

OVERVIEW of the Daf

1) Bechor (cont.)

R' Huna's position that a bechor is sanctified retroactively is unsuccessfully challenged.

2) Majority of limbs

Rava inquires whether we follow the majority when it comes to limbs or not.

The Gemara clarifies the exact intent of the inquiry.

An unsuccessful attempt to resolve the matter is presented and rejected.

3) Sanctification of the bechor

Rava asks a series of questions that relate to the sanctification of the bechor. Some of the inquiries require clarification and they are all left unresolved.

Other Amoraim ask additional questions which also remain unresolved.

4) MISHNAH: The Mishnah presents a dispute whether one who touches a dead fetus inside of a non-kosher animal becomes tamei.

5) Explaining the dispute

R' Chisda explains the rationale behind Tanna Kamma's position that a person who touches the dead fetus inside of its mother is not tamei.

R' Yitzchok explains the rationale behind R' Yosi HaGalili's position that if the animal is non-kosher the person who touches it becomes tamei.

After numerous attempts the Gemara succeeds at refuting the explanation and R' Nachman bar Yitzchok offers an alternative explanation for R' Yosi HaGalili's position.

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REVIEW and Remember

1. Explain Rava's question related to whether we follow the principle of majority when it comes to limbs?

2. Does an animal have to make physical contact with the womb for it to become sanctified as a bechor?

3. What is the point of dispute between Tanna Kamma and R' Yosi HaGalili?

4. What is the necessity for R' Yitzchok's teaching?

Distinctive INSIGHT

Partial birth of a bechor and subsequent births

המבכרת המקשה לילד מחתך אבר אבר ומשליך לכלבים

In Parashas Bo (Shemos 13:2), the Torah teaches that the first born male of man or livestock is designated as a bechor and is holy. The Gemara (Bechoros 19a) teaches that this designation only applies to the first offspring of its mother, and to a naturally-born male. It therefore does not apply to a situation where a female was born first, or to a first-born male that is born through a caesarian section. A bechor of a human is redeemed, and a bechor of an animal is given to a kohen. If it has no blemish, it is brought as an offering and the meat is eaten by the kohen, and if the bechor has a blemish, the animal is given to the kohen as his property, but is cannot be brought as an offering.

Our Mishnah deals with a case where an animal is experiencing trouble giving birth to its firstborn. The halacha is that each limb of the fetus may be cut off as it comes out of its mother, and the pieces may even be given to dogs. The reason is that until the majority of the first born male is born the term "born" does not apply to this animal, and the holiness of bechor does not apply to it. However, as soon as the majority of the new born animal comes out of its mother, whether piece by piece or at one time, the holiness of bechor applies, and the pieces which remains of it must be buried. The Mishnah concludes that any subsequent births from this mother will no longer have the status of being a bechor.

Rashi learns that this concluding remark of the Mishnah applies not only to the case where the majority of the fetus was born at one time, but also the earlier case where the limbs were cut as they came out of the mother. Although this mother never "gave birth" to its offspring, the emergence of the pieces one by one is still enough that any subsequent birth will no longer be the first out of this womb (see Shach, Y.D. 319:#4).

Ramban concurs with this approach, as he notes that the limbs which come from the mother are no less significant than if an undeveloped fetus is delivered (Bechoros 21b) which causes subsequent births to lose the status of bechor.

Rambam (Hilchos Bechoros 4:14) writes that where each limb was cut as it was delivered the pieces may be given to dogs, and subsequent birth of a male is a bechor. The concluding ruling of the Mishnah where subsequent birth of a male is not a bechor is referring to the case

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HALACHAH Highlight

Eating a majority of a k'zayis of matzah

עד השתא לא אשמעינן דרובו ככולו

Until now did we not know that the majority is considered like its entirety?

The Gemara takes the principle **רובו ככולו** – the majority is comparable to the entire thing – as a given. Later authorities question the exact parameters of this principle. There is a mitzvah to eat an olive's volume of matzah the first night of Pesach. All opinions agree that one who does not eat an olive's volume does not fulfill the mitzvah even though he ate a majority of that quantity. Similarly, a mikvah requires forty seah of water and all opinions agree that if the mikvah contained only a majority of those forty seah the immersion would not count. Why is this so if the principle **רובו ככולו** is such an obvious principle?

Chasam Sofer¹ writes that the principle of **רובו ככולו** applies only when the majority and minority are physically in front of us and there is something that binds them together. For example, when the entire Sanhedrin sits together the final decision will follow the majority. If, however, only the majority of the Sanhedrin is present we do not follow that majority. Similarly, in order to recite devarim shebikedusha it is necessary to have ten adult men present. If seven of them have not heard kaddish or borchu they may recite that prayer but if only seven people gather together they may not

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where the pieces were cut and collected, or where the majority of the animal was born at one time. Shach (ibid. #3) explains that where the pieces were thrown to the dogs there was no birth, so the next birth may be a bechor.

Chazon Ish (Y.D. 214) explains that Rambam and Rashi agree, but Rambam's ruling that a subsequent birth is a bechor is where twins are being born, and the first one exited and was cut in pieces. Here, the twin which is born intact is a behor. ■

recite kaddish or borchu even if none of them have recited that prayer.

Rav Shlomo Kluger² rejected this explanation based on the following question. According to Chasam Sofer if a person puts an olive's volume of matzah in his mouth and swallows a majority of that matzah but then spits out a minority of that matzah we should say that he has fulfilled the mitzvah. That obviously is not the case. Therefore he explains that the principle of **רובו ככולו** applies to all areas of halachah except for those areas that involve eating. When the Torah commands that a person should consume and have the benefit of an olive's volume of a food the Torah means that a person must consume that amount and the majority of that amount is not sufficient since the person did not benefit the amount instructed by the Torah. ■

1. שו"ת חתם סופר או"ח סי' ק"מ.
2. קנאת סופרים השמטות לשו"ת טהרה סי' י"ז. ■

STORIES Off the Daf

After the Majority

"הלכו באיברין אחר הרוב..."

A certain man owned several kosher animals. When one animal was soon to give birth, he was very glad indeed. But he forgot that the firstborn of an animal is kadosh and cannot be used unless it gets a blemish. Shortly before the birth a learned friend gently mentioned this problem and the owner wondered what he could do. His learned friend suggested a possible solution. "The Shulchan Aruch permits one to blemish a bechor while it is still in its mother's womb. While this may be impractical, making a

blemish before the majority emerges from the mother is often easy. Since the halacha is that we follow the majority, this should be permitted. Just as if the fetus was damaged while in the womb it is permitted, damaging it after it began to immerge but before the majority came out should be permitted."

When this question reached the Shach, zt"l, he permitted making a blemish in these circumstance. "Although the Bach, zt"l, prohibits this—he learns that the Rambam forbids— this is incorrect. Rashi in Chullin 70 learns that making a blemish in such a fetus is permitted. The Rashba in Chullin also holds that one may make a blemish if most of the animal has not yet emerged from its

mother's womb. The logic suggested is correct: until most of the animal emerges it is considered to be entirely in the mother's womb. Until the majority emerges giving it a blemish is definitely permitted." ■

1. ש"ך, יו"ד, סי' שיי"ג, סי"ק ח' ■

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The Gemara explains why despite R' Nachman bar Yitzchok's explanation it is still necessary to have the explanation of R' Yitzchok.

6) Tum'ah of a neveilah

A Baraisa records a discussion between Tannaim regarding the source that the neveilah of a kosher non-domesticated animal transmits tum'ah. ■