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Yevamos Daf 80

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Daf Notes is currently being dedicated to the neshamah of

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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

The Gemora asks: What is a *saris-chamah*?

Rav Yitzchak bar Yosef said in the name of Rabbi Yochanan: One, who has not experienced a moment of life in a state of fitness (i.e., he was sterile even while in his mother’s womb).

The Gemora asks: How is this determined?

Abaye answers: By observing when he urinates that an arch is not formed (then he is a saris).

The Gemora asks: What is the cause for this condition?

The Gemora answers: The child's mother baked at noon (*the heat of the oven combined with the heat of the day obviously affected the generative organs of the fetus*) and drank *marka* (strong) beer while she was pregnant with him.

Rav Yosef said: It must have been such a saris of whom I heard Ami saying, “He who is afflicted from the womb of his mother,” and I did not know (at the time) to whom he was referring.

The Gemora asks: Let us be concerned that he became healthy in the interim?

The Gemora answers: Since we have determined that he was born afflicted, and he is presently afflicted, there is no reason to assume that he was healthy in between.

Rav Mari raised an objection from the following Mishna: Rabbi Chanina ben Antignos stated: It (a bechor –firstborn animal) is to be examined (whether it possesses a permanent blemish or not) three times in eighty days (once

in the beginning, once in the middle and once at the end; if it is indeed permanently blemished, it is disqualified from Temple service and may be slaughtered outside the Temple)!? [Evidently, an examination in the beginning and the end is not sufficient!?!]

The Gemora answers: Precautions are to be taken in respect of one organ (as is the case of the blemish, where, for instance, we are concerned that perhaps the animal’s eye healed in the interim); in respect of the entire body, however (and a saris is caused by an affliction of the entire body), no such precautions need be taken. (79b – 80a)

The Mishna had stated: Rabbi Eliezer said: Not so, but rather a *saris-chamah* submits to *chalitzah*, and they submit to *chalitzah* from his wife, because he has a cure.

The Gemora asks a contradiction from the following Mishna in Niddah (47b): If a man dies childless and leaves a brother who at the age of twenty did not produce two pubic hairs, they (*the relatives of the widow who wish to exempt her from chalitzah and yibum*) must bring evidence that he is in fact twenty years of age and that he is a *saris* (*by a display of the required symptoms*). If that happens, he neither submits to *chalitzah* nor performs *yibum*. If a man dies childless and leaves a wife who at the age of twenty did not produce two pubic hairs, they must bring evidence that she is in fact twenty years of age and that she is an *aylonis*. If that happens, she does not require *chalitzah* or *yibum*; these are the words of Beis Hillel. Beis Shammai maintains that a *saris* and an *aylonis* is established at the age of eighteen. Rabbi Eliezer said. In the case of the male, the halachah is in accordance with Beis Hillel and in the case of the female, the halachah is in accordance with Beis Shammai because a

woman matures earlier than a man. (*It emerges that Rabbi Eliezer holds that a saris-chamah does not perform yibum or chalitzah.*)

The Gemora answers: Rabbi Eliezer retracted his position.

The Gemora inquires: From which ruling did he retract?

The Gemora answers: [He retracted from his opinion stated in the Mishna in Niddah, for we learned in a braisa that states the following: Rabbi Eliezer said: A *saris-chamah* submits to *chalitzah*, and they submit to *chalitzah* from his wife, because he has a cure in Alexandria of Egypt.

Alternatively, the Gemora answers: Rabbi Eliezer in the Mishna in Niddah was only discussing the age where he or she become an adult in respect to being liable for punishment (*but he was not getting involved with the halachos of chalitzah or yibum*). (80a)

The Gemora states: If one ate *cheilev* when he was between the age of twelve and eighteen, and he later developed the symptoms of a *saris*, and afterwards he produced two pubic hairs; Rav says: He is regarded as a *saris* retroactively at twelve years old (*he is therefore liable to bring a korban chatas*). Shmuel said: He is regarded as a minor at that time.

Rav Yosef asked on Rav's opinion: According to Rabbi Meir (*who exempts the seducer of a minor from the payment of the fine*), an *aylonis* should be entitled to a fine (*because, since it was later established that she was sterile, she should be regarded as an adult retroactively*)?

Abaye answered: She passes from her minor status directly into becoming a *bogeres* (*generally, a girl is a minor until she produces two hairs; at that time, she becomes a na'arah for six months; she then achieves the final status of adulthood, called bagrus; the aylonis skips the na'arus stage and goes directly into bagrus*).

Rav Yosef said to him: Indeed, you are correct, but those fine statements should be said over in my name. It was taught in the following braisa like you: A *saris* is not judged as a *ben sorer umoreh* (*a rebellious son*) because a prerequisite to be judged as a *ben sorer umoreh* is having pubic hair; and an *aylonis* is not judged as a betrothed *na'arah* (*who will be subject to stoning if she commits adultery, unlike a married woman who is judged with strangulation*) because she passes from her minor status directly into becoming a *bogeres*. (80a)

Rabbi Avahu said: The identifying marks of a *saris*, *aylonis*, or an eight-month child (*born in the eighth month of conception. who, as a rule, is not viable*) are not decided upon until they have these marks at the age of twenty.

The Gemora asks: Can an eight-month child in fact survive? Did we not learn the following braisa: An eight-month child is regarded as a stone, and he may not be moved on Shabbos (*classified as muktzah*). His mother may lean over and nurse him because of the danger involved (*the child might otherwise die of starvation before his time, and the mother might contract serious illness through the accumulation of superfluous milk in her breasts*).

The Gemora answers: We are discussing a case where the identifying marks that he will survive have developed, for we learned in the following braisa: Who is an eight-month child? Any child whose months of conception were not completed. Rebbe says: A child whose hair and nails were not developed would indicate that he is unviable. The Gemora infers from Rebbe that if the hair and nails of the eight-month child were developed, we would say that he is in fact a seven-month baby (*who is viable*), but delayed inside his mother's womb. (*Rabbi Avahu, referring to such a case, teaches that, even according to Rebbe, no definite decision can be arrived at before the child has attained the age of twenty.*)

The Gemora asks: Rava Tosfaah ruled regarding the following case: There was a woman whose husband went overseas and remained there for twelve months. She then

gave birth to a child and he ruled that the child is legitimate. Was this ruling issued according to Rebbe, who maintains that a child can delay inside the mother's womb (*why would he rule according to the minority opinion*)?

The Gemora answers: He ruled in accordance with Rebbe, since Rabban Shimon ben Gamliel agrees with Rebbe, and it is therefore regarded as the majority opinion. It was taught in a braisa: Rabban Shimon ben Gamliel said: A child that lives for thirty days (*even a known eight-month baby*) is definitely not a non-viable child. (80a – 80b)

The Rabbis taught the following braisa: Who is *saris-chamah*? Any person who is twenty years of age and has not produced two pubic hairs. Even if he produced them afterwards, he is deemed to be a *saris* in all respects. The following are his characteristics: He has no beard, his hair on his head is soft and his skin is smooth. Rabban Shimon ben Gamliel said in the name of Rabbi Yehudah ben Yair: Any person whose urine produces no froth. Some say: He who urinates without forming an arch. Others say: He whose semen is watery. Some say: He whose urine does not putrefy (*when left in a vessel*). Others say: He whose body does not steam after bathing in the winter season. Rabbi Shimon ben Elozar said: He whose voice is thin so that one cannot distinguish whether it is that of a man or of a woman.

The braisa continues: Who is an *aylonis*? Any woman who is twenty years of age and has not produced two pubic hairs. Even if she produces them afterwards, she is deemed to be an *aylonis* in all respects. The following are her characteristics: She has no breasts and suffers pain during cohabitation. Rabban Shimon ben Gamliel said: One whose lower abdomen does not protrude over her genital area like other women. Rabbi Shimon ben Elozar said: One whose voice is deep so that one cannot distinguish whether it is that of a man or of a woman. (80b)

The Gemora states: Rav Huna said: One is not classified as a *saris* until he has all of the identifying marks. Rabbi Yochanan said: He is a *saris* even with only one of the identifying marks.

The Gemora explains this dispute: If he has two pubic hairs, everyone agrees that he will not be classified as a *saris* until he has all of the identifying marks. The argument is only when he does not produce the two pubic hairs.

The Gemora asks: With reference, however, to what Rabbah bar Avuha said to the Rabbis, "Examine Rav Nachman (who had not produced two pubic hairs), and if his body steams (after bathing), I will allow him to marry my daughter"; in accordance with whose view was he acting? Was it according to Rav Huna (and not R' Yochanan, for according to him, even with one one *saris* characteristic, he is regarded as a *saris*)!?

The Gemora answers: No; Rav Nachman had some stray hairs (on his beard, and even lacking one identifying mark of a *saris* would establish him as a non-*saris*). (80b)

The Mishna had stated: A *saris* does not submit to *chalitzah*, and he does not perform *yibum*. And similarly, an *aylonis* [does not perform *chalitzah*, and she is not married by *yibum*].

The Gemora notes: The *saris* was mentioned in the same way as the *aylonis*; just as the *aylonis* is due to an act of Heaven, so must that of the *saris* be an act of Heaven; and this anonymous Mishna is in agreement with Rabbi Akiva who stated that *chalitzah* applies only to a man-made *saris*, but not to one afflicted by the hand of Heaven. (80b)

The Mishna had stated: If a *saris* submitted to *chalitzah* from his *yevamah*, he does not disqualify her. [If he cohabited with her, he disqualifies her, because it is an illicit cohabitation.]

The Gemora notes: The reason then why (when he cohabited with her, he disqualifies her) is because he (the *yavam*) cohabited with her (and as she is forbidden to him under the penalty of *kares*, he renders her a *zonah* and she is thus disqualified from the *Kehunah*); another man (not the

yavam), however, does not (for although he violated the prohibition against cohabiting with a woman awaiting a yavam, it is not a kares penalty, and she is not rendered a zonah). Is this, then, a refutation to the view of Rav Hamnuna who stated that a widow awaiting the decision of her yavam, cohabited with another man, is disqualified from marrying her yavam!?

The Gemora disagrees: No; the same law is applicable to the case of cohabitation with another man as well; only because the first clause was taught in respect of himself, the latter clause was taught in respect of himself as well. (80b)

INSIGHTS TO THE DAF

Doubtful Warning

The Gemora states: If one ate *cheilev* when he was between the age of twelve and eighteen, and he later developed the symptoms of a *saris*, and afterwards he produced two pubic hairs; Rav says: He is regarded as a *saris* retroactively at twelve years old (*he is therefore liable to bring a korban chatas*). Shmuel said: He is regarded as a minor at that time.

Rav and Shmuel were not discussing the liability for a korban, for they did not live in the times of the Beis HaMikdash; rather, the practical application of this dispute pertains to the incurring lashes or not. Tosfos, therefore, asks: How can Rav maintain that this boy can incur lashes, isn't the warning (which is a prerequisite to lashes) one which is in doubt (*hasra'as safek*), for it is not known at the time if he is an adult, and it is only when he reaches eighteen that it is then determined that he was in fact an adult at the time of the transgression!? There are opinions that such a warning is ineffective and he should not incur lashes!?

Tosfos answers that by the fact that retroactively, it was determined that he was in fact an adult – that is sufficient to render the warning a valid one. This does not compare to the

case where a son wounded two people, of which one of them was his father. Although after he hit both of them, it is definite that he certainly hit his father and he should be liable for that, nevertheless, since it is not known who the father is and which of the actions was a forbidden one, he cannot get punished for it, for each of the warnings was a doubtful one.

The Shaagas Aryeh challenges this and asserts that this case is far inferior from any other case, for here, it is not known to anyone at the time of the action, or even immediately afterwards that he was an adult and was responsible for his actions!?

Others disagree and say that this case is superior than the other instances, for although it is not known to anyone at the time of the action, nevertheless, there was a complete transgression done at that time, and the uncertainty if he was an adult or a minor at that time is a supplementary doubt, and does not affect the action whatsoever. When it becomes clarified that he was in fact an adult, he will incur lashes at that time. This is in contrast to a case where someone is warned not to leave over the meat from the sacrificial offerings, for at that time, there is still plenty of time left in the day to complete the eating, and a warning at that time is inadequate.

DAILY MASHAL

SORAH WAS AN AYLONIS

The Torah relates that Sorah died at the age of 127. Rashi notes that the Torah mentions “years” after each component of her age (“100 years and 20 years and 7 years”) in order to teach that each of these units of her life had a unique significance. At the age of 100, Sorah was just as free of sin as she had been when she turned 20, as the Heavenly Court doesn't punish a person for his sins until he turns 20. Although a person doesn't receive punishment, his transgressions are still considered sins – as evidenced by the fact that somebody under the age of 20 is still required to

bring a sacrifice in order to atone for his transgressions – so how can Rashi write that a person who turns 20 is free of all sins?

Reb Oizer Alpert cites the Brisker Rov who answers that the Gemora in Yevamos (64b) states that Sorah was an aylonis – a woman who is unable to have children. Such a woman never develops the physical signs of adulthood. The Gemora in Yevamos (80a) rules that when a woman turns 20 without becoming physically mature, she is declared an aylonis and legally considered to be an adult from that time onward. Therefore, although sins which are committed before a person turns 20 are indeed considered sins even if they aren't punishable at that time by the Heavenly Court, the transgressions of Sorah were indeed not considered sins, as she was legally viewed as a minor until she turned 20!

Rashi additionally writes that Sorah was as beautiful at the age of 20 as she had been at the age of 7. In what way is this comparison considered praiseworthy, as a woman is typically expected to be considered prettier at 20 than she was at 7? We may similarly answer by noting that the Gemora in Yevamos (80b) lists the signs commonly associated with an aylonis, all of which are features traditionally viewed as being ugly. The Gemora in Sanhedrin (49b) states that women in these early generations were able to give birth as young as 8. As this was the age at which their bodies began to develop and mature, this was also the age at which an aylonis began to exhibit signs of ugliness. Although most women are expected to be prettier at age 20 than they were at age 7, Sorah became a full-fledged aylonis at age 20, so Rashi notes that she was nevertheless just as beautiful as she had been at age 7 before her condition developed!