



OVERVIEW of the Daf

1) Broken neck (cont.)

Rava resolves the challenge he posed to R' Zeira's ruling that if an animal's neck is broken together with a majority of the flesh upon it the animal is a neveilah.

It is reported that R' Zeira himself once issued a ruling consistent with Rava's resolution.

A Baraisa that also follows this ruling is cited.

The Gemara discusses whose opinion the Baraisa follows.

R' Yehudah in the name of Shmuel rules that a person whose neck is broken together with most of the flesh upon it transmits tum'ah via an ohel.

R' Yehudah addresses a possible challenge to this ruling and preempts it.

2) Fatal injuries

R' Shmuel bar Nachmani in the name of R' Yochanan discusses one type of fatal injury.

Shmuel and R' Elazar identify other fatal injuries in an animal.

A Mishnah rules that if the head was "cut off" of a sheretz it transmits tum'ah.

Reish Lakish and R' Assi in the name of R' Mani disagree about the meaning of the phrase "cut off."

R' Assi further explains his position.

A second version of this discussion is recorded.

3) Melikah

A lengthy Baraisa presents a disagreement between Rabanan and R' Elazar the son of R' Shimon concerning the correct procedure for melikah on a bird olah. ■

REVIEW and Remember

1. When is a broken neck in and of itself proof that a person is dead?

2. What is the point of dispute between Rabanan and R' Elazar the son of R' Shimon?

3. What halachos are derived from the analogy between a bird Olah and an animal Chatas?

4. What is the point of dispute between Tanna Kamma and R' Yishmael?

Distinctive INSIGHT

The procedure of bringing an olah bird

כמשפט חטאת בהמה או אינו אלא כמשפט חטאת העוף

The Torah presents the law of a "chattas oleh v'yoreid." Under certain circumstances when a person must bring an olah offering, the Torah allows an adjustment corresponding to what the person can afford. These are where the person defiled the holiness of the Mikdash, or where a person uttered an oath and violated his word, and the third and final case is where a person took an oath to deny his knowledge of testimony for someone, and he then admitted that he lied. In these cases, a wealthy person must bring his olah from an animal, while a poor person brings two pigeons or two doves, one for an olah and one for a chattas. A person who is destitute brings an issaron of flour.

Regarding the olah bird of the poor person, the Torah says (Vayikra 5:10) that it shall be brought "according to the law—כמשפט." The Baraisa brings a disagreement regarding how to understand this phrase. The first opinion contends that the olah bird should be brought according to the rules of a chattas animal. This refers to three factors. These offerings are brought from non-consecrated funds, they must be brought during day-time hours, and the kohen must officiate using his right hand. R' Yishmael disagrees and he says that the olah bird must be brought according to the laws of a chattas bird. Just as melikah of a chattas bird is done from the back of the head, so too must the olah bird's melikah be done through the back of the neck. R' Elazar b. R' Shimon presents a third opinion to interpret the Torah's guideline. While he also says that it is offered according to the laws of a chattas bird, he explains that just as the head of the chattas bird is connected to the bird's body when the blood is pressed against the Altar, so should the head of the olah bird be connected to its body when the blood is placed upon the Altar.

It is noteworthy that Rashi, in his commentary to Chumash, explains that the olah bird should be brought "according to the law" of an olah bird which is brought voluntarily (נדבה), which is described at the beginning of that section of laws (Vayikra 1:14-17). R' Eliyahu Mizrachi, in his commentary to Rashi on Chumash, points out that Rashi's comment is fascinating, because Rashi's explanation is not according to any of the three opinions in our Gemara. We found that the olah is brought in a manner

HALACHAH Highlight

Burying someone without conclusive evidence that he is dead

נשברה מפרקת ורוב בשר עמה מטמא באהל

If a person's neck bone is broken together with the majority of the flesh upon it he transmits tum'ah via ohel

A frightening incident happened once when a person went to the bathroom and he was later discovered unresponsive. After many attempts to revive him the doctors declared him dead. When his body was being taken for the taharah a sound was heard emanating from his body that was similar to the sound one hears emanating from a goses. Being that it was erev Shabbos and they felt rushed to complete the burial they called for the doctors to come quietly and when they arrived they reexamined the patient and once again declared him dead. They put a feather by his nose numerous times and it seemed evident that he was not breathing. Another twitch was noticed by someone present but when others looked for it they saw nothing. They decided to go ahead with the burial. A Torah scholar who was familiar with what happened felt that the patient was improperly declared dead and the matter should have been discussed by the local Beis Din. The story was sent to Maharsham¹ for his opinion.

He began by noting that testing a patient's breathing by placing a feather near the nose is only relevant when we have

(Insight...continued from page 1)

similar to a chattas animal or a chattas bird, but none of the explanations says that the reference in the verse is to a voluntary olah bird. Shitta Mikubetzes answers that Rashi's comment on Chumash follows the simple reading of the verse in context, while the Gemara presents the insights which are derived using drash. The entire verse is clearly extraneous, because we would have assumed that the procedure of an obligatory olah bird should be the same as that of one that is voluntary. Thus, the door is open to use drasha to understand the verse. ■

no other proof that the patient is alive or dead. If, for example, we have other indications that the patient is alive the fact that his breathing does not move a feather does not prove that he is dead. Therefore, in this case when there were possible indications of life the feather test should not have been the conclusive decider that he was dead. Kesef Mishnah² explains that one whose head was severed is considered dead because his spinal cord and the flesh that is upon the neck bone is severed. Clearly, one whose head was severed will not have breath coming out of his nose to move a feather and yet he is considered dead only because of his severed spinal cord. This demonstrates that breathing, in and of itself, is not the determining factor of whether a person is categorized as alive or dead. ■

1. שו"ת מהרש"ם ח"ו סי' קכ"ד.

2. כסף משנה להלי' טומאת מת פ"א הלי' ט"ו. ■

STORIES Off the Daf

The Message of Melikah

"אי מה להלן מולק ואינו מבדיל..."

Rav Yaakov Galinsky, zt"l, described the challenges faced by a meshulach trying to raise money abroad. Regarding the various indignities and frustrations meshulachim suffer, he once said, "I visited a certain home and was told that the man of the house was out. I walked a few blocks, called on a pay phone and immediately got him on the phone..."

He added, "Someone who used to travel to raise funds once asked the Chazon Ish, zt"l, why, after meeting

even very wealthy philanthropists, he was often told to come back the next day or later for a donation and was almost never received immediately. I experienced such things so often that I have no doubt why this was. The meshulach was certainly let into the house by accident! The man of the house meant that the next time he would not be allowed in at all."¹

A certain rav wished to encourage his flock to be more careful to provide for the poor without delay and with dignity. He explained, "The Sefer Ha-Chinuch teaches that the laws of korbanos are meant to refine our middos and guide us to become more sensitive human beings. What, then, is the message of melikah? Why do me-

likah on a poor man's bird offering? Getting a knife and checking it is a delay of fulfilling the need of the poor man. Therefore, God did not require shechitah. This teaches that we should attend to a poor man's needs immediately without the slightest delay. This is also why melikah is done specifically from the back of the head—it is the fastest way to perform this ceremony. This teaches us that although one should help a poor man as much as possible, he should not draw out his attending to the matter for the sake of doing a better job. He must instead ensure that the poor man's needs are met adequately...and immediately!"² ■

1. והגדת על הגדה של פסח

2. חינוך, מצוה קכ"ד ■