

30.4.3

(אבל נגממו לא קא מיבעיא ליה) 70a → (משנה ב) 69b

- I ב status of מבכרת (בהמה טהורה) that is having its firstborn) that is having labor pains
- a if: he chooses to, he may cut away pieces of the foetus and throw to dogs
- b however: once the רוב is out, it must be buried (considered לידה and has קדושת בכור) - & the mother is פטורה from בכורה
- II dispute רבנא/רבא re: בכור, less than רוב was birthed which part he then sold to עכ"ם and then rest was birthed
- a קדוש דב הונא; sanctity is retroactive and sale is invalid
- b קדוש דבא; sanctity is prospective and sale is valid
- c consistency: parallel disagreement about בכור that was 1/3-birthed through "side" (not פוטר רחם) and rest through רחם
- i קדוש (בכור) ד' הונא not ד' הונא – it is retroactive, and 1st 1/3 did not come through רחם
- ii קדוש (בכור) דבא – it is prospective and now majority of בכור is coming through רחם
- d justification: if we only learned of 2nd dispute, perhaps ר"ה only holds למפרע for leniency (& flip assumption → צריכא)
- e challenge (to ר"ה): our משנה – if he cuts pieces, he may throw to dogs
- i assumption: he is cutting and collecting, to throw later
- ii challenge: if so, it should be קדוש retroactively and should require burial
- 1 answer: correct assumption – he is cutting and immediately feeding to dogs
- 2 therefore: if he is cutting and storing, must be buried
- (a) if so: should have mentioned that in משנה – not only if רוב comes out, but if "cuts and stores" – buried
- (b) indeed: that is how it should be read – this only applies if he is cutting and feeding; but if he is cutting and storing, it is as if the רוב came out and it must be buried
- f question (רבא): do we follow רוב when it comes to אברין?
- i context: case where a majority came out, including the smaller part of a limb
- 1 question: do we consider where the majority of limb is found (inside) → not consider רוב out OR
- (a) do we: consider the majority of the עובר to be out nonetheless
- 2 rejection: in this case, we certainly won't regard the limb as "all in", denying the רוב עובר being out
- ii rather: if 50% came out, including the smaller part of a limb, do we consider the limb as "all in" due to the רוב
- 1 proposed response: from our משנה – if רוב comes out, must be buried
- (a) cannot be: a simple רוב, as that is a principle we know well from other sources
- (b) could be: that a majority came out with רוב אבר, teaching that we follow רוב אבר but not מיעוט אבר
- (c) rejection: the case is where a majority came out with מיעוט אבר → we don't ignore רוב עובר due to מיעוט אבר
- g series of questions as to whether "protected birth" is considered פוטר רחם (רבא): all unresolved – תיקו
- i what if: בכור was born swaddled in moss, in a garment, in a placenta (of another's – else that is the usual way); if the birther swaddled it and brought it out (must be breech birth; if head came out, already "born"); if a rat swallowed it, took it out, brought it back in and it was born (case where rat swallowed the foetus and brought it out and expelled it is obviously not a birth); if he attached two wombs and it birthed through both – does it also exempt the 2nd "surrogate" womb?
- h question (רב אחא): if the uterine walls widened (בכור didn't touch walls) – is this פוטר רחם?
- i dilemma: does the air space of the uterus sanctify or does touching the uterine walls sanctify? תיקו
- i question (מר בר ר' אשי): what if the uterine walls were torn away?
- i clarification: uterine walls are present (else – no question) but are hanging from young's neck
- ii dilemma: does the רחם sanctify only when in proper location, or anywhere?
- j question (ר' זירא asked of ר' ירמיה): if the uterine walls were cut up – is it מקדש?
- i response: this is a question we've asked (ר' ז' posed it, or asked אסי) –
- 1 if: there is more gone than standing and it came out via the פרוץ – or vice-versa – is this פוטר רחם?
- (a) and: this question was only asked in a context where this is some wall present (עומד) – but not when nothing is there (i.e. if nothing is left – no פוטר רחם)