

OVERVIEW of the Daf

1) סריס חמה (cont.)

R' Yochanan is cited as defining a סריס חמה as one who was born sterile.

Abaye explains how we know that he was sterile from birth.

The cause for this sterility is identified.

The assertion that a person will not experience a period of health between periods of sterility is unsuccessfully challenged.

2) Clarifying R' Eliezer's position

Another Mishnah is cited that presents a contradictory understanding of R' Eliezer's position from our Mishnah.

Rami bar Dikuli in the name of Shmuel answers that R' Eliezer retracted one of his rulings.

The Gemara identifies which of the two rulings he retracted.

R' Elazar suggests an alternative solution that does not indicate that R' Eliezer retracted his opinion.

3) Establishing one as a סריס חמה

Rav and Shmuel argue about the consequence of a girl who ate cheilev when she was twelve or older, developed signs of being an איילונית and finally produced two hairs indicating maturity. Rav ruled she is considered retroactively an איילונית whereas Shmuel maintains that she was a minor at the time of the offense.

R' Yosef unsuccessfully challenges Rav's position.

4) Reaching maturity

R' Avahu rules that a סריס, איילונית and child born in the eighth month of pregnancy are not classified as adults until they reach the age of twenty.

The assumption that a child born in the eighth month will survive is unsuccessfully challenged.

5) איילונית and סריס חמה

A Baraisa presents defining characteristics of a סריס חמה and an איילונית.

R' Huna and R' Yochanan dispute whether a person needs all the characteristics to be classified as a סריס חמה or even one characteristic is sufficient.

6) Clarifying the Mishnah

The Gemara identifies an anonymous part of the Mishnah as consistent with R' Akiva that a סריס caused by Hashem does not perform chalitzah. ■

Distinctive INSIGHT

An eighth month infant whose development is complete
דתניא רבן שמעון בן גמליאל אומר כל ששבה ל' יום באדם אינו נפל

The Gemara teaches that an infant born in the seventh or ninth month of pregnancy can be viable. If it is born in the eighth month of pregnancy it cannot be viable. The opinion of Rabban Shimon ben Gamliel is that once an infant has survived for thirty days, he no longer has the status of being a נפל. Even if it is born in the eighth month, upon reaching thirty days, the child is considered viable. We assume that the embryo was complete after seven months, but it was just delayed in being born.

Rosh (ד"ה בן שמונה, Shabbos 135a, סימן ו') and Tosafos (Shabbos 135a, סימן ו') rule that an infant born into the eighth month of pregnancy may be given a bris milah on his eighth day of life even if it is Shabbos, provided we determine that it is fully developed. This is in accordance with the opinion of Rebbe in our Gemara, who relies upon examination of the infant's hair and nails as conclusive. Rebbe does not require waiting thirty days, as did Rabban Shimon ben Gamliel. Based upon these opinions, Shulchan Aruch (O.C. 330:7) rules that we may violate Shabbos for the sake of an eighth month infant whose development is complete.

The Vilna Gaon questions this ruling of Shulchan Aruch. It is true that Rosh and Tosafos allow the bris on Shabbos for such an infant, but this is only because of Rav Adda bar Ahava (Shabbos 136a) who notes that the bris in this case never entails a Torah violation. If the infant is viable, a mitzvah is being done. If the infant is not viable, we are merely cutting flesh. However, for us to violate Shabbos in a context other than a bris would entail a Torah violation, and here we cannot rely upon Rebbe's criteria of a ful-

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REVIEW and Remember

1. What causes a child to be born a סריס חמה?

2. Why is a סריס חמה not judged as a סורר ומורה?

3. What are the characteristics of a סריס חמה?

4. Is vapor coming from one's skin after a bath in the winter a healthy sign?

HALACHAH Highlight

A change in nature

הא גמרו אמרינן האי בר שבעה הוא ואישתהויי הוא דאישתהי

If [the nails and hair] are developed we assume that the child is a seven month pregnancy and merely remained [in the womb.]

There was once a woman whose husband passed away while she was pregnant and the only living brother of the deceased could not be found. The child was born but by his eighth day had passed away. As calculations were made, it was determined that the widow delivered a few days into her ninth month of pregnancy. The Rashbash¹ ruled that since the pregnancy extended beyond the eighth month the baby is considered viable and the widow did not need to do yibum or chalitza. One of the issues addressed by Rashbash is that the Gemara Niddah² states that for a nine month fetus to be viable it must remain in the womb for a full nine months. Since this baby was not in the womb a full nine months the baby should be considered non-viable. Rashbash explains that the principle that a nine month pregnancy must last a full nine months is no longer in force because the nature of people has changed and nowadays it is common for women to deliver viable children at the beginning of the ninth month.

Rav Moshe Feinstein³ commented that the significance of the statement of Rashbash that in this case nature has

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ly developed child without waiting thirty days. Mishnah Berura (ibid., #30) also cites this view of the Vilna Gaon in pointing out that we can only rely upon the opinion of Rebbe to violate rabbinic laws of Shabbos. ■

changed is needed because in this case there is an alternative explanation. Rabbi teaches that a child born in the eighth month is not considered non-viable unless he shows signs of immature development but if a child is born in the eighth month with proper signs of development we assume that this is a viable seven month fetus and was late coming out of the womb. Since there is an alternative explanation we would not declare this to be an instance of a change in nature were it not for the testimony of Rashbash. However, when it is evident that a change in nature has occurred, without an alternative explanation, it is not necessary to find support from the testimony of Rishonim to declare that a change has occurred. The Avnei Nezer⁴ expresses greater caution when it comes to declaring that nature has changed and writes that it is only in reference to a child born into the ninth month, where we have the testimony of earlier authorities, can we state definitively that a change in nature has occurred. ■

1. שו"ת רשב"ש סי' תקי"ג

2. גמ' נדה כז

3. מובא דבריו בסוף ספר הל' נדה מה"ר שמעון איידר אות א'

4. שו"ת אבני נזר יו"ד סי' רל"ח ■

STORIES Off the Daf

The premature infant

בן שמונה הרי הוא כאבן

As medical science advances, new halachic issues arise that can only be unraveled by a Gadol possessing both deep knowledge of Torah and a genuine understanding of the relevant technology. Not so very long ago, there was some confusion about whether one may be mechalel Shabbos to save a newly-born fetus of eight months' gestation. While the Gemara in Yevamos 80b clearly states that such a fetus lacking fully developed hair and nails, cannot survive outside the womb, the advances of modern medicine have made

such survival possible. Many talmidei chachamim held that one should not profane Shabbos to save that premature a neonate, as it says clearly in Shulchan Aruch (Orach Chaim 330:8).

One talmid chacham approached the Chazon Ish, zt"l, about such a case and received the following response: "Nowadays, such infants must be given appropriate care even though this entails chilul Shabbos. This is not only true about an eight-month fetus with undeveloped hair and nails, but even on behalf of a fetus of six months' gestation whose hair and nails are undeveloped. Even though in the time of Chazal such a baby could not survive, nowadays they often do!"

Someone once asked Rav Shlomo Zalman Aurbach, zt"l, to explain this

apparent contradiction. "Why do we find that many premature babies survive even though Chazal say that they cannot?"

The gaon explained, "Modern science has produced a device that simulates the womb—an incubator. Chazal only recorded what they observed about the mortality of premature fetuses in the absence of an incubator, not in the presence of one. A premature neonate in incubation could be compared to a fetus whose development was halted and then continued—and Chazal never discussed such a case!

The gadol concluded, "Don't forget to be filled with gratitude to Hashem for the lifesaving wonders of modern medicine." ■

