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Niddah Daf 29

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Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h
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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

If a woman miscarried and it is unknown what gender the fetus was, she must observe (*her periods of tumah and taharah*) for both a male child and a female child. If it is unknown whether it was even a child or not, she must observe (*her periods of tumah and taharah*) for a male child, a female child and of a *niddah*. [*If, for example, she observed a discharge of blood even during the ‘thirty-three days of taharah,’ she must be regarded as tamei on account of niddah blood, since it is possible that the abortion was no child at all - in consequence of which she is not entitled to any of the privileges of childbirth.*]

Rabbi Yehoshua ben Levi said: If a (*pregnant*) woman crossed a river and miscarried in it (*and it is unknown whether or not the fetus was developed*), she must bring a sacrifice which may be eaten, since we follow the majority of women, and the majority of women bear genuine children. [*Since one of her sacrifices - a chatas bird (the method in which it is “slaughtered” is by melikah – with the Kohen’s fingernail, and that would have rendered an unconsecrated, or doubtfully consecrated bird to be neveilah), may be eaten, it follows that the bird is regarded to be certainly consecrated, because on account of the majority principle, the woman’s doubtful birth is regarded as a definite birth of a genuine child.*]

The *Gemora* asks from our *Mishna*: If it is unknown whether it was even a child or not, she must observe (*her periods of tumah and taharah*) for a male child, a female child and of a *niddah*. But why should she observe the laws of *niddah*; shouldn’t we say that we are guided by the nature of the majority of women, and the majority of women bear genuine children?

The *Gemora* answers: Our *Mishna* deals with a case where there was no presumption that the woman was even pregnant (*and the principle of majority does therefore not apply*), while Rabbi Yehoshua ben Levi spoke of one where there was such a presumption (*and therefore he assumes that a genuine child was born*).

The *Gemora* asks from a *braisa*: If an animal went out (*to pasture*) full (*pregnant*) and returned empty, the offspring that is born subsequently is deemed to be a firstborn of an uncertain status (*for it is unknown whether it followed the birth of a developed fetus, in which case it is not a firstborn, or was it an inflated sac, in which case it is a valid firstborn; a doubtful firstborn may be eaten by its owner after it had contracted a blemish and a Kohen has no claim upon it, for the burden of proof is upon him*). But why should its status be a matter of doubt? Why not be guided by the majority of animals, and since the majority of animals bear genuine offspring, this one as well must be an ordinary animal?

Ravina answered: It is because it may be said that most animals bear offspring that will exempt (*the subsequent offspring*) from the law of the firstborn, and a minority of them bear offspring that will not exempt (*the subsequent offspring*) from the law of the firstborn, but all that give birth secrete (*a day prior to their delivery*), and in the case of this animal, since it did not secrete, the majority rule has been impaired.

The *Gemora* asks: If all that give birth secrete, then since this animal did not secrete, the second offspring should be a valid

definite firstborn? Rather, the *Gemora* answers that most animals that give birth secrete (*a day prior to their delivery*), and in the case of this animal, since it did not secrete, the majority rule has been impaired.

The *Gemora* asks from the following: When Ravin came (*from Eretz Yisrael to Bavel*), he stated: Rabbi Yosi the son of Rabbi Chanina raised an objection (*against R' Yehoshua ben Levi*) from a *braisa* dealing with a forgetful woman (*who does not recall the date that she miscarried a fetus; she does not recall if the fetus was fully developed or not, and she does not even know if it was male or female*), but I do not know what the objection was (*i.e., I disagree with the challenge*).

What was it? The *Gemora* cites the *braisa*: If a woman who departed in a condition of pregnancy and returned¹ without child², and she brought before us three clean weeks³ and another ten weeks which were alternately unclean⁴ and clean,⁵ she may engage in marital relations on the night preceding the thirty-fifth day⁶ and she is ordered to undergo ninety-five immersions;⁷ these are the words of Beis

Shammai. But Beis Hillel ruled: Thirty-five immersions. Rabbi Yosi son of Rabbi Yehudah ruled: It suffices if one immersion is performed after the final [period of uncleanness]. Now⁸ one can well understand why the woman may not engage in marital relations during the first week,⁹ since she might be presumed to have given birth¹⁰ to a male child.¹¹ During the second week she might be presumed to have given birth to a female child.¹² During the third week she might be presumed to have given birth to a female child while she was in the condition of a *zavah*.¹³ But¹⁴ why should she¹⁵ not be permitted to engage in marital relations in the fourth week though she had observed a discharge of blood seeing that it is clean blood?¹⁶ Must it not then be admitted that the reason¹⁷ is because we are not guided here by the majority rule?¹⁸ — What then [is the justification for the statement] 'I do not know what objection it was'?—It might be presumed that her delivery took place a long time ago.¹⁹

¹ After some considerable time.

² She lost her pregnancy but does not know when it terminated.

³ Having arrived in the day-time she experienced no discharge from the moment of her arrival for three weeks.

⁴ I.e., experiencing a discharge on each of the seven days of the first alternate weeks.

⁵ I.e., she experienced no discharge on any of the seven days of the second alternate weeks.

⁶ Of her arrival, viz., the last night of the fifth week. After that night, however, as will be explained presently, no cohabitation can be allowed.

⁷ One after each period of uncleanness as will be explained presently.

⁸ Here begins the 'objection' to which Ravin referred.

⁹ After her return. 'First week' includes the day of her return.

¹⁰ During her absence and immediately before her return.

¹¹ So that everyone of the first seven days might be one of the seven unclean days prescribed for a woman after a male childbirth.

¹² The period of uncleanness after whose birth is two weeks.

¹³ I.e., during the 'eleven days' that intervene between the menstrual periods. Since it is possible that she experienced painless discharges on three consecutive days during this period she must, in addition to the fourteen days, wait a period of another seven clean days (irrespective of

whether she did, or did not observe any discharge during the fourteen days) before she can attain to cleanness.

¹⁴ If Rabbi Yehoshua ben Levi's rule, that most women bear normal children, is tenable.

¹⁵ Who was known to be pregnant before her departure, and who must, therefore, be presumed to have given birth to a normal child.

¹⁶ Since the fourth week is inevitably excluded from the unclean periods (seven days for a male and fourteen for a female) that follow childbirth, and included in the thirty-three clean days prescribed for a male birth.

¹⁷ Why the woman is treated as unclean even during the fourth week.

¹⁸ So that there is no presumption of the birth of any child and no consequent allowance of any period of clean blood. How then could Rabbi Yehoshua ben Levi, contrary to this *Baraisa*, maintain that in such cases the majority rule is followed?

¹⁹ And her clean blood period also has terminated long before the fourth week. The *Baraisa* would consequently present no objection against Rabbi Yehoshua ben Levi, since the tenability of his majority rule in no way affects the uncleanness of the fourth week, while, as regards the imposition upon the woman of the obligation of the sacrifice prescribed for one after childbirth, the rule is in fact upheld even in this case.

But why should she not be allowed to engage in marital relations during the fifth week²⁰ which²¹ is a clean one? — In the case of the fourth week²² every day might be regarded as being possibly the conclusion of [the clean days prescribed for] a childbirth and the beginning of the period of menstruation, so that the twenty-eighth day itself²³ might be presumed to be the first day of the menstrual period and she must consequently continue [her uncleanness for] seven days in respect of her menstruation.²⁴

But why should she not be permitted to engage in marital relations on the twenty-first day?²⁵ — This²⁶ is in agreement with the view of Rabbi Shimon who ruled: It is forbidden to do so²⁷ since, thereby, she²⁸ might be involved in a doubtful uncleanness.²⁹

²⁰ I.e., on any of its seven days and not only (as laid down supra) on the night preceding the last one (the thirty-fifth day).

²¹ Since the ten weeks were alternately unclean and clean.

²² On every day of which she suffered a discharge.

²³ The last day of the fourth week.

²⁴ Which, beginning on the last day of the fourth week, terminates on the sixth day of the fifth week. Hence the permissibility of marital relations (after due immersion) on the night following that day (the one preceding the thirty-fifth day of her return). During the weeks that follow all intercourse would be forbidden, since each alternate 'clean' week might be regarded as the period of seven days that must be allowed to elapse after the zivah of the previous 'unclean' week before cleanness is attained.

²⁵ Of her return. This day (the last one of the third week) must inevitably be a clean one. For even if the woman had been delivered on the very day of her return her period of childbirth uncleanness would have terminated (even in the case of a female child) on the fourteenth day, while the seven days following could be counted as the prescribed seven days following a period of zivah on the last of which she is permitted to perform ritual immersion at any time of the day and to attain to a state of cleanness for the rest of that day.

²⁶ The prohibition of intercourse on the twenty-first day.

²⁷ To have intercourse on the seventh day after the termination of a zivah even though ritual immersion had been performed.

²⁸ If she happened to suffer a discharge later in the day after intercourse.

²⁹ Of zivah. A discharge on the seventh day following the termination of zivah renders void all the previous counting, since the seven clean days must be complete.

But³⁰ why should she not be permitted intercourse in the evening?³¹ — This is a case where she observed the discharge in the evening.³² 'And she is ordered to undergo ninety-five immersions: During the first week³³ she is ordered immersion every night, since it might be presumed that she gave birth³⁴ to a male child.³⁵ During the second week she is ordered immersion every night, since it might be presumed that she gave birth³⁶ to a female child; and every day, since it might also be presumed that she gave birth to a male child while she was in a condition of zivah.³⁷ During the third week she is ordered immersion every day, since it might be presumed that she gave birth to a female child while she was in a state of zivah; and every night, because Beis Shammai follow the view they expressed elsewhere that one who performed immersion on a long day³⁸ must again perform immersion [at its conclusion].³⁹

³⁰ Since on the twenty-first day she was still clean and her first discharge in the following (fourth) week occurred presumably on the twenty-second day.

³¹ Following the twenty-first day.

³² And similarly in the case of all the alternate unclean weeks the discharges occurred in the evenings.

³³ After her return.

³⁴ Seven days previously.

³⁵ So that each day of the first week might possibly be the first one after the termination of the unclean days and it is a mitzvah to perform ritual immersion immediately after the unclean days had terminated.

³⁶ Fourteen days previously.

³⁷ So that each day of the first week counted as the sixth of the clean days after zivah which must be immediately followed (during the day-time of the following day) by ritual immersion.

³⁸ The fourteen unclean days (after which the woman performs immersion) and the sixty-six clean days that follow (during which she is forbidden to eat terumah) are regarded as one long day on which immersion had been performed and sunset is awaited (sunset being represented by that of the eightieth day after childbirth) to complete and terminate all traces of uncleanness.

³⁹ Sc. on the night following the eightieth day and preceding the eighty-first one. As every day of the third week might possibly be the eightieth, immersion must be performed on every night of that week. The same reason could, of course, be given for the necessity for immersion in the previous weeks had there been no other reasons to justify it.