

OVERVIEW of the Daf

1) Dismembered fetus

R' Elazar and R' Yochanan disagree whether the emergence of the head in and of itself is considered a birth.

One explanation of the dispute is suggested but rejected in favor of another explanation.

According to a second version their dispute was independent of the Mishnah.

R' Yochanan's opinion that the emergence of the head constitutes a birth is unsuccessfully challenged.

R' Pappa suggests that the matter is subject to a debate between Tannaim.

R' Zevid challenges this interpretation and offers an alternative explanation of the Beraisa.

A Beraisa is cited in support of R' Zevid's interpretation.

2) **MISHNAH:** The Mishnah discusses the status of a woman who miscarries and it is not certain whether it was male, female or an empty sac.

3) A lost fetus

R' Yehoshua ben Levi rules that a woman who miscarries while in a river and does not retrieve the fetus must bring a korban and it may be eaten.

Three unsuccessful challenges to the Beraisa are presented.

4) The woman who does not know when she lost her pregnancy

In the previous discussion mention was made of a woman who miscarried, experienced three clean weeks after she appeared and then over the next ten weeks had one week of a flow and one week without. The Gemara suggests three other times she should be permitted to her husband besides the one day mentioned in the Beraisa.

Each of these three suggestions are rejected.

The rationale that led Beis Shamai to require ninety-five immersions is explained. ■

REVIEW and Remember

1. What is the point of dispute between R' Elazar and R' Yochanan ?
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2. What is the principle behind R' Yehoshua ben Levi's ruling ?
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3. Explain the complex case in the Beraisa regarding the woman who left pregnant and returned after losing her pregnancy.
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4. What is the point of dispute in the Beraisa between Beis Shamai and Beis Hillel ?
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Distinctive INSIGHT

In the Mishnah the woman was not known to be pregnant

מתניתין בשלא הוחזקה עוברת

R' Yehoshua b. Levi discussed a case of a woman who crossed a river, and in the process of doing so she miscarried into the water. It was unknown whether there was a birth, so the ruling was that the woman should bring the appropriate offering for one who has given birth, and the offering (the chattas) may be eaten by the kohanim. Although there is an element of doubt whether this is a valid offering or not, because the miscarriage might not have been a birth, the halacha is that we rely upon the assumption that this woman is like most women who give birth, and most women deliver a developed fetus, which requires that an offering to be brought.

The Gemara brings our Mishnah to contrast it with the law of R' Yehoshua b. Levi. In our Mishnah we find that if a woman has a miscarriage and it is not known what it was, she must observe days of tum'ah and taharah for the possibility of having given birth to a girl, or to a boy, and she must also observe days in consideration of being a niddah. This means that the halacaha requires that she observes fourteen days of tum'ah, in case she might have had a girl, and she cannot observe the days of taharah which follow birth because we are aware that she might not have given birth to a fetus, but rather miscarried an empty sack. The question of the Gemara is that in the Mishnah we determined that we rely upon the standard state of the majority of women, so we should say here also that most women deliver a developed fetus and not an empty sack. The Mishnah should not have to consider the possibility of not giving birth and the niddah circumstance which is its outcome.

R' Yehoshua b. Levi answers that the Mishnah is speaking about a woman who had not established a status of being pregnant, and that is why in her situation one cannot rely upon the majority of pregnant women in order to say that she miscarried a fully-developed fetus.

Chazon Ish (Y.D. 118:4) analyzes this point. We have a situation of a woman who had a miscarriage, and even if there was no established condition of her having been pregnant, the very fact of her miscarrying should lead us to say that most women who miscarry were carrying a properly developed fetus. Even if she was known to be pregnant we did not know the nature of the fetus, but we relied upon the majority. This should be the case also where we did not know that she was pregnant.

Chazon Ish explains that when a woman is known to be pregnant, we have a fetus before us, and we may rely upon the majority which says that the fetus is developed. When the woman was not known to be pregnant, the first thing we see is the miscarriage, at which point it is already compromised and aborted. This leads us to say that the fetus was not developed. ■

HALACHA Highlight

Delaying the immersion of a utensil

ומטבילין אותה תשעים וחמש טבילות

We immerse her ninety-five times

The Beraisa presents a dispute between Beis Shamai and Beis Hillel about the number of immersions are required of a woman who lost track of when she miscarried. The Gemara (30a) relates that they both agree that immersing at the correct time is a mitzvah. The rationale behind this mitzvah is debated by the commentators. Pnei Yehoshua¹ explains that the rationale behind the mitzvah is the concern that a delay could cause one to violate one of the restrictions that apply while one is tamei. Teshuvos Imrei Yosher² contends that the reason is not a concern for violating one of the restrictions; rather the mitzvah is a decree of the Torah. He proves this from the Gemara in Yoma (8a) that relates that a person who is tamei from a corpse may delay the process for becoming tahor. The only thing that the Torah requires is that once one is prepared to become tahor he must have the parah adumah ashes sprinkled on him on day 3 and 7 and then immerse immediately afterwards. One who is tamei

from a corpse can also violate restrictions that apply when one is tamei and yet there is no requirement for him to make himself tahor as quickly as possible.

This discussion relates to a dispute found in the Poskim as to whether there is a mitzvah to immerse utensils that become tamei'im. Maharsha³ takes it as a given that the mitzvah to immerse immediately applies even to utensils. Pnei Yehoshua disagrees and notes that nowhere in Shas do we find that there is a mitzvah to immerse a utensil as soon as possible. He cites proof to this position from the Sifra (Shemini 8) that teaches that when an earthenware utensil becomes tamei there is no requirement to break it right away. Imrei Yosher points out that Pnei Yehoshua finds this source to be a proof that one could delay immersing only because he maintains that the mitzvah is a concern for violating the tum'ah. However, according to his explanation that it is a decree from the Torah, there is no proof since the Torah did not decree that a tamei earthenware utensil must be broken immediately. ■

¹ פני יהושע ביצה י"ח. ד"ה אי.

² שו"ת אמרי יושר ח"ב סי' קפ"ח.

³ מהרש"א שבת קי"א. ד"ה וליכא. ■

STORIES off the Daf

The Healthy Majority

"רובו ככולו..."

On today's daf we find that the halachah is that the majority is considered like the entirety.

The Pnei Menachem of Gur, zt"l, was once going out for a walk when he was accosted by a rude person who was strangely dressed. The shamash gently separated him from the rebbe and the rebbe began his walk with someone who was close to him. "It is impossible to know whether that man was Jewish or not. Now that Klal Yisrael is filled with non-Jews, one cannot tell from a person's actions. His face doesn't look Jewish, so perhaps he is not."

But a moment later, the rebbe changed his mind. "Nevertheless, we can learn an important lesson about judging others favorably from a statement of our sages in Chulin 11. There we find that if not for the halachah that the majority is like the entirety, beis din would never be able to execute a murderer, since perhaps his victim was dangerously ill. The Gemara there explains that even if we were to check the cadaver and we found that there was no signs that he was a treifah, we still could not execute the murderer since perhaps there was a clear sign that the man was a treifah precisely where the weapon that killed him had penetrated. Even though the likelihood of there being a sign of treifus under a wound is miniscule, perhaps we should rely on this possibility and refrain from killing him? But we do not. We judge

in accordance with the healthy norm, despite the appearances of the individual case which might be an exception. So why should I assume that the man who accosted me was a non-Jew? Why not assume he was a Jew, who comes from a much holier source, even if this appears unlikely?"

When they returned home the rebbe was glad to hear that the man was actually a Jew. The rebbe commented, "One never loses from looking at something with a good eye!"¹ ■

¹ קול התורה, תשרי תשנ"ז, ע' ל"ה

Today's Daf Digest is dedicated
as a zechus for a refuah sheleimah for
חיים ישראל בן חנה צירל
יוסף שלום בן חיה מושא
אברהם גרשון בן ציפי
דינה חיה שרה בת שיינע מירה