

39.3.3

(דכי מדכרו ליה מידכר) → 24b (וחכמים אומרים כל שאין בו כו') 23b

1. אך את זה לא תאכלו ממעלי הגרה וממפריסי הפרסה **תשועה** את הגמל ואת הארנבת ואת השפן כי מעלה גרה המה ופרסה לא הפריסו טמאים הם לכם: דברים יד, ז.
2. דבר אל בני ישראל לאמר **אשה** פי תזריע וילדה זכר וטמאה **שבעת ימים** כימי נדת דותה תטמא: **וביום השמיני** ימול בשר ערלתו: ויקרא יב, ב-ג

- I Analysis of חכמים' position – must have אדם צורת to generate טומאת לידה
- a **דב** ירמיה בר אבא בשם רב: all agree that if the body is a goat and the face is human – טמא; the inverse – טהור
- i *Disagreement*: if face is human but has only one eye like an animal
- 1 טמא – “מצורת אדם” ד”מ – this is sufficiently like a human to be טמא
 - 2 חכמים – “כל צורת אדם” – must be fully human to be טמא
- ii *Challenge*: we have ברייתא with דרשות opposite – כל צורת אדם – חכמים, only אדם – טמא
- b **דב** יוחנן: must have all facial characters of human, including forehead, eyes, eyebrows, cheeks and jaws
- i **דבא** (in name of חסא – gave same list, but used singular) – per “מצורת אדם” (per ר' יוחנן) – per “כל צורת אדם”
- ii *Challenge* (*תוספתא נדה ד:ז*): “face” could be any organ, except for ears
- 1 *Answer* (*אביי*): that is לעכב – i.e. if any organ doesn't look like human, not a וולד – per צורת כל
 - (a) *Or*: אחד means “each” – following מצורת אדם
- II Various שמועות and ברייתות about partial forms etc.
- a **דבא**: if it has a single eye and single thigh
- i *If*: they are on the side – טמאה לידה
 - ii *If*: they are in the middle – טהורה
- b **דבא**: if the esophagus has an opening – טמאה; if sealed up – טהורה
- c **ברייתא**: if she “births” a shapeless body – no טומאת לידה
- i *Definition* (*רבי*): any part that is vital (without which a person cannot live)
- 1 *Parameter*: of the leg (how high up must be missing to be considered vital → if shapeless, not לידה טמאה)
 - (a) זכאי ד': until knee
 - (b) ינאי ד': until bowels
 - (c) יוחנן ד': until navel
 - 2 *Note*: difference between ר' ינאי and ר' זכאי: whether a טריפה (e.g. one who is cut above knees) can live
 - 3 *Note*: difference between ר' ינאי and ר' יוחנן – whether to accept ר' א' ruling that a missing thigh+socket is a נבילה
- ii **דבא**: dispute is only from leg up; from head down, all agree that anything renders it non-viable and טהורה as לידה
- 1 *Support*: ר' יוחנן – if she is מפיל a shapeless skull – טהורה
 - 2 *Note*: ר' יוחנן ruled that if she “births” a form looking like spread of palm leaves – טהורה (i.e. bottom was shapeless)
- d **דבא**: regarding a mashed face
- i *Version1*: טמאה – ר"י, טהורה – ר"ל
- 1 *Challenge* (*דבא*): if she births an arm or leg – טמאה לידה and we are not concerned that it may come from a shapeless body
 - (a) *Explanation*: if a mashed face is not considered וולד, why not add “nor concern of מוסמסים”?
 - ii *Version2* (*ר' פפי*): they agree if face is mashed, טמאה לידה; disagree about completely covered face – and reversed:
 - 1 *Positions*: טהורה – ר"י, טמאה – ר"ל
 - (a) *Question*: why didn't ר"ל challenge ר"י from the תוספתא?
 - (b) *Answer*: “covered face” is same as “shapeless” (אטום)
 - iii *Story*: ר' חייא's sons were מטמא a case of “covered face”; he told them to go back and be טהור
 - 1 *Reason*: it is a חומרא that leads to a קולא, since this gives her טהור ימי טהור

e **דבא**: regarding a form birthed with two backs and two spines

 - i **דבא**: not a valid form → not a וולד (vis-v-vis לידה טומאת) and, if an animal, may not be eaten
 - ii **דבא**: a valid form → considered וולד and, if an animal, may be eaten
 - iii *Point of contention*: whether to accept בר אבא's read of v. 1 – השועה is a unique creature
 - 1 **דבא**: that ruling was given to משה re: a form *in utero*, but no such creature exists
 - 2 **דבא**: such a creature does exist; משה taught about the איסור once born; *in utero*, it is מותר
 - (a) *Challenge* (*דבא*): (בעלי מומין לרב) – someone who has 2 backs/spines → such people live
 - (i) *Response* (*דבא*): this refers to someone with a crooked spine

- (b) *Challenge (to שמואל)*: some עוברין are אסור; less than 4 months in ovines, less than 8 months in bovine
- (i) *Exclusion*: one who has 2 backs/spines
- (ii) *Implication*: one like that is even אסור *in utero* (unlike others, only אסורים if birthed early)
1. זב. understands it that way
 2. *שמואל* reads that those are אסור, unless the period of pregnancy ended
 - a. *But*: one with 2 backs/spines, even if pregnancy ended, is אסור – if birthed
 - i. *However*: if *in utero*, still מותר
- f *תנא (before זב)*: if she is מפיל a body or head that isn't shaped, no טומאת לידה
- i *Source*: v. 2 – only if he is fit for ברית (either ברית שמנה or ברית נשמה) does he generate טומאה
- ii זב *ברייתא* should conclude by also excluding one with 2 backs/spines
- iii *Ruling*: ר' ירמיה בר אבא *שמואל*; רב הונא *שמואל*; ר' חייא *שמואל* directed him no to
- 1 *Reason*: it is a חומרא that leads to a קולא, as she now gets ימי טוהר
 - 2 *And*: when רב and שמואל disagree, הלכה follows רב in איסורים (as opposed to ממונות, where we follow שמואל)
- g *זבא given*: women birth at 9 or 7 months; *question*: do bovines, who typically birth at 9 months, also birth at 7?
- i *Answer (זבא)*: from ברייתא (above) – anything less than 8 months is אסור → no live birth at 7 months
- ii *Deflection*: perhaps “earlier” only refers to ovines (less than 4 months)
- 1 *Challenge*: why would there be a need to teach that 3 months of gestation isn't viable?
 - (a) *Therefore*: must be referring to bovine → doesn't birth at 7 months
 - 2 *Answer*: perhaps need to teach that 3 months isn't viable; קמ"ל – 2 months early is viable
- h *שמואל*: if she births a לילית (human face with wings) – טמאה לידה; it is a וולד, but has wings
- i *Supporting ברייתא* יוסי reports that such a case came to חכמים and they ruled it a וולד
- 1 *And*: if a וולד looked like a snake, חנינא, יהושע, ר' יוסי's nephew, ruled her to be טמאה
 - (a) *Story*: ר' יוסי told ר' יוסי about this, and he ordered ר' יהושע to come with his nephew (to יבנה)
 - (b) *As*: they were traveling, חנינא, ר' יוסי's daughter-in-law came and asked ר' יהושע about such a case
 - (i) *And*: he answered that such a woman is טהורה
 - (ii) *However*: she told him that her mother-in-law (ר' חנינא's wife) told her, in ר' יהושע's name – טמאה
 1. *And*: he had provided a reason – since its eye is oval like a human eye
 2. *Whereupon*: ר' יהושע remembered his own ruling and notified ר' יוסי that his nephew had been following his ruling when he ruled לידה טמאה
 3. *Lesson (אבני)*: when a ת"ח issues a ruling, he should provide an argument; he can be reminded of it and remember his own ruling (and the rationale)