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Fetus Resembling an Animal

Rav Yehudah said in the name of Shmuel: From any *gezeirah shavah*, where neither of the terms are available for deduction, no derivation may be made; if one of the terms is available for the purpose, then according to Rabbi Yishmael, a derivation may be made but no refutation may be raised, while according to the Rabbis, a derivation may be made but a refutation may be raised; and if both terms are available for derivation, all agree that a derivation may be made and no refutation may be raised.

The *Gemora* notes that it is for this reason that in the case of animals, the Torah made both terms available for derivation in order that no derivation shall be made from one of which only one term was available for derivation (*for then, the comparison between man and animals could have been refuted, like the Gemora will demonstrate below*).

Rav Acha the son of Rava taught this (*dispute between the Rabbis and R’ Yishmael*) in the name of Rabbi Elozar in a more lenient manner: From any *gezeirah shavah*, where neither of the terms are available for deduction, a derivation may be made, but refutations may be raised; if one of the terms is available for the purpose, then according to Rabbi Yishmael, a derivation may be made but no refutation may be raised, while according to the Rabbis, a derivation may be made but a refutation may be raised; and if both terms are available for derivation, all agree that a derivation may be made and no refutation may be raised.

The *Gemora* asks: According to the Rabbis, what is the practical difference between a *gezeirah shavah* where only

one of its terms are available for derivation and one where none of its terms are available for that purpose?

The *Gemora* answers: The practical difference is that where there is a *gezeirah shavah* where only one term is available for derivation and there is another where none of its terms are available for derivation, and neither the one nor the other can be refuted, we must leave the latter and make the derivation from the former.

The *Gemora* asks: But what refutation is there in this case?

The *Gemora* answers: One might object that a man is different since he can contract *tumah* even while he is alive. [*Other creatures, however, while alive can never become tamei. We can therefore argue that man who is subject to one restriction of tumah may also be a cause of tumah to his mother when he is born, but any other creature, which is not subject to that restriction of tumah is also exempt from causing the mother to become tamei.*]

And so said Rabbi Chiya bar Abba in the name of Rabbi Yochanan: This is the reason of Rabbi Meir: It is since the expression of ‘*yetzirah*’ has been used in its case as in that of man.

Rabbi Ami said to him: Now then, if the woman miscarried an object in the shape of a mountain, would the woman be *tamei* on account of the birth, because it is written: *For behold, He forms (an expression of ‘yetzirah’) the mountains and creates the wind?*



Rabbi Chiya replied: Does she ever miscarry an object like (*the size of*) a mountain? She can only abort something in the size of a stone, and that can only be described as a clod (*and not by the term 'yetzirah'*).

Rabbi Ami asks: But then, if the woman miscarried an object filled with wind, would the woman be *tamei* on account of the birth, because the expression of *beri'ah* has been used about it as about man, since it is written: *And creates (an expression of 'beri'ah') the wind?*

Rabbi Chiya replied: An analogy for *halachic* purposes may be drawn between words that occur in the Torah, but no analogy may be drawn from words that occur in the Prophets.

Rabbah bar bar Chanah said in the name of Rabbi Yochanan that the reason of Rabbi Meir is because the pupils of the animal's eyes are similar to those of human beings.

The *Gemora* asks: Now then, if a woman miscarried the likeness of a serpent, would the woman be *tamei* on account of the birth, since its eye is round like that of a human eye? And should you suggest that the law is like that, why then wasn't the serpent mentioned in the *Mishna*?

The *Gemora* answers: If the serpent had been mentioned, one might have thought that only in the case of the serpent do the Rabbis disagree with Rabbi Meir, since the expression of '*yetzirah*' was not written about it, but that in the case of a domesticated animal or a wild animal they do not differ from him, since the expression of '*yetzirah*' had been written about it

Rabbi Yannai said that the reason of Rabbi Meir is because their eyes are fixed in the front of their heads like those of men.

The *Gemora* asks: But what about birds, whose eyes are not fixed in the front of their head, and Rabbi Meir nevertheless ruled that it is a cause of *tumah*?

Abaye replied: Rabbi Meir is referring only to the *karia* and the *kipofa* (*types of owls*).

Rabbi Yirmiyah inquired of Rabbi Zeira: According to Rabbi Meir, who ruled that a fetus resembling an animal that was in a woman's womb is a valid birth, what is the law where (*the fetus was a female, and*) its father accepted *kiddushin* for her? Will she cause its sister to be forbidden (*to the man who betrothed her*)?

The *Gemora* asks: This then presumes that such a fetus is indeed viable! But didn't Rav Yehudah state in the name of Rav that Rabbi Meir gave his ruling only because in the case of its own species it is viable (*and that is why the mother is tamei, but it itself is certainly not viable*)!?

Rav Acha bar Yaakov said: It was to this extent that Rabbi Yirmiyah tried to make Rabbi Zeira laugh, but Rabbi Zeira did not laugh (*for it is forbidden to indulge in laughter in this world*).

It was stated above: Rav Yehudah stated in the name of Rav that Rabbi Meir gave his ruling only because in the case of its own species it is viable (*and that is why the mother is tamei*).

Rav Yirmiyah of Difti said: We also learned the same thing in a *Mishna*: If a woman miscarried something in the shape of a domesticated animal, wild animal or bird, it is regarded as a valid birth; these are the words of Rabbi Meir. The Sages, however, ruled: It is not a valid birth unless it has the features of a human being. If she miscarried a sandal, a placenta or a developed fetus, or if a child came out cut up in pieces, the son born after it is regarded as the firstborn in respect of inheritance, but he is not a firstborn as far as the *Kohen* is concerned (*regarding redemption*). Now, if one would think

that such a fetus is viable, would the son born after it be regarded as the firstborn in regard to inheritance?

Rava said: It may well be maintained that it is viable, but the case there is different, since the Torah said: *The first of his initial grief*, which refers to the one for whom his heart aches, and thus excludes such a fetus, for which his heart does not ache. (23a – 23b)

INSIGHTS TO THE DAF

When were the Mountains Formed?

By: Meoros HaDaf HaYomi

Our Gemara explains that the mountains are considered a *yetzirah* - creation, as we are told: For behold, He creates (*yotzer*) mountains and creates (*uvorei*) wind" (Amos 4:13). Those who learn the Daf HaYomi in the Yerushalmi have learnt the Yerushalmi in Nidah that the mountains differ from the other things created in the six days of Creation, "that 'creation' is not written by them from the beginning of the creation of the world (but in *Amos*)."

When the world was round: Maharatz Chayos explains the Yerushalmi's intention, that in "Stories of Natural Events" is stated that the world was round at its creation for a globe indicates perfection, and it was level and straight. Over the years mighty storm-winds, and especially the Flood, swept the world and mountains and valleys were formed. There are signs of these upheavals in deep craters, where remnants are found of plants and animals that can't exist in these places. This is the Yerushalmi's intention, that the mountains were not formed at first but "by the development of the laws of nature which Hashem instilled in Creation."

How the mountains of Italy were formed: The Acharonim discuss the issue thoroughly while presenting this statement opposite verses and midrashim which explicitly state that the mountains were formed in the six days of Creation. The greatest question was posed by the Maharsham (Responsa,

VII, end of 107): He who sees unusually high mountains must pronounce the *berachah* "...who makes the works of Creation" and the halachah was so ruled (*Shulchan 'Aruch*, O.C. 228:1-3) and the *poskim* even took the trouble to explain that mountains formed after the six days of Creation are not included in this *berachah*, as *Mishnah Berurah* clarifies (ibid, S.K. 1) in the name of *Eliyah Rabah*, that the main point of this *berachah* is "when we see today a thing that we know that Hashem created in the six days of Creation and still exists". Thus, for example, the author of *Betzel HaChochmah* (Responsa, II, 10) cites a few *poskim* who ruled that one shouldn't pronounce this *berachah* on the high mountains in Italy in the Iperinian peninsula because the Gemara says (Shabbos 56b) that "the great city of Rome" was built on a sandbar which rose from the sea from a stick that the angel Gavriel stuck there when Shlomo wed Pharaoh's daughter! We thus see that mountains were formed in the six days of Creation.

We must conclude that the mountains were formed in the Creation and the Yerushalmi should be understood simply, that in the Creation detailed in Bereishis the word "creation" was not mentioned concerning mountains because they weren't a separate creation from the earth but were created together with it.

DAILY MASHAL

Controlling the Mouth

Our Gemara recounts that people tried to cause Rabbi Zeira to laugh but he didn't laugh because a person is forbidden to fill his mouth with laughter in this world, and he was strict with himself (see Rashi). A pupil of HaGaon Rabbi Eliyahu Lopian recounted: Sometimes he would make fun of idolatry till his listeners would break out in loud laughter but he always remained serious. It was obvious that he toiled to control himself and subjugate his mouth expressions to His will (*Lev Eliyahu*, 14a).