## Introduction to פרק רביעי – בהצה הציקשה

On those occasions when an animal was having a difficult birth, the owner would sometimes slaughter the mother before she would die while giving birth; on other occasions, they would abort the (full-term) foetus. Each circumstance raises questions which are dealt with in our chapter – what is the status of the foetus? A premise of the *eta* is that the mother's proper slaughtering is *מרא* premise of the *eta*, the would die what if part of the birthing process already took place? These and related questions are the focal point of our chapter's and attendant *אמרא*.

## 30.4.1

а

68a (אבל במעי אמו שרי) → 69a (משנה א)

ו. וְאַנְשֵׁי קֹדֶשׁ תִּהְיוּן לִי **וּבָשֶׁר בַּשֶּׁדֶה טְרֵפָה לֹא תֹאבֵלוּ** לַכֶּלֶב תַּשְׁלְכוּן אֹתוֹ: שמות כב, ל

2. לא תוּכַל לָאֱכֹל בִּשְׁעָרֶיהַ מַעֲשֶׁר הְגָנְה וְתִירִשְׁה וְיִצְהֶרֶה וּבְכֹרת בְּקָרְה וְצֹאגֶה וְכָל נְדָרֶיהְ אֲשֶׁר תִדֹר וְנִדְבֹתֶיה וּתְרוּמַת יָדֶה: *זברים יב*,

ַג ןכָל בְּהֵמָה מַבְּרֶסֶת **פַּרְסָה** וְשׁסַעַת שֶׁסַע שְׁתֵּי **פָרָסוֹת** מַעֲלֵת גֵּרָה בַּבְּהֵמָה אֹתָה תּאבֵלוּ: *יברים יד, ו* 

- I משנה if an animal is having difficult labor and the foetus put out a leg and brought it back in it may be eaten
  - However: if it put its head out, even if it brought it in, it is considered birthed may not be eaten (w/o its own שחיטה)
  - i If: he cuts into the עובר (and leaves it inside, and then the animal is slaughtered) it may be eaten (not אבר מן החי)
  - ii However: if he cuts into the spleen or liver, it may not be eaten (whether or not the animal is a טריפה) אבר מן החי
  - b Rule: anything which is part of the animal's body is prohibited; if not permitted
- II Dispute רב/ר׳ יוחנן as to status of the limb (which was retracted)
  - a 27: the limb is prohibited
    - i *Challenge*: משנה may be read as permitting the retracted leg
      - 1 *Rejection*: it means that the rest of the עובר is permitted
      - 2 *Challenge*: if so, the leg need not have been retracted
        - (a) Answer: that was taught in parallel construction with אסור → סיפא even if head were retracted אסור אסור
        - (b) *Challenge*: if that is just teaching that the head's exiting constitutes birth, we already know that
        - (c) *בכורות ה:א* if first animal (of two full-term) puts out head and is dead, 2<sup>nd</sup> one is only בכור לנחלה
        - (d) Implication: if 1st put out head while alive, that is a full birth and 2nd has no status of בכור
      - 3 Answer: we can't infer status of "head-birth" of animal from human or vice-versa
        - (a) Human from animal: can't infer, as the animal has no "canal"
        - (b) Animal from human: as human's face (head) is significant
      - 4 Nonetheless: we have a משנה which teaches that animal's "head-exit" is birth:
        - (a) *הולין ד:ז* a placenta which comes out is אסור באכילה (the head may be in it); same for humans and animals
        - (b) *analysis*: if the רישא is particular (only if it retracted → limb is מותר), we understand why the parallel mention in the איז, but if neither the סיפא זא סיפא are particular to retraction, why mention it?
          - (i) *Rejection*: it is still about the עובר רנב"י the מקום חתך (where that limb would be cut is also אסור)
        - (c) *ברייתא*: if an animal is birthing and the foetus put out its leg and retracted it, and then the mother was it is אסור it is אסור it is אסור to eat
          - (i) *If*: he cut off the leg and then slaughtered the mother
            - 1. That which is outside: is טומאת אבר מן החי (per טומאת אבר מן ond prohibited) and prohibited
            - 2. The part which is inside: is טהור and may be eaten
          - (ii) *If*: he slaughtered the mother and then cut off the leg
            - 1. מגע נבלה the meat is טמא due to מגע נבלה
              - 2. *חכמים* the meat is טהור as מגע טריפה שחוטה מגע
                - a. *Point*: in first part of אבר, if leg is out אסור, but if retracted אותר (we assume אבר)
                  - i. *Rejection*: עובר is permitted;
                  - ii. But: if so, then why is עובר prohibited if he slaughtered the mother beforehand
                  - iii. Answer: per רנב"י difference is מקום חתך
              - 3. *Challege*: אבימי brought dictum if he retracted "foot" eat; if "feet" eat
                - a. Implying: if he didn't retract eat עובר (only); if he did eat limb (foot) as well
                - b. *Challenge*: if we are only permitting rest of עובר, why require retraction?
                  - i. Answer: per מקום חתך רנב"י

- c. *Challenge*: he invoked v. 3 (פרסה/פרסות) isn't one for limb, other for square ?
- d. *Correction*: one is for מקום חתך, other for fused hoof in womb
  - i. Per: שהוי who prohibits an (otherwise טהור) animal with "solid" hoof –
  - ii. *But*: only applies if it is inside womb, not if it came "out"
- b *עולא (per vinut)*: even the limb is permitted:
  - i Argument: all "exits" were included in v. 1 when תורה explicated מחיצה חוץ למחיצה → all others are not אסור
    - 1 *Refutation:* אחיצה ברייתא includes anything that is irrevocably fouled by leaving מע"ש ובכורים, unlike מע"ש ובכורים
    - 2 Source: רושלים v. 2; only בשעריך is there a prohibition, but leaving and returning to ירושלים is valid
- c Note: this was the version of the dispute as recorded in בבל; in א"י, they had a different version:
  - i הב/ר' יוחנן איי disagreed if there was רב/ר' יוחנן ה<br/> + there is)
    - 1 *Point of disagreement (this follows ארא"ש's understanding of the question מאי בינייהו*): whether a minority of the limb prohibits while inside if the majority is outside
    - 2 *Question*: according to "ר" (who holds אין לידה לאברים), if the animal put out one leg and retracted it, then another leg and so on, such that a majority of the foetus had come out (in temporal segments) is that considered user retracted we don't reckon it that way?
      - (a) *If*: we follow the line that retraction negates the "exit", what if he cut off each limb as it was retracted?
        - (i) *Lemma1*: a majority has come out (and not retracted)
        - (ii) *Lemma2*: we require a majority at one time
          - 1. Proposed answer: from rule at end of בדר שבגופה אסור האין isn't that intended to include our case?
            - 2. Rejection: that is intended to account for "solidified hoof" per u", who prohibits such an animal
              - a. *But only*: if it has come out not if it is inside