

OVERVIEW of the Daf

1) Clarifying R' Yishmael's position (cont.)

Rava states that R' Yishmael follows R' Meir's opinion who is concerned for a minority.

Ravina suggests how R' Yishmael could even follow Rabanan who disagree with R' Meir.

A Beraisa is cited that presents numerous opinions about the status of offspring born after an animal has reached the age at which she could give birth.

The Gemara explains the point of dispute between R' Yishmael and R' Yehoshua.

This suggestion is rejected in favor of another explanation of the dispute.

This explanation is unsuccessfully challenged.

Another explanation of the dispute is presented.

Three possible differences between R' Yehoshua's tradition and his personal opinion are recorded.

R' Chanina of Sura explains the practical difference between R' Akiva's and R' Yehoshua's respective opinions.

The Gemara successfully challenges this explanation and reverses the attributions.

A Beraisa is cited that supports this explanation.

2) Multiple births

A Beraisa describes a case of twelve goats born in a single year from multiple generations.

The reason the Beraisa has each goat giving birth to three offspring is explained.

The Gemara wonders why the Beraisa did not discuss a circumstance in which each goat gave birth to two offspring. ■

REVIEW and Remember

1. What is the point of dispute between R' Yishmael and R' Yehoshua?

2. What is Zeiri's ruling concerning "soiling"?

3. Who is concerned for the minority, R' Akiva or R' Yehoshua?

4. How many generations of goats could be tithed at one time?

Today's Daf Digest is dedicated by the Ray family
In memory of their uncle
ר' משה בן ר' אברהם, ע"ה

Rosen

Distinctive INSIGHT

Why do we not rely upon a majority that the goat certainly gave birth in her first year?

כי אזלי רבנן בתר רובא ברובא דלא תלי במעשה, אבל רובא דתלי במעשה לא

The Mishnah taught that if a Jew purchases an animal from a non-Jew and it is not known whether the animal has ever given birth before, we must be concerned that a male that will be born might be a bechor. Within its first year, a goat can only give birth once. Therefore, if a goat is purchased and she gives birth during her first year, R' Yishmael rules that we are certain that this cannot be her second birth, so this must be a bechor. Any birth beyond the goat's first year might not be a bechor, because there is a possibility that this goat already gave birth during her first year.

The Gemara notes that when a goat over one year old is purchased from a non-Jew, if that goat gives birth, the offspring has the status of a doubtful bechor, because it might or might not have given birth during her first year. The Gemara asks that the halacha should consider that the majority of goats do give birth during their first year. Therefore, if we rely upon the majority, we can assume that the mother goat certainly gave birth before, and any goat's offspring in the animal's second year should be assumed to certainly not be a bechor.

The Gemara first suggests that R' Yishmael holds according to R' Meir, who makes halachic conclusions in consideration of the minority. This is why R' Yishmael is concerned for the minority, and the possibility that this goat did not give birth must be recognized. Ravina explains, though, that our Mishnah can be understood even according to Rabbanan, who do not generally follow the minority. He explains that Rabbanan follow the majority only when there is no action which must intervene to cause a particular result. For example, we assume that most children will grow up and mature to be capable of bearing children. Therefore, we can rely upon this majority to allow an underage child to participate in the mitzvah of yibbum. In our case, even the Rabbanan do not rely upon the majority that goats give birth during their first year, because this assumption is built upon the action of the goat becoming impregnated. A majority built upon an event that has to have occurred is not reliable, so the goat's giving birth during its first year is not a certainty, and the offspring born in the second year is still a doubtful bechor.

Ramban (Milchamos, Kiddushin 50a) writes that a majority based upon people's customs is not a reliable majority, because customs may change. He writes that we do not follow a majority which is based upon an action only when the minority is not based upon an action. For example, the goat's not giving birth in its first year is not due to an action, but due to its inaction. This is why the minority is more reliable. If the minority itself is also based upon an action, then we follow the majority. ■

HALACHA Highlight

The necessity to examine one's tzitzis strings

כי אזלי רבנן בתר רובא ברובא דלא תלי במעשה

When do the rabbis follow a majority? Only when the majority is not dependant upon an action

Rosh¹ writes that one who is careful regarding the word of God will examine his tzitzis before he wraps himself in his talis so that he does not recite a ברכה לבטלה. Beis Yosef² notes that although in his Teshuvos Rosh observed that people are not careful to examine their tzitzis before putting on their talis, Tur cites Rosh's ruling that people who are careful make sure to first examine their tzitzis. Bach³ suggests that according to Rosh there is no obligation to examine one's tzitzis before putting them on since there is a presumption (חוקה) that they are valid and it is just a precautionary measure to pre-examine them. Bach then disagrees with Rosh's position and contends that one may not rely upon the presumption that the tzitzis are valid. Presumptions are valid only when they occur as part of nature, e.g. animals that are born are assumed to be kosher, but the presumption in this case is generated by man's action, i.e. someone tied the tzitzis strings, and in such a case we do not rely upon the presump-

tion since there is a concern that after they were tied they became untied. He cited our Gemara's discussion regarding a majority as proof to his contention. The Gemara teaches that we do not rely on the majority that indicates that most goats become pregnant and deliver within their first year since that majority presumes that a male decided to mate with this female goat and that may have never occurred. If a majority that depends upon an action is not reliable certainly a presumption that depends upon an action is not reliable since the Gemara Yevamos (119b) teaches that a majority is a stronger principle than a presumption.

Magen Avrohom⁴ rejects Bach's proof from our Gemara. The reason the Gemara states that one may not rely upon the majority is that it is possible that the action never occurred since there is nothing in nature which indicates that a male mated with this female. Regarding tzitzis once the tzitzis were tied properly there is nothing that would indicate that one may not rely on the presumption that the tzitzis remained valid. The reason one should examine his tzitzis despite the presumption that they are valid is that one should not rely upon a presumption that could be easily confirmed, furthermore, there is a possibility that the strings ripped. ■

¹ רא"ש סוף הלי ציצית דיני עשיית ציצית.
² ב"י או"ח סי' ח' ד"ה ויעיין.
³ ב"ח שם סעי' ח'.
⁴ מג"א שם ס"ק י"א. ■

STORIES off the Daf

Mistaken Pride

” ור' יהושע סובר הא איכא מיעטא דחולבות אעי"פ שאין יולדות...”

It is natural that some people believe that their experience qualifies them to make halachic decisions. As the Alter of Kelm, zt”l, puts it, “If a person has not learned Torah, his pride leads him to believe that whatever he thinks must be Torah true!”¹

People who have experience with animals sometimes assume that they have expertise in a matter discussed on today's daf. If one purchased an animal from a non-Jew and the animal was lactating, isn't it simple to conclude that the animal already gave birth? The Bnei

Yisaschar, zt”l, points out that this is more complex than many realize. “You must understand that our sages conclude that an animal having milk is not conclusive proof that the animal gave birth. Even if the previous non-Jewish owner claims that the animal gave birth, we may not believe him. Any animal born to the mother must be treated as a safek bechor.

“Sadly, many people act as though this is obviously incorrect and laugh at this dictum. Know my beloved friend that this is nothing less than an expression of heresy, since in this manner they express disbelief for the words of our sages. Although, thank God, I believe in the words of our sages—blessed is the One who chose them and their Torah!—many people have also testified that they owned a lactating animal

that never gave birth among their flocks.

“This means that one who buys a lactating animal from a non-Jew without evidence that it gave birth and disregards the potential holiness of its offspring errs no matter what. If the animal did not give birth, he is guilty of feeding kodoshim to his fellow Jew in chuz la'aretz. And even if the animal has given birth, he has still violated the words of our sages and demonstrated that he does not believe what they say; for this he requires atonement. It is essential to inform the simple folk of this fact. May God who is kind atone for His nation, ‘כי לכל העם בשגגה’.”² ■

¹ בית קלם
² דרך פיקודין, ע' רכ"ד ■