

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) Attributing stains (cont.)

R' Huna's position regarding the size of a stain that renders a woman *temei'ah* is unsuccessfully challenged.

R' Chanina and R' Yannai debate whether a stain renders a woman *temei'ah* if it is the minimum size for *tum'ah* but has a squashed louse on it.

The logic behind each of these positions is explained.

R' Yirmiyah inquires about a woman who handled blood but found a stain that is larger than the amount of blood that she was handling.

After elaborating on this question, the Gemara makes an unsuccessful attempt to resolve the inquiry.

Rava issues a related ruling.

This ruling is unsuccessfully challenged.

An alternative version of this ruling and discussion is presented.

2) Clarifying the Mishnah

R' Akiva's statement that the rules of stains were enacted to be lenient is challenged from a *Beraisa* and clarified.

The Gemara inquires whether Rabanan disagree with R' Elazar the son of R' Tzadok or not.

On the second attempt, it is demonstrated that Rabanan do disagree with R' Elazar the son of R' Tzadok.

הדרן עלך הרואה כתם

3) **MISHNAH:** The Mishnah discusses the halacha of blood found in urine.

4) Blood found in urine

The circumstances of the Mishnah's case regarding blood found in urine while sitting are explained.

This explanation is unsuccessfully challenged.

Amoraim rule in accordance with R' Yosi's position.

The Gemara inquires about R' Meir's opinion concerning the case of a man and woman who urinate into the same basin.

Reish Lakish suggests one resolution.

This suggestion is unsuccessfully challenged.

R' Yochanan suggests a second resolution.

This explanation is unsuccessfully challenged.

A *Beraisa* is cited that favors R' Yochanan's opinion.

The Gemara inquires about R' Shimon's opinion in a case of a woman who discovers blood urinating while sitting.

The Gemara cites a *Beraisa* that proves that according to R' Shimon she is *temei'ah*.

The Gemara inquires about R' Shimon's opinion concerning a man and woman who use the same basin.

The Gemara answers that R' Shimon would not consider that the blood came from the man.

5) **MISHNAH:** The Mishnah discusses stains that could have come from one of several women. ■

Distinctive INSIGHT

Finding a stain with a dead louse next to it

איתמר נמצא עליה כגריס ועוד ואותו עוד רצופה בו מאכולת ר' חנינא אומר טמאה ר' ינאי אומר טהורה

The Gemara presented a discussion regarding the law in the Mishnah (58b) that a woman can attribute a stain that she finds to sources other than herself. However, the limitation is that this is only true for stains up until the size of a *gris*—a split bean, which is the size of a spot caused by the amount of blood found in a louse. One other stipulation is that a woman can attribute the stain to a louse even if she is unaware that she might have killed one.

In the Gemara, Rav Huna explains that a woman may attribute blood of a stain found on her body to a louse up until but not including the size of a split bean. R' Chisda disagrees and says that we may attribute up to and including the size of a split bean to a louse, but not if the stain is larger than the size of a *gris*.

On our *daf*, a discussion takes place in the *beis midrash* regarding whether there is a possibility for R' Chisda to be more lenient and possibly regard a woman to be *tehorah* even if she finds a stain larger than the size of a *gris*. The case is where a stain was the size of a *gris* plus a bit more, but precisely at the spot of the little extra we find a dead louse. R' Chanina says the woman is *temei'ah*. A dead louse only allows us to attribute up to a full *gris* of blood, but not more. The blood in this stain could not have come only from the louse, so we assume it must have come from the woman. Aruch LaNer adds that it is unreasonable to say that two lice died one next to the other, so we assume the extra blood must have come from the woman.

R' Yanai holds that the woman is *tehorah*. He says that the maximum amount of blood we assume to come from a louse is a *gris*, but this is where we do not find a louse at that exact spot of the blood. If we find a dead louse at the spot, it is evident that the entire amount of blood, the *gris* plus a bit more, must have all come from the louse. Rosh (#8) explains that according to R' Yanai where we find a dead louse on the spot we can then attribute even an area up until the size of two full *grissim* to lice. We normally allow up to a full *gris* without finding a louse, and the second *gris* is attributed to the louse we find. Therefore, the woman would be *tehorah*.

Rashash notes that we disregard up to a full *gris* of blood even where it would be impossible that a louse was the actual source. The sages did not consider this amount *tamei*. Therefore, if we actually find a dead louse, we can attribute a full *gris* in addition to the louse. ■

Today's Daf Digest is dedicated by the Mauer Family

לעילוי נשמת ר' חיים בן ר' מרדכי לייב

HALACHA Highlight

Issuing lenient rulings

The Tanna prefers to express the lenient position

כח דהיתרא עדיף ליה

When discussing the correct method for issuing halachic rulings, Teshuvos Be'er Moshe¹ mentions the principle that appears in our Gemara that states **כח דהיתרא עדיף** – It is preferred to illustrate the lenient opinion. Rashi² explains that in order to rule leniently one must be confident of his position. In contrast, to rule stringently does not require confidence since even when one is uncertain about how to rule one can issue a stringent ruling. However, one must bear in mind the warning of R' Ephraim Zalman Margolies of Bryode who wrote that one who unnecessarily issues a stringent ruling has violated a monetary prohibition since he caused another person to suffer a loss. He then adds that before issuing a ruling one must be very cautious not to cause someone unnecessary distress. Especially when it comes to questions related to food on Pesach where an unnecessary stringent ruling could lead to distress, financial loss and a loss of joy on Yom Tov, one must be certain that there is no room for leniency.

Be'er Moshe then notes that it is common for Torah scholars to issue more stringent rulings when they are young, and as they grow older to issue more lenient rulings. For example, Noda BiYehudah³ writes regarding a certain teshuvah that he wrote it when he was younger and as a result of his fear of issuing halachic rulings he was stringent. Sefer Shem Aryeh⁴ also

REVIEW and Remember

1. What is the point of dispute between R' Chanina and R' Yannai ?

2. Was the introduction of stains a stringency or leniency ?

3. Explain the principle: **כח דהיתרא עדיף ליה**.

4. What is R' Nechemyah's lenient ruling regarding stains ?

writes about the author of the Levushei Serad that in the pamphlet he wrote when he was younger he took a more stringent approach regarding which broken bones render an animal or bird tereifah. When he was older and wrote another pamphlet regarding issues that could render an animal a tereifah due to conditions in the lungs he adopted a much more lenient approach. Minchas Yitzchok⁵ asserts that the use of the principle **כח דהיתרא עדיף** is a borrowed term since there is no inherent value to issuing lenient rulings. All Rashi was expressing was that when given the choice, a Tanna would rather express himself from a lenient perspective since that requires greater expertise in the material but did not intend to convey that there is inherent value to issuing lenient rulings. ■

¹שו"ת באר משה (ירושלמיסקי) מאמר זכרון טוב אות טו"ב.
²רש"י ביצה ב: ד"ה היתרא עדיף ליה.
³שו"ת נודע ביהודה מהדו"ק אבה"ע סי' כ"ח בהגה"ה.
⁴שם אריה בהוספות סו"ס י"ב.
⁵שו"ת מנחת יצחק הקדמה לח"א. ■

STORIES off the Daf

A Presumption of Purity

"ה"מ היכי דלא רצופה בו מאכולת..."

Determining the halachah in various situations can be extremely difficult. One of the most difficult areas of halachah is hilchos treifos. One rabbi pointed out that, although the Mechaber is stringent many times where the Rema is lenient, the Rema has one stringency regarding lungs which more than makes up for them. As Rav Simcha Golshevsky pointed out, "Now that the Rema rules that we must check the lungs of any animal that has even an suspicious adhe-

sion on the lungs, it is easier to follow all of the Mechaber's chumros than that one chumrah of the Rema."

The Gaon of Slutsk, zt"l, got an idea on how to be lenient in this matter from a statement on today's daf. "In Niddah 59 we find that if one finds a louse near a bloodstain, he can assume that even more blood than a louse usually causes can be assumed to be from the creature. We do not have to assume that it is from an impure source which would cause ritual defilement. Similarly, in hilchos treifos, if one found a lung which was shrunken but filled with liquid, he need not check it if there is no other problem with it. Although the lung is not perfectly healthy, since it is

filled with puss it is clear that it shrunk only due to the puss and we need not assume that it may be treif."

But when this leniency reached the Maharsham, zt"l, he rejected it out of hand. "The proof he wished to bring from the defilement triggered by bloodstains does not work, since that defilement is merely rabbinic. The Talmud is telling us that the rabbis were lenient in the case of a louse. How can one make up a leniency regarding something else?"¹ ■

■ שו"ת מהרש"ם, ח"ו, סי' פ"ב

