

מימהל היכי מהלינן ליה?

If so, with regard to **circumcision**, how can we circumcise him? Perhaps he is a stillborn and one may not desecrate Shabbat for his circumcision.

אמר רב אדא בר אבהו: מלין אותו ממה נפשך; אם חי הוא – שפיר קא מהיל, ואם לאו – מחתך בבשר הוא.

Rav Adda bar Ahava said: **One may circumcise him whichever way you look at it**, based on the following calculation: **If he is a child who will live**, the circumcisor **may well circumcise** the child, **and if not**, if the child is a stillborn and the circumcisor is merely **cutting flesh**, one who cuts the flesh of a corpse or the flesh of one with the legal status of a corpse is not considered to have made a wound, and therefore has not performed a prohibited labor.

ואלא הא דתנאי: ספק בן שבעה ספק בן שמונה – אין מחללין עליו את השבת, אמאי? נימהליה ממה נפשך! אם חי הוא – שפיר קא מהיל, ואם לאו – מחתך בבשר הוא!

The Gemara raises a difficulty: **And however**, with regard to **that which was taught** in a *baraita*: If there is **uncertainty** whether he was **born after seven months of pregnancy**,¹ and **uncertainty** whether he was **born after eight months**, **one does not desecrate Shabbat on his behalf** and circumcise him. The Gemara asks: **Why? Let us circumcise him** on Shabbat, as **whichever way you look at it**, that is appropriate. **If he is a child that will live**, the circumcisor **may well circumcise** the child, **and if not**, he is merely **cutting the flesh** of a corpse, which does not violate any Shabbat prohibitions.

אמר מר בר רב הונא: אנה ורב נחומי בר זכריה תרגימנא: מימהיל – הכי נמי מהלינן ליה, לא נצרכה אלא למכשירי מילה, ואליבא דרבי אליעזר.

Mar, son of Ravina, said: Rav Nahumei bar Zekharya and I interpreted this as follows: Indeed, as for **circumcision** itself, we do **indeed circumcise** that child even on Shabbat. It was **only necessary** to say that one does not desecrate Shabbat on his behalf **with regard to** the issue of preparing **facilitators of circumcision** on Shabbat, **in accordance with** the opinion of **Rabbi Eliezer** that actions that facilitate circumcision at its appointed time override Shabbat.

אמר אביי: פתנאי "וכי ימות מן הבהמה אשר היא לכם לאכלה" להביא בן שמונה שאין שחיטתו מטהרתו, רבי יוסי ברבי יהודה ורבי אליעזר ברבי שמעון אומרים: שחיטתו מטהרתו.

Abaye said: The issue of whether a child who has not yet survived thirty days from his birth is considered viable is **parallel to** a dispute between the *tanna'im*² with regard to the interpretation of the verse: **"And if any animal of which you may eat shall die**, one who touches its carcass shall be impure until the evening" (Leviticus 11:39). The verse is interpreted as coming to **include offspring of eight months**. Large domesticated animals typically give birth after a gestation period of nine months. If an animal of that sort gives birth after eight months, its offspring is deemed to be not viable and **its slaughter does not purify it**.³ Rather, it assumes the status of an unslaughtered animal, which is not only prohibited to be eaten, but also transmits ritual impurity to those who touch or move it. **Rabbi Yosei, son of Rabbi Yehuda, and Rabbi Elazar, son of Rabbi Shimon, say: Its slaughter purifies it**, and it does not assume unslaughtered animal status.

מאי לאו בהא קא מיפלגי, דמר סבר: חי הוא, ומר סבר: מת הוא.

What, is it not that **this** is the matter with regard to which **they disagree? That this Master holds** that the animal is considered **alive** and therefore its slaughter is effective, as is the case with regard to all pure animals, **while this Master**, the first *tanna*, **holds** that it is considered **dead**.

אמר רבא: אי הכי, אדמיפלגי לענן טומאה וטהרה – ליפלגי לענן אכילה!

Rava said: **If so, instead of disagreeing over** the issue of **impurity and purity**, **let them disagree over** the issue of **eating**, i.e., whether it is permitted to eat this offspring after it is slaughtered. Since they did not dispute this point, their disagreement must revolve around a different factor.

HALAKHA

The circumcision of a child born after seven months – **מילת בן שבעה**: A baby born after seven months of pregnancy is circumcised even on Shabbat; the same is true of a baby with regard to whom there is uncertainty whether it was born after seven or after eight months (Rambam *Sefer Ahava, Hilkhot Mila* 1:14; *Shulhan Arukh, Yoreh De'a* 266:11 in the comment of the Rema).

The slaughtering of a stillborn – **שחיטת נפל**: Slaughtering a stillborn or any animal fetus whose gestation was not full term does not prevent it from causing ritual impurity as an unslaughtered animal (Rambam *Sefer Tahara, Hilkhot She'ar Avot HaTumot* 2:6).

NOTES

Parallel to a dispute between the *tanna'im* – **פתנאי**: According to Rashi and the majority of the commentaries, Abaye applies the dispute between *tanna'im* to Rav Adda bar Ahava's statement. According to this interpretation, the *tanna'im* dispute whether the legal status of one who will not survive is that of a living person in certain respects or whether it is that of a dead person,

in the sense that cutting his flesh would be tantamount to cutting meat. Other commentaries explain that the dispute between the *tanna'im* is cited with regard to the statement of Rabban Shimon ben Gamliel, as they dispute whether the legal status of an animal less than eight days old or a human child less than a month old is that of a living or a dead person (see Rashba).

שחיטת טריפה – תריפתא: When one slaughters an animal that will die within twelve months [*tereifa*], the slaughter is valid; although the animal may not be eaten, it does not cause the ritual impurity of an unslaughtered animal [*neveila*] (Rambam *Sefer Tahara, Hilkhot She'ar Avot HaTumot* 2:6).

עגל שנולד ביום טוב – טריפתא: A calf born on a Festival to an animal that was designated for eating may be slaughtered on that day if it is clear that its gestation was full term (Rambam *Sefer Zemanim, Hilkhot Yom Tov* 2:1; *Shulhan Arukh, Oraḥ Hayyim* 498:5).

בכור שנולד בעל מום – טריפתא: Since the destruction of the Temple, the firstborn of a kosher animal may not be eaten unless it is blemished. A Sage may not examine it on a Festival to determine if it has a blemish that would permit it to be slaughtered. However, if the firstborn was born blemished, and the Sage violated the *halakha* and examined the blemish on a Festival and determined that it was permanent, the animal may be slaughtered and eaten on the Festival (Rambam *Sefer Zemanim, Hilkhot Yom Tov* 2:4; *Shulhan Arukh, Oraḥ Hayyim* 498:9).

אבוי שנולד בתוך שלושים יום – טריפתא: If a man died childless while his wife was pregnant, and she then gave birth to a child that lived for thirty days, the child exempts its mother and its father's other wives from *halitza* and levirate marriage. However, if the infant died within thirty days, even if it died through an accident, it was not clearly demonstrated to have been viable. Therefore, although its mother may not be married in a levirate marriage, she must perform *halitza* due to the uncertainty, in accordance with the Gemara's final understanding of Abaye's statement (Rambam *Sefer Nashim, Hilkhot Yibbum VaHalitza* 1:5; *Shulhan Arukh, Even HaEzer* 156:4).

NOTES

היתה לה שעת הכושר – טריפתא: One rationale for this statement is that an animal that was once fit has a presumption of fitness, and a substantial reason is required to undermine that presumption. This is not true of a stillborn, with regard to whom no presumption of fitness was established and who is considered unfit from the outset.

It yawned and died – טריפתא: Rabbeinu Zerahya HaLevi explains that the phrase yawned and died refers specifically to a case where the baby breathed a bit and immediately died. However, if it died as a result of illness, the baby is considered like one that fell from a roof and died accidentally. Other commentaries state that the phrase yawned and died is only a figure of speech, and if the baby died as a result of illness, we assume that its naturally weak constitution was the cause of its death (Rabbeinu Yona; see *Me'iri*).

אָלָא, דְּכוּלֵי עֲלָמָא מֵת הוּא, וְרַבֵּי יוֹסֵי בְרַבִּי יְהוּדָה וְרַבִּי אֶלְעָזָר בְּרַבִּי שְׁמַעוֹן סָבְרִי: בְּטְרִפָּה; טְרִפָּה, לָאוּ אִף עַל גַּב דְּמִתָּה הֵיא – שְׁחִיטָתָהּ מְטַהֲרָתָהּ, הֵכָא נִמְי – לָא שְׁנָא. וְרַבְנָן: לָא דְמִי לְטְרִפָּה, טְרִפָּה – הֵיתָה לָהּ שְׁעַת הַכוּשָׁר, הֵיא – לָא הֵיתָה לָהּ שְׁעַת הַכוּשָׁר.

וְכִי תִימָא טְרִפָּה מִבְּטָן מַאי אִיכָא לְמִימָר? הַתָּם יֵשׁ בְּמִינָה שְׁחִיטָה, הֵכָא – אֵין בְּמִינָה שְׁחִיטָה.

אִיבְעִינָא לְהוּ: מִי פְּלִיגֵי רַבְנָן עֲלֵיהּ דְּרַבָּן שְׁמַעוֹן בֶּן גַּמְלִיאֵל אוּ לֵא? אִם תִּמְצִינָא לֵאמֹר "פְּלִיגֵי" – הֲלָכָה בְּמִתּוֹ אוּ אֵין הֲלָכָה בְּמִתּוֹ?

תָּא שְׁמַע: עֲגַל שְׁנוּלֵד בְּיוֹם טוֹב – שְׁחִיטָתוֹ אוֹתוֹ בְּיוֹם טוֹב. הֵכָא בְּמַאי עֲסָקִינָן – דְּקִים לֵיהּ בְּגוּוּיָה שְׁבָלוֹ לוֹ חֲדָשָׁיו.

תָּא שְׁמַע: וְשׁוּיָן, שְׂאָם נוֹלֵד הוּא וּמְוָמוֹ עֵמוֹ – שְׂזָה מִן הַמוּקָן. הֵכָא נִמְי: שְׁבָלוֹ לוֹ חֲדָשָׁיו.

תָּא שְׁמַע, דְּאָמַר רַב יְהוּדָה אָמַר שְׂמוּאֵל: הֲלָכָה כְּרַבָּן שְׁמַעוֹן בֶּן גַּמְלִיאֵל. הֲלָכָה – מִבְּלָל דְּפְלִיגֵי, שְׁמַע מִינָה.

אָמַר אַבְי: נָפַל מִן הַגַּג אוּ אֶכְלוּ אֲרֵי – דְּבָרֵי הַכֵּל חֵי הוּא, כִּי פְּלִיגֵי – שְׁפִיחָה וּמֵת. מָר סָבַר: חֵי הוּא, וּמָר סָבַר: מֵת הוּא.

לְמַאי נִפְקָא מִינָה – לְפִטוֹר מִן הַיְיבוּם.

Rather, it must be that everyone agrees that it is considered dead, yet Rabbi Yosei, son of Rabbi Yehuda, and Rabbi Elazar, son of Rabbi Shimon, hold that it has the legal status like that of a *tereifa*, an animal with a condition that will cause it to die within twelve months. With regard to a *tereifa*, is it not that even though it is considered dead from the perspective of *halakha* because there is no possibility of long-term survival, nevertheless, if it is slaughtered, its slaughter purifies it?^H It does not cause ritual impurity like an unslaughtered animal, even though it may not be eaten. Here too, it is no different. And the Rabbis, who do not accept this claim, say: It is not similar to a *tereifa*, since a *tereifa* had a period of fitness before it became a *tereifa*. However, this animal that was born after eight months of pregnancy did not ever have a period of fitness.^N

And if you say: With regard to an animal that was a *tereifa* from the womb and was born in that condition, what is there to say? It too never had a period of fitness. There is a distinction between the cases. There, with regard to a *tereifa*, there is slaughter in its type; here, with regard to a stillborn, there is no slaughter in its type, as there is no circumstance where slaughter of a stillborn animal is appropriate.

A dilemma was raised before the Sages: Do the Rabbis disagree with Rabban Shimon ben Gamliel, who holds that any animal that survived for eight days after birth is presumed viable, or not? If you say that they disagree, the dilemma is: Is the *halakha* in accordance with his opinion, or is the *halakha* not in accordance with his opinion?

Come and hear proof from that which we learned: With regard to a calf that was born on a Festival,^H one may slaughter it on the Festival. Apparently, Rabban Shimon ben Gamliel's opinion is not accepted, and one need not wait eight days after the animal is born. The Gemara refutes this: With what are we dealing here? It is a case in which one is certain that its months of gestation were completed, and therefore, it is certainly not stillborn.

Come and hear another proof from that which we learned: Rabbi Yehuda and Rabbi Shimon, who disagreed with regard to whether or not it is permitted to inspect firstborn animals for blemishes on a Festival, agree that if a firstborn animal was born with its blemish,^H it is considered prepared for use on the Festival. It is not deemed set-aside and an expert may examine it to determine whether or not it is a permanent blemish. Apparently, a firstborn animal may be slaughtered on the day of its birth. The Gemara refutes this proof as well: It is a case in which one is certain that its months of gestation were completed, and it is certainly not stillborn.

Come and hear a solution to the dilemma, as Rav Yehuda said that Shmuel said: The *halakha* in this matter is in accordance with the opinion of Rabban Shimon ben Gamliel. Nonetheless, from the fact that the *halakha* was ruled in accordance with Rabban Shimon ben Gamliel, by inference, the Sages disagree with his ruling. The Gemara concludes: Indeed, conclude from this the resolution to both dilemmas raised above.

Abaye said: With regard to a baby less than thirty days old that fell off a roof or was eaten by a lion, everyone agrees that he is considered to have been alive; it was a viable baby that died in the accident. Where they disagree is in a case where the baby yawned, i.e., breathed momentarily after birth, and then immediately died.^N This Master, the Rabbis, hold: The baby is considered to have been living, since it was born alive; and this Master holds: It is considered to have been born dead until it lives a month after its birth.

What practical difference is there whether or not the baby is considered to have been alive? The difference is to exempt the child's mother from levirate marriage. If a man died with no children, and his wife was pregnant and a viable child was born, the woman is exempt from levirate marriage; however, if the child was born dead, the man is considered to have died childless, and his widow is obligated in levirate marriage.^H

נפל מן הגג או אכלו ארי דברי הכל
 חי הוא? והא רב פפא ורב הונא
 בריה דרב יהושע איקלעו לבי בריה
 דרב אידי בר אבין ועביד להו עיגלא
 תילתא ביממא דשבעה. ואמרי ליה:
 אי איתרחיתו ליה עד לאורתא – הוה
 אכלינן מיניה, השתא – לא אכלינן
 מיניה!

אלא, כשפיהק ומת – דברי הכל מת
 הוא, כי פליגי – בנפל מן הגג ואכלו
 ארי. מר סבר: מת הוא, ומר סבר: חי
 הוא.

בריה דרב דימי בר יוסף אתיליד ליה
 ההוא ונקא, בגו תלתין יומין שכיב.
 יתיב קמתאביל עילויה. אמר ליה
 אבוא: צוורומיתא קבעית למיכל?
 אמר ליה: קים לי ביה שכלו לו חדשיו.

רב אשי איקלע בי רב כהנא, איתרע
 ביה מילתא בגו תלתין יומין. תזייה
 דיתביב וקא מתאביל עילויה, אמר ליה:
 לא סבר ליה מר להא דאמר רב יהודה
 אמר שמואל "הלכה כרבן שמעון בן
 גמליאל"? אמר ליה: קים לי בגויה
 שכלו לו חדשיו.

איתמר, מת בתוך שלשים, ועמדה
 ונתקדשה. אמר רבינא משמיה דרבא:

The Gemara raises a difficulty: Is that to say that if the child fell off a roof or was eaten by a lion, everyone agrees that it is considered to have been alive? Didn't Rav Pappa and Rav Huna, son of Rav Yehoshua, happen to come to the house of the son of Rav Idi bar Avin, and he prepared for them a third-born calf^N on the seventh day after its birth. And they said to him: Had you waited to slaughter it until the evening, we would have eaten from it. Now that you did not wait, we shall not eat from it.^H Apparently, if a calf is slaughtered before it was alive for eight days and definitely viable, suspicion that it is still-born remains; the same is true of a child who dies from an accident within thirty days of birth.

Rather, Abaye's statement must be reformulated: When the baby yawned and died, everyone agrees that it is considered to have been dead from the outset. Where they disagree is in a case when it fell off a roof or was eaten by a lion: This Master, Rabban Shimon ben Gamliel, holds: It is considered to have been dead; and this Master holds that since it did not die on its own, it is considered to have been alive.

The Gemara relates: A baby was born to the son of Rav Dimi bar Yosef. Within thirty days the baby died. He sat and mourned over him.^H His father, Rav Dimi bar Yosef, said to him: Are you mourning because you wish to partake of the delicacies fed to mourners? The halakha deems a child that dies before thirty days stillborn, and one does not mourn over it. He said to him: I am certain that its months of gestation were completed.

The Gemara similarly relates that Rav Ashi happened to come to Rav Kahana's house. A matter befell him, i.e., his child died within thirty days of its birth. Rav Ashi saw him and observed that he was sitting and mourning over him. He said to him: Doesn't the Master hold in accordance with that which Rav Yehuda said that Shmuel said: The halakha is in accordance with Rabban Shimon ben Gamliel, that only a child who lived for thirty days is not considered stillborn? He said to him: I am certain that its months of gestation were completed and he is not to be considered a stillborn.

It was stated that the Sages discussed the following question: What is the ruling in a case where a baby died within thirty days after birth, leaving its mother a childless widow, and before they decided whether or not she was obligated in levirate marriage, she stood and was betrothed to another? Ravina said in the name of Rava:

NOTES

A third-born calf – עיגלא תילתא: A calf that is the third born to its mother is considered to be of choice quality, because its mother is fully matured, and the birth is less difficult and the calf is not injured during birth. Even calves born thereafter are not considered to be of comparable quality, because the mother has already begun to age. Consequently, the third calf is the choicest (ge'onim).

HALAKHA

Eating a newborn animal – אכילת ולד בהמה: A newborn animal that is known to have been carried to full term may be slaughtered immediately upon birth. If it is not known whether the gestation was full term, it may be slaughtered from the night of the eighth day after its birth (Rambam *Sefer Kedusha, Hilkhhot Ma'akhalot Assurot* 4:4; *Shulhan Arukh, Yoreh De'a* 15:2).

Mourning for a newborn baby – אבילות על תינוק: There is no halakhic obligation to mourn a baby that died within thirty days after its birth, because it has the status of a potential stillborn. However, if it can be established that the mother carried the child to full term, one mourns the baby, as indicated by the incidents related in the Gemara (Rambam *Sefer Shofetim, Hilkhhot Evel* 1:6–7; *Shulhan Arukh, Yoreh De'a* 374:8).

Perek XIX
 Daf 136 Amud b

אם אשת ישראל היא – חולצת, אם
 אשת כהן היא – אינה חולצת.

If she is the wife of an Israelite,^H meaning she became betrothed to an Israelite, who may marry a woman who has undergone *halitza*, she performs *halitza* due to uncertainty. Given that the child may have been stillborn and therefore never considered alive, in which case she would be obligated to undergo levirate marriage or perform *halitza*, by performing *halitza*, she removes any doubt and can remain with her new husband. However, if she is the wife of a priest, she does not perform *halitza*, as if she were to perform *halitza* she would be prohibited to her husband the priest.^N Since there are those who hold that the baby is considered alive from the moment of its birth, based on that opinion, she is exempt from performing *halitza*, after the fact.

HALAKHA

If she is the wife of an Israelite, etc. – אם אשת ישראל וכו': If a man passed away without children and his wife was pregnant, and she gave birth to a child who died within thirty days, and it was not clear whether or not the child was carried full term, the widow is rabbinically obligated to perform *halitza*. This is due to the possibility that the child was not viable. If she becomes betrothed to another man who is an

Israelite, the brother of her late husband performs *halitza* with her, and she marries the man to whom she was betrothed. However, if she became betrothed to a priest, she does not perform *halitza*. This is in accordance with Ravina's statement that Rava exempted a woman in that case from *halitza* (Rambam *Sefer Nashim, Hilkhhot Yibbum VaHalitza* 2:21; *Shulhan Arukh, Even HaEzer* 164:7).

NOTES

Levirate marriage and *halitza* – יבום וחליצה: The laws of levirate marriage and *halitza* appear in the Torah (Deuteronomy 28:5–10) and are articulated at length in tractate *Yevamot*, which is devoted to this topic. The basic concept is that if a man dies with no living descendants, his wife is obligated by a levirate bond to her husband's brother. The brother must either take her as a wife through levirate marriage, or sever the bond by means of the ceremony of *halitza*. As long as the levirate bond is intact, it is prohibited for her to marry a different man, and if she does so, as long as her marriage continues she is performing an ongoing transgression. Although the *halakhot* of levirate marriage and *halitza* are not like those of a regular marriage, and a woman who has undergone *halitza* is not prohibited to marry a priest by Torah law, the Sages decreed that the legal status of a woman who undergoes *halitza* is that of a divorcée, in the sense that it is prohibited for a priest to marry her.

NOTES

Vows of valuation – ערכין: The laws of valuations appear in the Torah (Leviticus 27:1–8), and are detailed in tractate Arakhin. The basic concept of valuation refers to a situation where one donates his value to the Temple treasury. The Torah fixes certain values for each gender and age group. The consensus is that one who is not categorized as belonging to a particular gender has no specific, Torah-determined value, and the value of that person cannot be calculated by other means. Therefore, valuation to the Temple would be meaningless.

A tumtum or a hermaphrodite – טומטום ואנדרוגינוס: A tumtum and a hermaphrodite are classified together in regard to many issues, since they are neither male nor female. There is, however, a fundamental difference between them: A tumtum is a case of unresolved uncertainty, which can sometimes be resolved either way. A hermaphrodite, by contrast, might be an entity in and of itself, constituting a third, unique gender.

BACKGROUND

Tumtum – טומטום: A tumtum is one whose external sexual organs are indeterminate, and it is unclear whether the person is male or female. In certain cases, the gender of the tumtum is later established, which is described in the language of the halakha as: A tumtum who was torn, revealing his gender, at which point this person is considered a full-fledged member of that gender.

HALAKHA

The valuations of a tumtum and a hermaphrodite – ערכי טומטום ואנדרוגינוס: The Torah established fixed amounts for the valuations of males and females, but there is no valuation whatsoever given for a tumtum or a hermaphrodite. When that type of person donates his value, no obligation is incurred (Rambam Sefer Hafla'a, Hilkhot Arakhin 1:5).

רב שרביא בשם רבא: אומר: אחת זו ואחת זו – חולצת.

אמר ליה רבינא לרב שרביא: באורתא אמר רבא הכי, לצפרא הדר ביה. אמר ליה: שריתוה? והא רעוא דתשרו תרבא.

“רבי יהודה מתיר וכו’.” אמר רב שרביא אמר רב חסדא: לא לכלא אמר רבי יהודה אנדרוגינוס זכר הוא, שאם אתה אומר כן – בערכין יערך!

ומנלן דלא מיערך – דתנא: “הזכר” – ולא טומטום ואנדרוגינוס. יכול לא יהא בערך איש, אבל יהא בערך אשה – תלמוד לומר: “הזכר ואם נקבה היא.” זכר ודאי, נקבה ודאית, ולא טומטום ואנדרוגינוס.

Rav Sherevya said in the name of Rava: Both this, the woman married to an Israelite, and that, the woman married to a priest, perform halitza, as the prohibition against marrying a woman not released from her bond of levirate marriage is a stringent one, and the fact that her husband is a priest is not taken into consideration.

Ravina said to Rav Sherevya: In the evening Rava indeed said so, as you said; however, in the morning he retracted his statement, and that is what I cited. Rav Sherevya, however, did not accept this explanation, and said: Did you permit the wife of a priest without halitza, despite the fact that Rabban Shimon ben Gamliel deems the baby stillborn unless he survives to the age of thirty days? Since you have violated his ruling, may it be God’s will that you continue along this path and permit the eating of forbidden fat.

We learned in the mishna that Rabbi Yehuda permits circumcising a hermaphrodite on Shabbat. Rav Sheizvi said that Rav Hisda said: Not with regard to all matters did Rabbi Yehuda say that a hermaphrodite is considered a male; it was only with regard to circumcision, as if you say so, that the legal status of a hermaphrodite is that of a male in every sense, then even with regard to vows of valuation,ⁿ he should be valued.

And from where do we derive that he is not valued? As it was taught in the Sifra, the halakhic midrash on Leviticus, with regard to the verse: “Then your valuation shall be for the male from the age of twenty years until the age of sixty years, your valuation shall be fifty shekel of silver, after the shekel of the Sanctuary” (Leviticus 27:3). The Sages inferred: “The male” means the definite male but not a tumtum^b or a hermaphrodite.ⁿ I might have thought that these shall not be valued according to the valuation of a man, but shall be valued according to the valuation of a woman. Therefore, the verse states: “The male,” and in the following verse: “And if she is a female, then your valuation shall be thirty shekels” (Leviticus 27:4), indicating: Only a definite male or a definite female, but not a tumtum or a hermaphrodite,^h which are categorized as neither male nor female.

Perek XIX Daf 137 Amud a

NOTES

An unattributed Sifra generally reflects the opinion of Rabbi Yehuda – סתם ספרא רבי יהודה: There is a talmudic tradition that unattributed mishnayot were formulated by and reflect the views of Rabbi Meir. Similar traditions exist with regard to other tannaitic works. The Sifra, also known as Torat Kohanim, the halakhic midrash on Leviticus, generally reflects the opinion of Rabbi Yehuda.

וסתם ספרא רבי יהודה.

אמר רב נחמן בר יצחק: אף אנן נמי תנינא “הבל בשרים לקדש, חוץ מחרש שוטה וקטן. רבי יהודה מכשיר בקטן, ופוסל באשה ואנדרוגינוס” – שמע מינה.

And an unattributed halakha cited in the Sifra generally reflects the opinion of Rabbi Yehuda.ⁿ

Rav Nahman bar Yitzhak said: We too also learned in a mishna that Rabbi Yehuda does not consider a hermaphrodite to be a male in every sense. The Sages disagreed over sanctification of the waters of a purification offering, i.e., the placing of the ashes of the red heifer in potable, running spring water: Everyone is fit to sanctify the waters of a purification offering,^h except for a deaf-mute, an imbecile, and a minor. Rabbi Yehuda deems a minor fit, but deems a woman and a hermaphrodite unfit. Apparently, Rabbi Yehuda does not consider the legal status of a hermaphrodite to be like that of a male. The Gemara concludes: Conclude from this.

HALAKHA

The sanctification of the waters of a purification offering – קידוש מי תטאת: The sanctification of the waters of a purification offering, i.e., the placing of the ashes of the red heifer in potable, running spring water, is valid if performed by any Jew, including a woman, apart from a deaf-mute, an imbecile, and a minor, in accordance with the view of the Rabbis (Rambam Sefer Tahara, Hilkhot Para Aduma 6:2).