

OVERVIEW of the Daf

1) Melikah (cont.)

R' Yannai challenges the assertion of the sons of R' Chiya that melikah may be done when the pipes are behind the spine.

In response to the challenge the Gemara is forced to say that the sons of R' Chiya follow the position that moving one's nail back and forth is a valid method of melikah.

R' Kahana describes the correct procedure for melikah.

R' Avin draws an inference from R' Kahana's statement.

R' Yirmiyah disagrees with this inference.

R' Yirmiyah in the name of Shmuel asserts that any part of the neck that is fit for slaughtering, it opposite to a place on the back of the neck that is fit for melikah.

The Gemara searches for the circumstance Shmuel intended to exclude with his statement.

2) Torn pipes

R' Acha the son of Rava qualifies a Baraisa taught by Rami bar Yechezkel.

This qualification is rejected.

Ravina offers an alternative explanation of this Baraisa.

A ruling is cited that contradicts Ravina's explanation and the Gemara acknowledges that the two teachings are inconsistent with one another.

3) Broken neck

Zeiri rules that if an animal's neck is broken together with a majority of the flesh upon it the animal is a neveilah.

R' Chisda suggests a proof to this ruling.

The Gemara explains why both teachings are needed.

Two reasons are given why melikah with a knife is not considered slaughtering.

The reason each Amora rejected the explanation of the other is explained.

Rava challenges Zeiri's ruling.

Abaye and Rava have an exchange about the merit of Rava's challenge. ■

REVIEW and Remember

1. Is it necessary for one to move his nail back and forth for melikah to be valid?

2. At which part the neck may melikah be performed?

3. What is the origin of the requirement to slaughter birds?

4. What is the effect of performing melikah with a knife?

Distinctive INSIGHT

Contrasting the procedures of melikah and shechita

למעוטי שן וציפורן

When the sons of R' Chiya taught and explained the rules regarding the mitzvah of melikah, they emphasized that the trachea and esophagus are brought toward the back of the neck and severed before the spine and backbone are cut. The Gemara determines that the sons of R' Chiya meant to say that melikah may also be done without these organs being twisted toward the back of the head of the bird, although under these conditions the spine and neck bone will be severed just before the other key organs are cut.

R' Yannai questioned this explanation, because the Mishnah concludes by saying that the procedure of melikah is unique, and using this same procedure for shechita is not valid. If the lesson of the sons of R' Chiya is correct, that the organs may or must be twisted around toward the back of the neck to be cut before the spine and neck bone, it would turn out that this is a condition shared with shechita, where the trachea and esophagus are always cut before the spine and neck bone. Rather, R' Yannai understands that the Mishnah's lesson that melikah and shechita are distinct teaches that melikah must be done from the back of the head of the bird, with the spine and neck bone being cut before the other organs.

Rabbah bar bar Channa responds and explains that the Mishnah's distinction between melikah and shechita is not regarding the sequence of the cutting of the organs of the animal, but rather in regard to the implement used for the procedure. Melikah is performed with one's fingernail as it is connected to one's body, whereas using one's nail for shechita is not valid.

Rashi adds that the reason one's fingernail while connected to the body may not be used for shechita is that anything connected to its source is not valid for shechita (מחובר). The Gemara therefore also mentions the rule that a sharp tooth which is connected to the jaw of an animal may not be used for shechita, but the truth is that this is also not valid for melikah.

Tosafos notes that using a tooth to do melikah is certainly not acceptable. Nevertheless, its being mentioned in this context in contrast to shechita is because, just like a fingernail which may be used although it is connected, a tooth is

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By Dr. and Mrs. Jeremy Simon in memory of their father
ר' חיים ראובן שלמה בן שבח אליעזר ע"ה

HALACHAH Highlight

Writing sta'm in an unusual manner

לא למעוטי שן וצפורן

No, it excludes using one's tooth or fingernail

There was once an incident in Egypt where someone put a quill in his mouth and wrote sacred writing (e.g. tefillin or mezuzah) with the quill in his mouth. Rama MiPano¹ addressed the question of whether this manner of writing is acceptable and he ruled that since this is not the normal manner of writing the writing is invalid. This ruling is cited approvingly by Magen Avrohom². Mor U'ketzia³ rejects this ruling based on a halacha regarding chalitzah. Halacha requires a yevama to loosen the yavam's shoe with her right hand. In the event that her arm was severed she does the chalitzah with her teeth. This establishes the principle that using one's mouth is a valid replacement for using one's hands.

Sefer Amudei Eish⁴ cites Mor U'ketzia's position and expresses surprise at his position. If one looks closely at Rama MiPano's explanation it is evident that he is lenient because the requirement to do chalitzah with one's hand is a Rabbinic enactment. Therefore, one could be lenient and use one's teeth. On the other hand, the requirement to use one's hand for sacred writing is Biblical. Therefore, the use of one's mouth is worse than even using the left hand since writing with one's mouth is not the normal manner of writing.

Teshuvos Har Tzvi⁵ was asked about a scribe whose hand was deformed and he would hold the quill with his hand up-

(Insight...continued from page 1)

also not disqualified due to its being connected to the jaw. It is, however, disqualified to be used for melikah for a different reason, that being that melikah must be done with one's right hand, and a tooth is not on one's right hand.

Tosafos suggests a second approach, and that is that perhaps melikah does not necessarily have to be done with one's right hand, and the law is just that if it is done with the left hand the procedure is not valid. Using a tooth, therefore, is actually permitted for melikah. ■

side down. In his response he clarified that one should not automatically assume that writing with the back of one's hand is invalid similar to writing with one's left hand that is invalid. He cited a comment of Tosafos⁶ to our Gemara to support this contention. Concerning the Gemara's discussion of the disqualification of performing melikah with a tooth Tosafos writes that melikah with one's left hand is worse than melikah with one's teeth. Proof to this is that chalitzah may not be performed with one's left hand and yet it may be performed with one's teeth. This establishes that doing something in an unusual manner is not the same as using one's left hand. Similarly, although a scribe may not write with his left hand it may be that writing in another unusual manner, e.g. with the back of one's hand, is acceptable. ■

1. שו"ת רמ"ע מפאנו סי' ל"ח.
2. מג"א סי' ל"ב סק"ה.
3. מור וקציעה לסי' ל"ב.
4. ספר עמודי אש סי' ו'.
5. שו"ת הר צבי או"ח א' סי' כ"ה.
6. תוס' ד"ה לא למעוטי שן וצפורן. ■

STORIES Off the Daf

A Flawed Tradition

"אי הכי העור נמי כל המעכב בשחיטה..."

The Shvus Yaakov, זת"ל, had an interesting exchange with the shoachim of the Sefardic community in two cities in France. These people were not bnei Torah and when the Shvus Yaakov received a report about how they did shechitah, he immediately decided to protest.

He wrote, "I have heard that when slaughtering, your shoachim first cut the skin of the animal. They then remove both simanim and only afterward slaughter the animal. This is improper, as we find in the Beis Yosef and Rema in Yoreh Dei'ah 23:4 and 23:6."

The community leaders replied. "Since we received your letter we have been very careful to cease our usual practice and slaughter without first cutting the skin and removing the simanim, as you wrote. Even though this has been difficult for a number of technical reasons, we sacrificed to be able to slaughter as you say. We wish to inform you that our custom is how we were taught from earlier generations. We would first cut the skin then remove the simanim and cut them both together. Isn't it possible that the custom of our ancestors is simply different than yours?"

The Shvus Yaakov explained that one cannot always trust the custom. "You should know that there are many problems with this custom. The first and most serious is cutting the skin. Perhaps you nicked one of the simanim and rendered it treif,

as the Maharik and Maharam of Padua explain?¹ Now, if the shochet claims to be certain that he did not touch either siman, cutting the skin is kosher **בדיעבד** as we see in Chulin 20 that the skin is not m'akeiv the shechitah. There is no source which permits this at the outset, however..."

He added, "Your claim that this was always your custom and that you have a mesorah to shecht this way is worthless unless the questions I have raised are answered. If the great Sephardic chachamim will write a teshuvah refuting my proofs and bringing proofs that this is permitted, your path will be validated. If not, you must suspect this is an error and slaughter as the Shulchan Aruch requires!"² ■

1. שו"ת מהרי"ק, סי' ל"ד, שו"ת מהר"ם פדואה, סי' פ"ג
2. שו"ת שבות יעקב, ח"ב, סי' ק"י ■