

OVERVIEW of the Daf

1) Clarifying the dispute (cont.)

Rava finishes his unsuccessful challenge to R' Chisda's assertion that the dispute in the Mishnah is limited to an androgynos.

Numerous other unsuccessful challenges to R' Chisda's position are presented.

It is suggested that R' Chisda's assertion is subject to a dispute between Tannaim.

This suggestion is rejected.

R' Yochanan challenges R' Ilai's earlier ruling.

R' Yochanan's objection is unsuccessfully challenged.

R' Ila'i's opinion is clarified.

2) Tumtum

R' Oshaya challenges the position about determining whether a tumtum is considered a definite female.

Abaye objects to this challenge.

After Abaye bar Avin and R' Chananya bar Avin defend the challenge the Gemara answers R' Oshaya's challenge.

It is suggested that the question of whether something that has changed from the norm is considered to have changed in other ways as well is subject to a debate between Tannaim.

An alternative explanation of the Baraisa is suggested.

The opinion of R' Yosi the son of R' Yehudah regarding a tumtum is clarified.

Rava explains the differences between the views of R' Yehudah and R' Yosi the son of R' Yehudah concerning a tumtum. ■

הדרן עלך על אלו מומין

REVIEW and Remember

- Why does the Torah emphasize זֶבֶר in the context of an Olah?
- What is the dispute in the Baraisa related to an androgynus animal?
- How do we know that R' Yochanan rejects R' Chisda's explanation of the debate?
- Explain אשתני ולא אשתני.

Distinctive INSIGHT

A bechor which is a tumtum or androgynos

אפילו תימא רבנן הואיל ואישתני אישתני

Rambam writes (Hilchos Isurei Mizbe'ach 3:3) that an animal which is a tumtum or androgynos is considered to be an animal with a blemish. Rambam adds that these types of animals are not valid to be brought as offerings due to a more basic reason, and that is that they are neither male nor female, so they are in a category by themselves, a type proscribed for an offering. Therefore, a bird which is a tumtum or androgynos may also not be brought as an offering, even though blemishes are not a disqualifying factor for birds.

Lechem Mishnah points out that once Rambam writes that an animal's very being a tumtum or androgynos defines it as being blemished, Rambam's ruling in Hilchos Bechoros (2:5) has to be understood. There, Rambam writes that a bechor which is born as a tumtum may be shechted once it develops a blemish. Why would it be necessary for this animal to develop an additional blemish if Rambam already defined the animal as blemished due to its being a tumtum?

Lechem Mishnah answers that there is a difference between a bechor and all other offerings. The general rule of all offerings is that if an animal is defective or otherwise undesirable such that it would not be acceptable to be offered to a mortal officer, it is also disqualified from being an offering to God. "Would you offer it to your governor?" (Malachi 1:8) A tumtum and androgynos are in this category. A bird which is a tumtum or androgynos is also disqualified, because although this is not a "complete blemish," it is a change in the animal which is unacceptable just as if were missing a limb.

Rambam writes that a bechor may not be eaten unless it becomes blemished with a "complete blemish," and not just where it is undesirable with a condition of tumtum. This is why Rambam rules that it may be eaten only if it develops

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 לע"י הרב מיכאל בן הרב אלחנן שרגא זצ"ל
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 In loving memory of his mother
 מרת דאבא בת ר' אברהם זאב, ע"ה

HALACHAH Highlight

Androgynous

מטיל מים במקום זכרות וזכר

If he relieves himself as a male he is a male

Shulchan Aruch¹ rules that an androgynous can blow the shofar and discharge the obligation of another androgynous. Magen Avrohom² cites Rif who writes that an androgynous is sometimes male and other times female. Therefore, an androgynous cannot discharge the obligation of another androgynous unless he is in a male state or if both are in a female state. An androgynous who is in a female state may not discharge the obligation of even another androgynous if that second androgynous is in a male state. Be'er Heitev³ notes that in our current editions of the Rif this position is not found.

Rav Yaakov Emden⁴ asserts that the position expressed by Magen Avrohom is based on the mistaken notion that an androgynous changes from male to female and from female to male. However, such a reality does not exist. Even though there are different categories of androgynous their individual condition does not change and they possess both male and female characteristics. In fact, the word "androgynous" is a Greek compound word that means male and female and interestingly enough the numeric value of the word אנדרוגינוס is the same as זכר ונקבה.

Chasam Sofer⁵ defends Magen Avrohom's comment. He notes that although an androgynous has male and female

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an additional, more significant, blemish.

Mirkeves HaMishnah and Chok Nossan explain that Rambam's ruling is that "a bechor which is a tumtum may be shechted due to a blemish" is referring to the very blemished condition of its being a tumtum, and not that we have to wait for an additional blemish to develop.

Reishis Bikkurim explains that Rambam (Bikkurim 2:5) rules that a bechor androgynos is not holy at all, and it may be worked and sheared. ■

characteristics, there are times when he relieves himself as a male and there are times when it is done as a female. This was the intent of Magen Avrohom when he referred to an androgynous being in a male state or in a female state. He then cites our Gemara as proof that a person's gender can be determined by the way in which he relieves himself. Our Gemara relates that if a tumtum animal relieves itself as a male it is categorized as a male. Although the cases are not exactly parallel it seems that this approach explains Magen Avrohom's position. In other words, Magen Avrohom did not mean that as a male he is assigned all the halachos of a male and when female she is assigned all the halachos of a female; rather his intent was only with regards to discharging the obligation of another androgynous. ■

1. שו"ע או"ח סי' תקפ"ט סעי' ד'.
2. מג"א שם סק"ב.
3. באר היטב שם סק"ב.
4. מור וקציעה שם.
5. על המג"א הנ"ל. ■

STORIES Off the Daf

An Obsession

הואיל ואשתני אשתני

Acertain man boarded a ship in London that was bound for Ireland, but the journey was ill-fated for this unfortunate man. One morning he woke up—along with the passengers and sailors—and told whomever would listen that he had dreamed that that day would be his last day on Earth. Shortly afterwards he vanished without a trace. Although there were no witnesses, everyone assumed that he had cast himself into the sea to fulfill his dark prediction.

When after three years nothing had

been heard from him, Rav Moshe Yerushalmky, zt"l, decided to consider the sugyos and try to free this unfortunate man's poor widow.

After much consideration, he permitted the woman to remarry, proving that she was permitted from a statement on today's daf. "Firstly, the Maharam Mintz, zt"l, permits the wife of one who cast himself into the sea as an act of suicide. Although the Chasam Sofer, zt"l, writes that one who claims that he is about to commit suicide cannot be assumed to have done so since he may well have changed his mind at the last second, this does not apply in our case. In this particular instance, the man wasn't like most people who commit suicide, He was completely consumed by

what he thought was his fate, and everyone with whom he came into contact felt certain that he ended his own life. It seems clear that the Chasam Sofer would agree in these circumstances.

"The proof of this is from Bechoros 42. There we find that the rule is: הואיל ואשתני אשתני — once something is known to be different in one way, it is more likely to be different in another manner as well. Here too, most people commit suicide because of deep inner pressure, which may relent at any moment. But one who does so because of some kind of mental obsession that convinces him that he is fated to die, can be assumed to have finished the job."¹ ■

1. מובא במהרש"ם, ח"ב, סי' קס"ח, ע"ש שחולק עליו כיון שדעתו של אדם אינו דומה לשינוי בגוף שעלול לשנות דעתו בכל עת ■