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Tumtum

The Gemora asks on Rav Chisda from a braisa: You might have thought that they (*the case of a tumtum – where a thick membrane covers its genitals, and therefore the gender is not known, or that of an androgynous - a hermaphrodite – one that has both male and female genitals*) are not included in the law of arachin (*valuation, where the value assigned by the Torah to the subject of the vow is donated to the Temple*) relating to a man, but they are included in the law of valuation of a woman; there are two texts - *the male, and if she is a female*, intimating the exclusion of a tumtum and androgynous. [This contradicts Rav Chisda, who said that a tumtum does have an erech!?!]

The Gemora answers: Delete tumtum from this braisa.

The Gemora asks on Rav Chisda from another braisa: A bird that had been sodomized by a person, or that it was set aside for idolatry or worshipped as an idol, or it was used as a harlot’s payment, or if it was exchanged for a dog, or a tumtum or an androgynous, its carcass (*when a Kohen performs melikah on it – the slaughtering of a bird korban*) render one’s clothes impure if he swallowed it (*as is the law of any kosher bird which becomes neveilah*). Rabbi Elozar says: A tumtum and an androgynous do not render one’s clothes impure if he swallowed it, for Rabbi Elozar used to say: Wherever you find (*in the Torah*) ‘male’ or ‘female,’ you exclude the case of a tumtum and an androgynous from it. However, in the case of a bird (*korban*), since the Torah does not in that connection mention ‘male’ or ‘female,’ you do not exclude the case of a tumtum and an androgynous from it. [This contradicts Rav Chisda, for we see that a tumtum is regarded as a gender unto itself, for otherwise (if it would be a matter of doubt if it is male or female), its

melikah should be valid, for a bird does not need to be a specific gender!?!]

The Gemora answers: Delete tumtum from this braisa.

The Gemora asks on Rav Chisda from a Mishna: Rabbi Elozar said: A tereifah, kil’ayim (*mixed breed*) a fetus extracted through Caesarean section, tumtum and an androgynous cannot become consecrated, nor can they cause consecration (*to others*). And Shmuel explained this as follows: They do not become consecrated through temurah (*the owner illegally attempts to exchange a different animal with the original korban; the halachah is that the temurah animal gets the same sanctity as the original one, and both animals must be brought as a korban*), nor do they cause consecration by effecting temurah (*unto others*). [According to Rav Chisda, they should be able to become consecrated, or to consecrate others!?!]

The Gemora answers: Delete tumtum from this Mishna.

The Gemora asks from a braisa (*which teaches the same as the aforementioned Mishna*): Rabbi Elozar said: There are five animals that cannot become consecrated, nor can they cause consecration (*to others*): A tereifah, kil’ayim (*mixed breed*) a fetus extracted through Caesarean section, tumtum and an androgynous. And were you to assume that here also the answer is to delete tumtum from here,’ then he has only brought four instances!?

The Gemora answers: Omit tumtum (*from the listing*) and include the case of an orphaned animal (*an animal whose mother died during or soon after childbirth, which is disqualified as a sacrifice*).

The *Gemora* suggests that the following *Tannaim* differ on this point (and not like Rav Chisda asserted that everyone agrees that a *tumtum* is a questionable gender), for it was taught in a *braisa*: Rabbi Il'ai reported in the name of Rabbi Yishmael: An *androgynous* is considered a firstborn and its blemish is with it, whereas the Sages say: Holiness cannot take effect upon it (for it is a gender unto itself). Rabbi Shimon ben Yehudah reported in the name of Rabbi Shimon: The Torah says 'the male,' and wherever it is written 'the male,' its object is to exclude *tumtum* and an *androgynous*. [Evidently, he considers a *tumtum* as a gender unto itself, and the other *Tannaim* disagree.] And you cannot say that we should delete *tumtum* from the *braisa*, for then the view of Rabbi Shimon ben Yehudah would be identical with that of the Rabbis! We are therefore compelled to say that the difference between them lies in the case of a *tumtum*, the *Tanna Kamma* (the Sages) hold that holiness cannot take effect upon an *androgynous*, whereas a *tumtum* is considered a questionable gender, and therefore it is holy - owing to this doubt. Rabbi Shimon ben Yehudah comes and says that a *tumtum* is regarded as a gender unto itself and therefore it cannot be holy. [This proves that Rav Chisda's assertion is in actuality, a matter debated by the *Tannaim*!]

The *Gemora* disagrees with this by saying that they all agree that there is not even a doubt that a *tumtum* should be considered a gender unto itself (but rather, they all maintain that it is a questionable gender). The doubt is only whether it is to be regarded as a male or a female. Now if it urinates in the male genital area, all agree that it is a male. The doubt arises, however, if it urinates in the female genital area. The Sages maintain that we fear that his male genitals may have bent over and extended into the female genitals, whereas Rabbi Shimon ben Yehudah holds that we have no apprehension of such a thing (and it is definitely a female). This would agree with that which Rabbi Il'ai ruled regarding a *tumtum* (firstborn) animal which urinates in the female genital area that it is *chullin* (because it is ruled to be a female).

Rabbi Yochanan wondered: Who is it that does not take into consideration the *Tanna Kamma* (quoted in our *Mishna* above) and Rabbi Yishmael?

The *Gemora* asks: But let Rabbi Yochanan also say: Who is it that does not take into consideration the view of the latter Rabbis (the Sages in the *Mishna*)! For Rav Chisda said: The argument in the *Mishna* relates only to an *androgynous*, but regarding a *tumtum*, all agree that it is regarded as a questionable gender (which is against Rabbi Il'ai)!

The *Gemora* answers: Rabbi Yochanan does not hold Rav Chisda's opinion.

The *Gemora* asks: But if Rabbi Yochanan does not hold Rav Chisda's opinion, why does he not state that he is ruling according to the view of the latter Rabbis (mentioned in the *Mishna*)?

The *Gemora* answers: This is exactly what Rabbi Yochanan means: Who is the authority that ignores the views of two *Tannaim* (the *Tanna Kamma* and R' Yishmael), and follows the view of a single *Tanna* (the latter Rabbis)?

The *Gemora* asks: Who does Rabbi Il'ai hold like?

The *Gemora* answers: It is that of Rish Lakish, for he says: The ruling that a *tumtum* is a doubtful gender relates only to a human being, since his male and female genitals are in the same place, but in the case of an animal, if it urinates in the male area, then it is a male, whereas if it urinates in the female area, it is a female. (42a – 42b)