

## פרק רביעי – בהגיה המקצה Introduction to

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 פרק is that the mother's proper slaughtering is עובר מתי every part of her – including the עובר but what if part of the birthing process already took place? These and related questions are the focal point of our chapter's משניות and attendant גמרא

### 30.4.1

68a (משנה א) → 69a (אבל במעי אמו שרי)

1. ואנשי קדש תהיון לי ונכשר בשעה טרפה לא תאכלו לכלב תשלקון אתו: שמות כב, ל  
 2. לא תוכל לאכל בשעריך מעשר דגנך ותירשך ויצהרך ובכרת בקרך וצאנך וכל נדרך אשר תדר ונדבתך ותרומתך: דברים יב, יז  
 3. וכל בהמה מפרסת פרסה ושטעת שטע שתי פרסות מעלת גרה בבהמה אתה תאכלו: דברים יד, ו

- I א משנה: if an animal is having difficult labor and the foetus put out a leg and brought it back in – it may be eaten
- a 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 מן החי אבר)
- ii However: if he cuts into the spleen or liver, it may not be eaten (whether or not the animal is a טריפה – מן החי אבר)
- b Rule: anything which is part of the animal's body is prohibited; if not – permitted
- II Dispute יוחנן as to status of the limb (which was retracted)
- a דב: the limb is prohibited
- i Challenge: our 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- 2 Challenge: if so, the leg need not have been retracted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 סיפא – even if head were retracted – כילוד → אסור
- (b Challenge: if that is just teaching that the head's exiting constitutes birth, we already know that
- (c) בכור לנחלה: if first animal (of two – full-term) puts out head and is dead, 2<sup>nd</sup> one is only בכור
- (d) Implication: if 1<sup>st</sup> put out head while alive, that is a full birth and 2<sup>nd</sup> 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) חולין ד: 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 סיפא; but if neither the רישא nor סיפא are particular to retraction, why mention it?
- (i) Rejection: it is still about the עובר – per 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 נשחטה – it is מותר; but if he slaughtered the mother before the עובר retracted the leg – אסור to eat
- (i) If he cut off the leg and then slaughtered the mother
1. That which is outside: is טמא (per מן החי אבר) 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 טריפה שחוטה as טהור חכמים
- a. Point: in first part of ברייתא, if leg is out – אסור; but if retracted – מותר (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: 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 רנב"י – מקום חתך

- c. *Challenge*: he invoked v. 3 (פרסה/פרסות) – isn't one for limb, other for מקום חתך?
- d. *Correction*: one is for מקום חתך, other for fused hoof in womb
- i. *Per*: ר"ש – who prohibits an (otherwise טהור) animal with "solid" hoof –
- ii. *But*: only applies if it is inside womb, not if it came "out"
- b. ר' יוחנן (per עולא): even the limb is permitted:
- i. *Argument*: all "exits" were included in v. 1 – when תורה explicated חוץ למחיצה שיצא חוץ למחיצה → all others are not אסור מע"ש ובכורים
1. *Refutation*: ברייתא – טריפה – ברייתא includes anything that is irrevocably fouled by leaving מחיצה, unlike מע"ש ובכורים
2. *Source*: מע"ש ובכורים – 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 בבב; in א"י they had a different version:
- i. רב/ר' יוחנן: א"י disagreed if there was לידה לאברים (רב – there is)
1. *Point of disagreement* (this follows ר"א's understanding of the question מאי בנייהו): whether a minority of the limb prohibits while inside if the majority is outside
2. *Question*: according to ר"י (who holds 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 רוב, or since each אבר was 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 משנה – אסור – דבר שבגופה אסור – isn't that intended to include our case?
2. *Rejection*: that is intended to account for "solidified hoof" per ר"ש, who prohibits such an animal –
- a. *But only*: if it has come out – not if it is inside