בן פקועה growing and reaching the age of reproduction. Nowadays, however, we know that a בן פקועה is capable of living a long life, and Rav Weitman thus claims that a בן פקועה would have the same status as a בן ט', both with regard to the requirement of *shechita*, and with regard to the prohibitions of *chelev* and *gid ha-nasheh*.

Therefore, even though the בן פקועה solution is, at least in principle, effective in avoiding the issue of טריפות, it does not allow for the consumption of the animals' *chelev* and *gid ha-nasheh*.⁹

