Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Bechoros Daf Mem Beis

VACHACHOMIM OMRIM EINO BECHOR…

- **R' Chisda** said, the machlokes is only regarding an androginas, but with regard to a tumtum all would agree that it is a safek and therefore has kedusha out of doubt.
    - **Q: Rava** asked, if so, a tumtum should have an "eirech" value, and yet a Braisa says that "hazachar" comes to exclude a tumtum and an androginas from eirech vows!? **A:** The word "tumtum" should be removed from the Braisa.
    - **Q:** The Braisa continues and says, we would think that he doesn't get the valuation of a man but should get the lower valuation of a woman. The pasuk therefore says "hazachar…ihm nekeiva", which teaches to exclude a tumtum and androginas. The Braisa clearly excludes a tumtum!? **A:** The word "tumtum" should be removed from the Braisa.
    - **Q:** A Braisa says, the pasuk regarding a shelamim says "ihm zachar ihm nekeiva", which teaches that only a definite male or female can be offered, but not a tumtum or androginas. We see that a tumtum is specifically excluded by the pasuk!? **A:** The word "tumtum" should be removed from the Braisa.
    - **Q:** A Braisa regarding an olah says "zachar" which teaches to exclude a female. The pasuk later again says "zachar", which comes to exclude a tumtum and androginas. The Braisa clearly excludes a tumtum!? **A:** The word "tumtum" should be removed from the Braisa.
    - **Q:** A Braisa regarding melika of a bird korbon lists a number of things that would make the bird passul for a korbon and would therefore make it neveila. Among the list is a tumtum. **R' Elazar** says that since the pesukim regarding bird korbanos do not say "zachar" or "nekeiva" we do not exclude a tumtum. We see that tumtum is considered to be its own gender, not like **R' Chisda** said!? **A:** The word "tumtum" should be removed from the Braisa.
    - **Q:** A Mishna regarding temurah clearly includes a tumtum in the list of animals that can't become kadosh! **A:** The word "tumtum" should be removed from the Mishna.
    - **Q:** A Braisa says, **R' Elazar** says there are 5 animals that cannot become kadosh, and lists tumtum as one of the 5. Here, you can't say to remove tumtum from the list, because that will leave only 4!? **A:** Remove tumtum from the list and instead insert an animal that was born as an orphan.
    - **Q:** Maybe we can say that whether a tumtum is a safek is actually a matter of machlokes among Tanna'im. A Braisa says, **R' Illai in the name of R' Yishmael** says that an androginas is a bechor but it has a definite mum. The **Chachomim** say that such an animal does not get kedusha of a bechor. **R' Shimon ben Yehuda in the name of R' Shimon** says, the pasuk says "hazachar" and whenever the pasuk says "zachar" it comes to exclude a tumtum and androginas. It seems that they argue in whether a tumtum is its own gender!? You can't say to remove tumtum from the Braisa, because then **R' Shimon ben Yehuda** is saying the same thing as the **Rabanan**!? Rather, it must be that they argue regarding tumtum – the **T"K** holds that the kedusha of bechor does not take effect on an androginas, but with regard to a tumtum they are unsure. **R' Shimon ben Yehuda** comes and says that a tumtum is its own gender and kedushas bechor definitely does not take effect on it! **A:** Really we can say that all agree that a tumtum is not its own gender, and the question is whether it is considered male or female. Now, when it urinates from the area of a man's organ all would agree that it is a male. The machlokes is when it urinates from the area of the female organ – the **Rabanan** hold that we need to be concerned that it is a male and its organ is bent back to that area, whereas **R'**

Shimon ben Yehuda holds we do not have to be concerned about that (the result is that the **Rabanan** have a case of tumtum which is a safek but **R' Shimon ben Yehuda** does not). **R' Shimon ben Yehuda** holds like **R' Illai** who said that if a firstborn animal urinates from the area of the female organ, it is chullin (because it is certainly a female).

- **R' Yochanan** wondered regarding the psak of **R' Illai** – how can he have ruled that way in contrary to the **T"K and R' Yishmael** (who hold that a tumtum is a safek)!?
    - **Q:** Why didn't **R' Yochanan** ask that he seems to rule contrary to the **Rabanan** of our Mishna as explained by **R' Chisda** who said that all agree that a tumtum is a safek? **A: R' Yochanan** did not agree with the explanation of **R' Chisda** and therefore held that the **Rabanan** hold a tumtum is not a safek.
        - **Q:** If so, **R' Yochanan** should realize that **R' Illai** ruled in accordance with the **Rabanan** of the Mishna!? **A:** He was asking, how can he have chosen to follow the view of one instead of the view of 2 (the **T"K and R' Yishmael**).
        - **R' Illai** holds like **Reis Lakish**, who says that the view that a tumtum is a safek is only for a human tumtum, since in humans the male and female organs are in the same area. However, in animals, where they are far apart, we can say with certainty that based on how it urinates it is either a male or a female.
            - **Q: R' Oshaya** asked, why are we not concerned that even when it urinates from the area of the female organ it may be a male with an organ that is bent back to that area? **A: Abaye** said, since that is unlikely it would only be a concern according to **R' Meir** who is concerned for the minority possibility.
            - **Q: Abaye bar Avin and R' Chananya bar Avin** both said that even according to the **Rabanan** who argue on **R' Meir** it may be that we say that since this animal has changed from the normal animal (in that it is a tumtum) it is changed from the norm and its male organ is bent back to the area of the female organ!? **A:** The Gemara says that there is an opinion that we need to be concerned for this (the **Rabanan** who argue on **R' Shimon ben Yehuda**) and there is an opinion that we need not be concerned for this (the view of **R' Shimon ben Yehuda** and **R' Illai** holds like him).
            - **Q:** Maybe we can say that whether we say that once something has changed it changes in other ways too, is actually the subject of a machlokes Tanna'im. A Braisa says, if a tumtum is mekadesh a woman it is an effective kiddushin. If a man is mekadesh a tumtum, the kiddushin is effective. A tumtum also does chalitza (if his brother died without children) and chalitza is done to his wife and yibum is done to his wife (if the tumtum died without children). Another Braisa says that we do chalitza to his wife, but not yibum. It was thought that all agree with **R' Akiva** who says that chalitza or yibum is not done to the wife of a "sris chama" (a man who is sterile from birth). Presumably, we can say that the machlokes is that the first Braisa says we don't say that just because he is different (in that he is a tumtum) we are concerned that he is different in other ways as well (and say that he is a sris chama), whereas the second Braisa says that we are concerned for that! **A:** It may be that all agree that once something is different we must

be concerned that it is different in other ways as well. The machlokes is that the first Braisa holds like **R' Eliezer** (who says that chalitza and yibum are done to the wife of a sris chama) and the second Braisa holds like **R' Akiva**.

- **Q:** Who is the Tanna that holds like **R' Akiva** but also holds that chalitza is done to the wife of the tumtum? It can't be **R' Yehuda**, because he says in a Mishna that if a tumtum's cover (over his organ) is torn open and he is found to be a male he should not do chalitza, because he is a sris!? **A:** Rather, it is **R' Yose the son of R' Yehuda** who says in a Braisa that a tumtum should not do chalitza, because maybe his covering will be removed and he will be found to be a sris chama (we see that he doesn't say the tumtum is a definite sris chama).
    - **Q:** Why don't we consider the possibility that the tumtum will be found to be a female? **A:** He means that the covering may be removed and it will be found to be a female, and even if it is a male he may be a sris chama.
    - **Q:** They both say that the tumtum should not do chalitza, so what is the practical difference between their views? **A: Rava** said, it would be whether if the tumtum did chalitza and there were other brothers who wanted to do yibum (**R' Yehuda** holds his chalitza is meaningless and they can still do yibum), and whether the tumtum must do chalitza when he is the only surviving brother (according to **R' Yose** he would have to do chalitza).

HADRAN ALACH PEREK AHL EILU MUMIN!!!