

Daf Digest for this month is dedicated in memory of ישראל צבי בן זאב גוטליב ז"ל

By the Weiss/Gotlib Families—London, England

OVERVIEW of the Daf

1) Clarifying the Mishnah

The reason the Cutheans maintained that stillborns are not buried is explained.

The circumstances in which a Cuthean is trusted to declare where a stillborn is buried are discussed.

The circumstances are explained regarding which when a Cuthean is trusted to declare that an animal already produced offspring.

The reason Cutheans are trusted with regards to marking graves is explained.

The reason Cutheans are not trusted regarding overhangs and protrusions is explained.

2) Beis HaPras

Two halachos related to a beis hapras are presented.

The Mishnah's implication that Cutheans are not trusted regarding a beis hapras is unsuccessfully challenged.

3) Clarifying the Mishnah (cont.)

The final statement of the Mishnah is explained.

הדרן עלך דם הנדה

4) **MISHNAH:** The Mishnah discusses the halachos of a woman who finds blood on her body or garments and whether that renders her *temei'ah*.

5) Sensing a discharge

Shmuel rules that a woman who finds blood but did not experience a discharge is *tehorah* since the sensation of a discharge is essential to becoming a *niddah*.

Shmuel's exposition is unsuccessfully challenged.

Four unsuccessful challenges to this ruling are recorded.

Two rulings in the last *Beraisa* that was cited are unsuccessfully challenged.

Additional challenges to Shmuel's ruling are presented and the *Gemara* answers that Shmuel agrees that a woman is *Rabbinically temei'ah*. ■

Distinctive INSIGHT

Cutheans cannot be trusted

והא לית להו ולפני עור לא תתן מכשול

The Mishnah (56b) ruled that Cutheans are trusted to say that a particular animal had previously given birth and that the animal born now is not a *bechor*. While the Cutheans observed the mitzvah of the giving a first born animal to a *kohen*, this was only regarding themselves. Providing accurate information to a Jew entailed the Cutheans being conscience in regard to others and their observance. The *Gemara* therefore questions the credibility of the Cutheans, because we know that the Cutheans interpreted the *posuk* "do not place a stumbling block in front of the blind" literally, and while they would not cause a blind man to trip, they did not apply this in terms of a prohibition against misleading others or not causing them to sin. How can we believe a Cuthean when he provides information regarding our proper observance of the mitzvah of *bechor*? The *Gemara* answers that a Cuthean is actually not to be believed, unless he reports regarding an animal which he is personally shearing or working. We trust that he himself is treating the offspring of this animal as a non-*bechor*, so we trust him when he tells us that it is not a *bechor*.

Aruch LaNer asks that although it is true that a Cuthean is not compliant with the laws of misleading others in terms of mitzvah observance because they interpret the *posuk* of causing a blind man to stumble literally, we should still fully trust them when they report that a particular animal is not a *bechor* due to the *pesukim* which command (Shemos 23:7) that we "stay far away from falsehood," and (Vayikra 19:11), "Do not speak falsehood one man against the other." The Cutheans should comply with these verses, which are clear and direct, and when they tell us that an animal is a non-*bechor* they would have to be telling the truth.

HaMetaHer (Masseches Kutim 1:14) explains that the Cutheans interpreted the verses which warn against saying false statements in a very narrow context. The *posuk* in Vayikra is understood to refer to the prohibition against taking a false oath (see Rashi on the Chumash, and Rambam, Hilchos Shevu'os 1:8). Aruch LaNer points out that the Cutheans also understand the verse from Shemos in the context of a false statement made in court in response to denying a monetary claim (see Shevu'os 31a). *Mechilta* explains that it refers to the prohibition against speaking *leshon hara*. Accordingly, there is no *posuk* in the Torah which warns against one person lying to another in a daily encounter. This is why we cannot trust a Cuthean based upon the *pesukim* which speak about not lying.

Sha'arei Teshuva (3:178) lists nine categories of liars. He explains the *pesukim* from the Torah in regard to denying monetary claims in court. When he discusses lying between one person and another with no direct financial repercussions, he only cites verses from the prophets. ■

Today's Daf Digest is dedicated
לעילוי נשמת
ברוך יהושע בן אלחנן שלמה זלמן
by the Goldstein family

HALACHA Highlight

Burying a stillborn

כל שיש לו נחלה אין לו גבול

Whoever has an inheritance has a boundary

Haghas Maimonis¹ contends that there is no mitzvah to bury a stillborn. He references numerous places in the Gemara that indicate that stillborn babies were thrown into pits. Since there is no obligation to bury stillborn it is certainly prohibited to bury a stillborn on Yom Tov. Magen Avrohom² rejects this position and argues that throwing stillborn into a pit was burial. He then cites sources that indicate that there is an obligation to bury a stillborn. One of those sources is found in our Gemara. The Gemara relates that according to R' Yehudah, Cutheans did not bury stillborn. This was based on their understanding that only those who have an inheritance are given a burial plot but those who do not have an inheritance are not given a burial plot. This implies that since we do not exposit the pesukim in the same manner as the Cutheans we maintain that there is an obligation to bury stillborn. Moreover, according to Chachamim who disagree with R' Yehudah and maintain that even the Cutheans buried their deceased it follows that we would certainly agree that there is an obligation to bury stillborn.

Rav Shlomo Kluger³ rejected Magen Avrohom's proof from our Gemara. He asserts that everyone agrees that there is no obligation to bury a stillborn. The thrust of the Gemara's

REVIEW and Remember

1. Under what conditions are Cutheans trusted to identify where they buried a stillborn ?

2. Would a Cuthean intentionally make himself tamei ?

3. According to Shmuel what prerequisite is necessary for a woman to be a niddah ?

4. What are the three categories of doubt regarding a woman ?

question was why the Cutheans do not have the custom to bury stillborn as we do. In response to this question the Gemara answers that according to R' Yehudah the Cutheans maintain that not only is there no obligation to bury stillborn but it is, in fact, also prohibited to bury stillborn. Sefer Birkas Shai⁴ explains that although logically there is no reason to bury a stillborn for its own need for atonement or to prevent its own disgrace, it is possible that according to Magen Avrohom there is an issue of disgrace to the family if the body is not buried. Rav Kluger, however, maintains that leaving a stillborn unburied does not disgrace the family and as such there is nothing more than a custom to bury the dead but no obligation. ■

¹ הגהות מיימוניות פ"א דמילה ה"ו.
² מג"א סי' תקכ"ו סק"כ.
³ שו"ת האלף לך שלמה אור"ח סי' שמ"ב.
⁴ ברכת שי ד"ה ואל"בא. ■

STORIES off the Daf

A Stumbling Block?

"לפני עור לא תתן מכשול..."

On today's daf we find the prohibition of לפני עור.

Weddings are certainly complex affairs. Most people hire a caterer to prepare and serve the food at the wedding. There are often so many guests and the immediate family has so much on their minds that hiring help is the only way to manage. One London caterer would hire his hall out to all who needed it, and provided excellent catering at a reduced rate for those who used

his hall. When he was approached by Jews who obviously did not keep halachah to make a catered affair, he gladly agreed. But when the ba'al hasimchah asked whether there was a lot of space for a band and mixed dancing, he had second thoughts. He wondered whether there was a problem of לפני עור in this since he was providing a hall and food for one who would surely violate halachah.

When this question reached Rav Moshe Feinstein, zt"l, he permitted the man to rent his hall. "Renting a hall to be used for a Torah prohibition when there are other halls available is definitely not a violation of the Torah prohibition of לפני עור. In a big city like

London other halls are certainly available.

"Although one might have thought that there was a rabbinic prohibition against enabling sinners to sin, this too is not at issue here. The prohibition against enabling others to sin is only if the actual object given is itself prohibited. But renting a hall which can also be used in an exclusively permitted manner is not a violation. Quite the contrary; at least this hall is kosher! If they are forced to take another hall, who knows whether they will have kosher food at their affair?"¹ ■

■ אג"מ, יו"ד ח"א, סי' ע"ב

