

OVERVIEW of the Daf

1) Evaluated property (cont.)

R' Yehudah issues a second ruling related to a woman's right to recover the evaluated property brought into the marriage.

The necessity of this ruling is explained.

2) **MISHNAH:** R' Yosi and Rabanan discuss the right of a woman to eat teruma after her kohen husband passes away leaving her pregnant.

3) Clarifying R' Yosi's position

The Gemara inquires which of two explanations is the rationale behind R' Yosi's position.

Rabbah maintains that the rationale behind R' Yosi's position is that the fetus is a non-kohen whereas R' Yosef maintains that the rationale is that an unborn fetus does not allow others to eat terumah.

R' Yosef's explanation is unsuccessfully challenged.

R' Yehudah in the name of Shmuel notes that this discussion is relevant to R' Yosi but according to Chachamim the צאן ברזל slaves will eat teruma.

Shmuel's statement is clarified so that it should be adjusted to reflect the fact that Shmuel agrees with R' Yosi.

The Gemara clarifies that Chachamim only agree that R' Yosi's position is logical but not that they agree with his final ruling.

A Baraisa is cited, and amongst many other rulings, presents R' Yosi's position on the צאן ברזל slaves eating teruma when a kohen passed away leaving his wife pregnant.

Related rulings from R' Yishmael the son of R' Yosi and R' Shimon ben Yochai are presented.

The Gemara clarifies the two rulings of R' Shimon ben Yochai.

It is suggested that the dispute in the Baraisa whether slaves may eat teruma if there is a fetus relates to R' Nachman's ruling concerning Beis Din's authority to distribute property. The suggestion is rejected.

4) Clarifying the opinion of R' Yishmael the son of R' Yosi

The Gemara inquires about the distinction R' Yishmael the son of R' Yosi made between sons and daughters.

This explanation is unsuccessfully challenged.

5) **MISHNAH:** The Mishnah presents certain circumstances where a woman can become disqualified and yet would prevent others to eat teruma. The Mishnah issues a ruling concerning the co-wife of a man who married his brother's daughter and it is unknown which died first.

6) Clarifying the Mishnah

The Gemara begins to explain the different cases of the Mishnah where the Mishnah ruled that the woman becomes disqualified from eating and does not allow others to eat. ■

Distinctive INSIGHT

What is the criterion of merit for a fetus in teruma?

משום דקסבר עובר במעי זרה זר הוא או דלמא ילוד מאכיל שאינו ילוד אינו מאכילץ למאי נפקא מינה לעובר במעי כהנת

The Mishnah presented a case of a **בת ישראל** who was married to a kohen who died, leaving her pregnant. Rabbi Yose had ruled that she may no longer eat teruma, due to the unborn fetus she is carrying. The Gemara inquires about the reason for this law. Is it because Rabbi Yose considers an unborn fetus being carried by a **בת ישראל** to be a non-kohen, thereby disqualifying its mother from eating teruma, or is it because Rabbi Yose holds that offspring of a kohen are technically only eligible for teruma once the fetus is born, but not before they are born?

The truth is that either way, this woman cannot eat teruma. However, the Gemara notes that there is a practical difference between the two ways of looking at this matter. The case is where the woman herself is from a kohen family, and where we are evaluating the eligibility of the slaves that are inherited by this fetus from his kohen father. If the problem is that as a fetus is not yet a kohen, this is only a problem when the mother is a **בת ישראל**, and her only right to teruma is due to her son. But in this case, the mother can eat teruma regardless, because she herself is a daughter of a family of kohanim. If, however, the issue is due to the fetus itself not being fit for teruma until it is born, the slaves which it owns are also restricted from eating teruma until after its birth.

Tosafos (ד"ה למאי נפקא מינה) notes that the actual issue of teruma and a fetus is clearly indicated later in our Gemara to be due to its not yet being born. The case is where the kohen husband dies, leaving his **בת ישראל** wife who is pregnant. Although there is no issue of slaves or inheritance, the pregnant wife may still not eat teruma. This must be because we say ילוד מאכיל—only once the child is born may the mother of this kohen child eat teruma. Yet our Gemara is justified in advancing its inquiry, because in regard to inherited slaves the criteria may change. As Tosafos mentions, perhaps only in reference to its mother might the issue hinge upon the birth of the child, as the verse states ויליד ביתו הם יאכלו. However, the slaves only merit to eat teruma based upon their being the acquisition of the kohen or his property. This does not necessarily depend upon the birth of the child, and it might be easier for them to earn the privilege of eating teruma, for example, if the pregnant mother is herself from a kohen family. ■

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HALACHAH Highlight

Admission without agreeing

אמר ר' אשי מי קתני וקבלו והודו לו קתני דמסתבר טעמיה

R' Ashi said: Does it say that "they accepted it?" "They agreed" it said meaning that they agreed with his reasoning.

The Gemara Berachos¹ rules that although throughout the entire year one recites the words **מלך אוהב צדקה ומשפט** in the Amidah, during Aseres Y'mei Teshuvah one should say **המלך המשפט**. Rishonim debate whether a person who did recite **מלך אוהב צדקה ומשפט** is obligated to repeat Shemoneh Esrei. In an effort to reach a final conclusion on this matter, later authorities endeavor to formulate an exhaustive list of the opinions of different Rishonim to determine which side of the debate is the stronger.

Rav Chaim Benvenisti², the Knesses Hagedolah, rules leniently on this matter, that one who mistakenly recited **מלך אוהב צדקה ומשפט** is not obligated to go back and repeat the beracha. He bases this ruling, in part, upon the view of Rabbeinu Asher ben Yechiel, the Rosh, who agrees with his son Rabbeinu Yechiel that since the word **מלך** is mentioned it is acceptable **בדיעבד**. Tur³ records this conversation. Rabbeinu Yechiel expressed an inability to understand the substantive difference between the language of **המלך המשפט** and **מלך אוהב צדקה ומשפט** and why if one makes a mistake he should have to repeat Shemoneh Esrei. He then notes that Machzor Vitri explains why the language of the beracha changes during the period between Rosh Hashanah and Yom Kippur. Rabbeinu Yechiel concludes by mentioning that he presented this discussion to his father who agreed with him. Knesses Hagedolah understands that although he found an explanation concerning the difference between **המשפט** and **מלך**

REVIEW and Remember

1. What is the halachic status of the fetus of a kohen?
2. Explain the dispute between R' Yosi and Chachamim?
3. When does a daughter inherit property instead of sons?
4. When does a fetus disqualify his mother from eating teruma?

אז, nonetheless, a reason that this would require a person to repeat Shemoneh Esrei is not addressed, and that question remains unresolved. Thus, Rosh and Rabbeinu Yechiel do not subscribe to that position.

Rav Ovadiah Yosef⁴ strongly disagrees with the assessment that due to the unanswered question this means that Rosh and Rabbeinu Yechiel maintain that Shemoneh Esrei need not be repeated. He cites numerous examples where expressions of astonishment or admission do not constitute a halachic conclusion, and thus a conclusion regarding Rosh's position cannot be drawn from this comment. One example is found in our Gemara where the Gemara notes a difference between the language of **הודו**—to admit, and **קבלו**—to accept. Admitting that another raised an important point is not synonymous with agreeing with the other's position. ■

1. גמ' ברכות יב
2. שו"ת כנה"ג ומובא דעתו בשו"ת יביע אומר ח"ב או"ח סי' ח' אות ד
3. טור או"ח סי' קי"ח
4. שו"ת יביע אומר הנ"ל ■

STORIES Off the Daf

Children and Parnossah

רב יוסף אמר ילוד מאכיל

On today's daf we find the statement of Rav Yosef that "one who is born permits others to eat." Although this principle here applies to the newly-born child of a bas Yisroel widowed of her kohen husband, it can also be understood in another way.

Some people believe that they should not have children unless they have saved up enough money to pay for all the children's future needs. Since this includes paying for higher education, there are some who actually feel it is proper to re-

frain from having children until enough money has been saved. This adds up to be an astronomical amount of money.

Others feel that they should only have as many children as their means at that particular time can support. They reason that since they already have fulfilled the minimum mitzvah of **פריה ורביה**, it is not proper for them to have more children than their current means appears to allow. When Rav Eliyashev, shlit"א, was asked about this he said, "The spirit of the chachomim is dissatisfied with such a person."

There was once a simple man who came to Rav Tzvi Hirsch of Riminov, zt"l, with a very strange request. "Rebbe, please daven that I should stop having children. I am very poor and I cannot possibly sup-

port more children."

The Rebbe smiled at the strange petitioner and said, "My child, you have things reversed. You think that you have achieved whatever livelihood you will ever have, and you must use it to support whatever children you now have. As such, you believe that you cannot support another child. But if you learned Gemara you would know that in Yevamos 67a we see the situation differently. The Gemara writes there that **ילוד מאכיל**—one who is born gives others to eat. The meaning of this is readily apparent. Every child that is born draws down its own sustenance with it from Above. Many parents are eating in the merit of their children!" ■

