



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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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

Mishna

A girl – even one day old, is subject to the *tumah* of *niddah* (and if she experienced a discharge of blood, she is *tamei* for seven days). One who is ten days old is subject to the *tumah* of *zivah* (for if she became a *niddah* on her first day, her *zivah* cycle begins on her eighth day; if she then discharged blood for three consecutive days, she becomes a *zavah*; the tenth day of her life is her first possibility to become a *zavah*). A boy one day old is subject to the *tumah* of *zivah*, and to the *tumah* of *tzara’as* and that of corpse *tumah*. He (at one day old) subjects (his deceased brother’s widow) to the *mitzvah* of *yibum* (levirate marriage - the act of the brother-in-law marrying his widowed sister-in-law, when the brother died without children), and he exempts (his mother) from *yibum*. He enables her (his mother, the daughter of a *Yisroel*, who was married to a *Kohen*) to eat *terumah* (even though the *Kohen* was dead when the child was born), and he also causes her (the daughter of a *Kohen*, who was married to a *Yisroel*, who then died) to be disqualified from eating *terumah*. He inherits and bequeaths; he who kills him is guilty of murder, and he counts to his father, to his mother and to all his relatives as a full-fledged bridegroom. (43b – 44a)

A Child of One-Day Old

The *Gemora* cites the Scriptural sources which prove the *halachos* mentioned in the *Mishna*:

Niddah - And when a woman has a discharge – ‘and a woman’ includes a newborn.

Zivah - And when a woman has a discharge – ‘and a woman’ includes a child of ten days old.

Zav – A man, a man has a discharge from his flesh – ‘a man, a man’ includes a child in his first day. Rabbi Yishmael derives it from a verse which states: any male. ‘A man, a man’ is not extra for the Torah uses the expression of the way people talk.

Tzara’as – If a person has a discoloration on the skin of his flesh – ‘a person’ includes even a newborn.

Corpse *tumah* – upon the souls who were there – ‘soul’ includes anyone with a soul.

Yibum – If brothers live together – brothers that were alive in the world together.

Exempts from *yibum* – and he has no son – but in this case, he does have a son.

Enables his mother to eat *terumah* – and one born in his house, they eat of his bread – it should be read that they cause to eat of his bread.

Disqualifies his mother from eating *terumah* – [If a *Kohen’s* daughter became a widow or a divorcee] and she has no offspring [she may return to her father’s house – she may eat from her father’s bread] – but this one does have a child.

The *Gemora* asks: Why is it necessary for her to have a child to be disqualified from eating *terumah*; even if she is merely pregnant (from a *Yisroel*), she would be disqualified? [The *Gemora* explains why two verses are necessary, but it is still difficult: why does the *Mishna* need to mention that a child of one day disqualifies her; even if she is merely pregnant with a fetus, she is disqualified?]

Rav Sheishes answered: We are dealing here with the case of a *Kohen* who had two wives, one who had previously been a divorced woman (whom a *Kohen* is forbidden to marry and whose children from such a marriage are *challalim* - disqualified *Kohanim*, and are themselves forbidden to eat *terumah*, and they therefore have no right to confer the privilege of eating it upon their slaves), and the other was not a divorced woman (whose sons from this marriage would confer upon their slaves the right of eating *terumah*), and he has sons from the one who was not divorced, and one son – a day old - from the divorcee. The *Mishna* teaches us that this newborn son causes the slaves of his father to be disqualified from eating *terumah*. [Since he (being one day old, and not a fetus – who would not inherit) and his brothers jointly inherit the slaves from their deceased father, all the slaves are disqualified from eating *terumah*, for he has a share in them, and it is impossible to distinguish which of the slaves are his and which are his brothers’.] The *Gemora* notes that this ruling is contrary to the view of

Rabbi Yosi, for he ruled that a fetus also causes disqualification of the slaves (*for he maintains that a fetus has the capacity to acquire*); our *Mishna* teaches us that only a boy of one day old causes disqualification, but not a fetus.

The *Mishna* had stated: He (*a boy of one day old*) inherits and bequeaths.

The *Gemora* asks: If this means that he inherits from his father, and then (*upon his death on that very same day*) he bequeaths to his paternal brothers, what difference does it make? Couldn't they, if they wished, inherit directly from their father (*by disregarding the infant altogether*), and if they preferred, inherit from him?

Rav Sheishes answered: The meaning is that he inherits the estate of his mother (*who died on the day that she gave birth*) to bequeath it (*after he died on that day*) to his paternal brothers (*for they, being his half-brothers' would only inherit from him if he first inherited it from his mother*). And this is only when he is one day old but not when he is a fetus. The reason for this is because (*when a pregnant woman dies*) the fetus dies first, and no son may inherit from his mother in the grave to bequeath the inheritance to his paternal brothers.

The *Gemora* asks: Do you mean to say that (*when the pregnant mother dies*) it dies first? But surely there was a case when (*a fetus was born after its mother died*) it made three convulsive movements (*indicating that it did live for some time*)?

Mar the son of Rav Ashi replied: Those were only muscle spasms, similar to those of the tail of the lizard which moves convulsively (*even after it has been cut off*).

Mar the son of Rav Yosef answered in the name of Rava: The *Mishna* means to say that he causes a reduction in the portion of the firstborn. [*If, for instance, the father left an inheritance of six golden coins, and there was a firstborn and another brother besides for the boy in question, the estate is divided, not into three portions (two for the ordinary portions of the two brothers and one for the firstborn, which would result in the firstborn receiving four golden coins), but into four portions (which will result in the firstborn receiving three golden coins). Each brother, including the young child, receives one such portion and the firstborn receives the additional fourth portion, for he receives a double portion. The firstborn therefore receives half of the estate, and not (as would have been the case if the child were excluded) two-thirds.*]

Mar the son of Rav Yosef ruled in the name of Rava: A son born after the death of his father causes no reduction in the portion of the firstborn. That is the way it was taught in Sura; but in Pumbedisa, it was taught as follows: Mar the son of Rav Yosef ruled in the name of Rava: A firstborn son that was born after the death of his father does not receive a double portion. What is the reason? It is necessary that He shall 'recognize' the firstborn, and that is lacking in this case.

The *Gemora* rules that the law is in agreement with all those versions which Mar the son of Rav Yosef ruled in the name of Rava.

The *Mishna* had stated: He counts to his father, to his mother and to all his relatives as a full-fledged bridegroom.

Rav Pappa explains that this is in respect of that of mourning (*if the child of one day old dies, his relatives must observe all the laws of mourning*).

The *Gemora* concludes that our *Mishna* (*which considers an infant of one day old to be viable*) is not in agreement with Rabban Shimon ben Gamliel who ruled that any human child that survived for thirty days cannot be regarded as a nonviable child. It therefore follows that if he had not lived for that long, he would have been a doubtful case (*and some of the Mishna's laws would not apply*).

The *Gemora* explains that here, we are dealing with the case of a child concerning whom it is established that the months of his gestation were duly fulfilled (*and even Rabban Shimon ben Gamliel would agree that such a child is regarded as viable – even at one day old*). (44a – 44b)

Mishna

A girl who is three years and one day old can become betrothed through cohabitation. If a *yavam* cohabits with her, he has acquired her. One is liable if he cohabits with her when she is married for the prohibition against having relations with someone else's wife. She causes someone who has relations with her when she is a *niddah* to make things he is resting on impure even if he does not touch them (*i.e. the bottom mattress becomes impure even if he is sitting atop a mattress that is on top of it*). If she is married to a *Kohen*, she can eat *terumah*. If a disqualified person cohabits with her, she is indeed unfit to marry a *Kohen*. If anyone forbidden to cohabit with her by Torah law does so, they are killed because of her, while she is exempt (*as she is a minor*). If the girl is less than three years of age, it is as if one puts the



finger into the eye (*tears come to the eye again and again, so does virginity come back to a girl under three years*). (44b)

A Girl of Three Years of Age

The *Gemora* cites a *braisa*: A girl of the age of three years may be betrothed by cohabitation; these are the words of Rabbi Meir. The Sages, however, say: Only one who is three years and one day old.

The *Gemora* asks: What is the practical difference between them?

The scholars of Rabbi Yannai's school replied: The practical difference between them is the day preceding the first day of the fourth year. [*According to Rabbi Meir, she attains the prescribed age on that day, and any cohabitation with her will be legally recognized, while according to the Sages, she does not attain it until the following day.*]

Rabbi Yochanan said: The practical difference between them is the rule that thirty days of a year are counted as the full year. [*According to Rabbi Meir, the prescribed age is attained as soon as thirty days of the third year have passed, while according to the Sages, it is not attained until three years have been completed.*] (44b)

DAILY MASHAL

Sins of a Minor

The *Mishna* had stated that if any of the *arayos* mentioned in the Torah cohabited with a girl of three years old, they are killed because of her.

The *Gemora* in *Sanhedrin* notes that if a minor did so deliberately, it is deemed that there is *takkalah* - downfall. The Torah merely had mercy on a minor not to kill them despite their deliberate sinning.

The *Reshash* writes that it would seem from our *Gemora* that even though Shulchan Aruch rules that a minor who damages someone is exempt from paying even after he becomes an adult, nevertheless, if he wishes to absolve himself from any penalties from Heaven, he is obligated to pay.

Similarly, the *Ramah* cites in the name of the *Terumas Hadeshen* that if a minor hits his father or violates any other transgression, even though he is not required to repent when he becomes an adult, nevertheless, it would be beneficial for him to accept upon himself any

meritorious deed for repentance and atonement. This should be done even though he committed the transgression before he was old enough to incur any punishments.

The *Magen Avraham* says that proof to this can be brought from our *Gemora*, which states that there is degradation but not downfall.

The *Sefer Chassidim* writes that there was once a person who came to a sage and said that he remembers that in his youth (*when he was still a minor*), he would steal from people and commit other various sins. He commented that perhaps he does not need to repent at all, and it would not be necessary for him to repay the people who he stole from, for he was a minor at the time, and therefore, he was not responsible for his actions. The Sage told him that he is required to repent on all of the transgressions that he remembers and he is obligated to return all the stolen money. He brought proof from King Yoshiyahu, who repented on his sins and returned money to people that he judged incorrectly, even though he committed those transgressions as a minor.

Reb Chaim Vital writes in *Shaar Hagilgulim* that when he was a minor, he cursed his mother, and the *Ari"zal* instructed him to fast for three consecutive days and nights as part of a process to receive atonement for that sin.