

# **CHAVRUTA**

## **SHABBAT – DAF KUF LAMED VAV**

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The Gemara challenges this deduction: If so, **how can we circumcise him** on Shabbat? Any given baby might be a *nefel* (a “still-born”, a baby who is considered as dead since he will not survive, and therefore there is no mitzvah to circumcise him). And one would be making a wound on Shabbat without it being a mitzvah!

The Gemara answers: **Said Rav Adda bar Ahavah: We circumcise him whatever way you wish** to look at it.

**If he is full term and considered alive, it is right to circumcise. And if not, one is merely cutting dead flesh** which is not considered as wounding.

The Gemara raises another difficulty: **But** what about **that which was taught in a Baraita**: If there is **a doubt** whether **he** (a baby) **is of** a **seven** months pregnancy and considered alive, and **a doubt** whether **he is of** an **eight** months pregnancy and not considered alive,<sup>1</sup> **we do not desecrate Shabbat on his account.**

**Why not? Let us circumcise him whatever way you wish** to look at it.

Because **if he is considered alive, it is right to circumcise him, and if not, one is merely cutting dead flesh?**

The Gemara answers: **Said Mar the son of Ravina: I and Rav Nechumi bar Zachariah explained it: To circumcise, we indeed circumcise him.**

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<sup>1</sup> The Gemara says that a baby born after seven months will survive, while a baby born after only eight months will not survive.

## **PEREK 19 – 136A**

And when the Baraita says we do not desecrate Shabbat for the baby, **we need** to say this **concerning preparations for circumcision, and according to Rabbi Eliezer** who says, at the beginning of the chapter, that all preparations for a regular circumcision supersede Shabbat. However, one cannot make preparations involving work when we are unsure whether the baby is considered dead or alive, because according to the possibility that he is considered dead, there is no mitzvah in doing these preparations.

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**Said Abaye:** This statement of Rav Ada bar Ahava, that a *nefel* is considered dead and that it is no transgression to wound him on Shabbat, **is** actually the subject of a **disagreement between the Tannaim** of the following Baraita:

The Baraita begins with the Torah verse: “**And if** (an animal) **dies** (naturally), **of an animal that is for you for food, he who touches its carcass will be impure until evening.**” It is implicit in this verse that an animal that did not die naturally, rather it was slaughtered in a kosher way, does not have impurity.

The first Tanna of the Baraita (the Rabbis) infers from the words “For food,” that this is **to include** an animal born **after** only **eight** months, **which its slaughtering does not make it pure.** Since it is not “for food,” even if it is slaughtered it is impure and a *neveilah*.

But **Rabbi Yosi b’Rabbi Yehudah and Rabbi Elazar b’Rabbi Shimon** disagree and **say: Its slaughtering makes it pure** and it is not a *nevilah*.

**Are they not disagreeing about this** same point? **That one master holds that it** (the eight month pregnancy animal) **is** considered **alive**, and therefore if it is slaughtered its flesh is pure.

## PEREK 19 – 136A

**And one master holds that it is considered dead**, and therefore even if it is slaughtered its flesh is impure like that of a *neveilah* (an animal that died naturally).

The Gemara rejects Abaye's proof: **Said Rava: If so, when they argue concerning the matter of impurity and purity, they should rather argue** over a more basic point, **concerning the matter of eating** its flesh? For if it is indeed a *neveilah*, it may not be eaten at all.

**But** it is obvious **that everyone** holds that **it is considered dead** and that it is forbidden to eat.

**And** here they are arguing as follows: **Rabbi Yosi b'Rabbi Yehudah and Rabbi Elazar b'Rabbi Shimon hold** that the *nefel* is like *treifah* (an animal that has a defect that will make it die within twelve months, which is forbidden to eat).

Therefore, just like *treifah*, which **even though it is considered dead, its slaughtering makes it pure** and its flesh does not impart impurity,<sup>2</sup> **here too** in the case of the *nefel* it is **no different**.

**And the Rabbis** hold that a *nefel* is **not comparable to a treifah**, because a *treifah* had **a time of fitness** before it got the defect that made it *treifah*. Previously, it had the ability to become pure and even permitted as food through kosher slaughtering. Therefore even after it becomes *treifah*, slaughtering saves it from being a *neveilah*.

**But this nefel never had a time of fitness.**

**And if you say:** What about a *treifah* that had its disqualifying defect already in the **womb** of its mother? **What can you say?** Will you say that such a *treifah* does become *neveilah*?

## **PEREK 19 – 136A**

The Gemara answers: **There** in the case of an animal that was *treifah* from birth, **there is** effective **slaughtering in** others of **its kind**. Other *treifah* animals are pure if they are slaughtered, so this animal too will be pure.

**But here**, in the case of the *nefel*, **there is no slaughtering in** others of **its kind**. For every *nefel* is considered dead at birth.

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**They** the scholars of the study hall **posed an inquiry: Do the Rabbis differ with Rabban Shimon ben Gamliel**, who holds that an animal is only free of the suspicion of *nefel* if it lives eight days?

**Or** do they **not** disagree?

And **if you say that they do differ, is Halachah like him or is Halachah not like him?**

**Come and hear:** The Baraita says: **A calf that was born on Yom Tov, we slaughter it on Yom Tov** (and is not *muktzeh*, because when Yom Tov came in, it was fit to eat as part of its mother). And we do not suspect that maybe it is forbidden to eat because it might be a *nefel*. Rabban Shimon ben Gamliel obviously disagrees with this, because he suspects that every animal is a *nefel* until eight days have passed. Therefore this statement must be the view of the Rabbis who disagree with Rabban Shimon ben Gamliel.

The Gemara rejects the proof: **Here, what case are we dealing with? That we know concerning it** (the animal) **that it completed its months** of pregnancy, and was born at full term. Thus it is certainly not a *nefel*.

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<sup>2</sup> See Rashi who explains that this is inferred from the above verse.

## **PEREK 19 – 136A**

**Come and hear** another proof that the Rabbis disagree.

Rabbi Yehudah forbids examining a firstborn calf on Yom Tov. A firstborn animal is forbidden to gain benefit from, since it is designated to be a *bechor* offering. On Yom Tov, it may not be examined to see whether it has a blemish that removes its firstborn prohibitions and permits us to benefit from it and eat it. For permitting it would be like “fixing” the animal, which until now was presumed forbidden. Rabbi Shimon allows this examination.

**And they agree that if it** (the calf) **was born with its blemish, that it is** considered **ready** to be used on Yom Tov to begin with, and it is not considered as if one “fixed” it on Yom Tov. Rashi explains that judges saw the blemish at the moment of birth so that there was not one moment when it was presumed unfit to use.

Here too, we see that the Baraita is unconcerned that the calf might be a *nefel*. For otherwise the examination alone would not be enough to permit it; it would still be suspected of being a *nefel*. This Baraita must be expressing the view of the Rabbis who disagree with Rabban Shimon ben Gamliel.

The Gemara rejects this proof as well: **Here too** the case is **that it completed its months** of pregnancy.

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**Come and hear** another proof: **That said Rav Yehudah said Shmuel: Halachah is like Rabban Shimon ben Gamliel.**

We infer from this: **Because he said, “Halachah is like Rabban Gamliel,” it shows that they** (the Rabbis) **differ** with him.

## **PEREK 19 – 136A**

The Gemara concludes: **Hear from this** that they indeed differ with him.

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The Gemara now defines the cases in which the Rabbis disagree.

**Said Abaye:** If **he** (an animal less than eight days old, or person less than thirty days old) **fell from the roof or was eaten by a lion, everyone agrees** that we presume they were born after full term, since most pregnancies are full term. Therefore they all agree that if such an animal is slaughtered, its flesh is permitted. And if a human dies in such a manner, its mother will be exempt from *chalitzah*. For she had a viable child, who later died due to an accident.

**They argue when he** (the person or the animal) **yawned** after birth, showing a slight sign of life, **and then died.**

One **master holds the view: He is** considered **alive** until it died. **And one master holds the view: He is** considered **dead** even before he dies.

**What is the difference** between the two opinions?

**To exempt** his mother **from yibum** and *chalitzah*.

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The Gemara challenges Abaye's statement:

**If it fell from the roof or was eaten by a lion, is it alive according to everyone?**

## **PEREK 19 – 136A**

**But Rav Papa and Rav Huna the son of Rav Yehoshua visited the house of the son of Rav Idi bar Avin, and he made (slaughtered) for them a third grown calf on the seventh day** after its birth.

**And they** (Rav Papa and Rav Huna) **said to him: If you had waited for it until evening** before slaughtering it, **we would have eaten from it** because a part of the eighth day is considered as a full day. But **now** that you did not wait, **we will not eat from it.**

This proves that they were concerned about Rabban Gamliel's opinion even in a case where the animal was slaughtered (which is like falling off a roof), and this contradicts Abaye.

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Therefore the Gemara explains the argument between Rabban Gamliel and the Rabbis differently:

**But if it yawned and died, everyone agrees that it is considered dead** from birth.

**And they argue when it fell from a roof or was eaten by a lion.**

One **master holds** that **it is** considered **dead** even before the accident, **and** one **master holds** that **it is** considered **alive** until dying from the accident.

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The Gemara brings two stories to illustrate what was said earlier - that Rabban Gamliel says his rule only if we are unaware whether the animal reached full term before birth.

**A baby was born to the son of Rav Dimi bar Yosef and died within thirty days.**

## **PEREK 19 – 136A**

**He sat and mourned over him.**

**His father** (Rav Dimi) **said to him: Do you want to eat dainties** that are fed to a mourner? (I.e. you are not Halachically considered to be in mourning, so why are you acting so?) We rule like Rabban Shimon ben Gamliel, that if a child dies before thirty days it is regarded as dead from birth.

**He said to him: I know concerning him that he finished his months** and was born to full term.

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**Rav Ashi visited the house of Rav Cahana. Something** (mourning) **befell him** for a baby that died **within thirty days**.

**He saw him** (Rav Cahana) **that he was sitting and mourning over him.**

**He said to him: Does the master not hold like that which Rav Yehudah said in the name of Shmuel, that Halachah is like Rabban Shimon ben Gamliel?**

**He said to him: I know concerning him that he finished his months** and was born to full term.

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The Gemara once again emphasizes that Halachah is like Rabban Shimon ben Gamliel:

**It was stated** regarding a case in which a man died childless, but leaving his wife pregnant. She gave birth, and the baby died shortly thereafter. Considering herself exempt from *yibum* and *chalitzah* (since she had given birth to her late husband's child) she then



## **PEREK 19 – 136B**

became betrothed to another man: **If it (the baby) died within thirty days, said Ravina in the name of Rava:**

### **Ammud Bet**

**If** the first husband died and the mother is now betrothed to be **the wife of a Yisrael** (a regular Jew), **she** needs to **receive *chalitzah*** in order to make her permitted to marry her second husband. This is because Rabban Shimon ben Gamliel regards such a baby as a *nefel* and as dead from birth.<sup>3</sup>

But **if** in that second marriage **she is** to be **the wife of a kohen**, to whom *chalitzah* would make her forbidden (since a kohen may marry neither a divorced woman nor a woman who received *chalitzah*), **she does not receive *chalitzah*** — and we rely on the view of the Rabbis that such a baby is not considered a *nefel*.

**And Rav Sharvaya said in the name of Rava: Both this one, and both that one, receive *chalitzah*.** For we always rule like Rabban Shimon ben Gamliel.

**Said Ravina to Rav Sharvaya:** According to you, Rava contradicts himself. Do you want to say that **in the evening Rava said like this** as you say in his name, and **in the morning he changed his mind** and said as Ravina says earlier?

**He** (Rav Sharvaya) **said to him** (Ravina): Do **you permit her** to marry without *chalitzah* just because she is betrothed to a kohen? If so, **may it be Hashem's will that you permit people to eat forbidden fat!**

## **PEREK 19 – 136B**

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The Mishnah said: **Rabbi Yehudah allows** one to circumcise an *androgonus* (hermaphrodite) on Shabbat.

**Said Rav Shizvi said Rav Chisda: Not for every halachah did Rabbi Yehudah say that a hermaphrodite is like a male. Because if you say that, then concerning *erchin*,**<sup>4</sup> if someone says, “I accept the value of a hermaphrodite on myself,” **would he have value that must be given to the Temple?**

**And from where do we know that he has no value regarding *erchin*?**

**Because it is taught in a Baraita:** “And your value (*erech*) will be, for *the male*.... The article “the” comes to exclude **and** tell us, **not a *tumtum*** (someone whose genital organs are covered and his gender cannot be determined) **and not a hermaphrodite.**

**You may think that he (the hermaphrodite) does not have the value of a man, but will be judged with the value of a woman.**

To teach you that this is not so, **the verse says: “The male,”** and it writes afterwards, **“And if she is a female.”** The extra phrase “and if” excludes a *tumtum* and hermaphrodite.

**A definite male, a definite female, and not a *tumtum* or hermaphrodite.**

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<sup>3</sup> Because the rabbis decreed that *chalitzah* is like divorce. She cannot remarry until she receives *chalitzah*.

<sup>4</sup> If one vows to give a person’s value (*erech*) to the Temple, the Torah prescribes how much a man, woman, child etc. are worth.