



## Yotzei Dofen

The *Mishnah* debates the status of a woman who gives birth via caesarean (*yotze dofen*) and whether it shares that same status as natural childbirth (*derech rechem*). The consequence, in the context of our *Mishnah*, is whether the mother is defined as a *yoledet*. If she is, then the periods of *tumah* and *tahara* that follow would apply, along with the *korban* she must to bring at the end of the *tahara* period. The *Chachamim* understand that the mother would not be considered as a *yoledet*, while R' *Shimon* disagrees.

The *Gemara* explains that both opinions are based on *pesukim*. The *Chachamim* explains that when the *Torah* teaches the law of the *yoledet* it writes, "When a woman conceives and gives birth..." (*Vayikra* 12:2), it connects the method of childbirth to the manner of conception<sup>1</sup>. R' *Shimon* however understands that the *pasuk* is expanding the definition of the *yoledet* to include certain cases of miscarriage.

R' *Shimon* however learns his position from the later *pasuk* "and if she gave birth to a girl..." (*Vayikra* 12: 5). In that context, the word "*teled*" (gave birth) is superfluous. He therefore understands it is there to include all manner of birth. The *Chachamim* however understand that since the *pesukim* only discuss a male or female child, *teled* is there to include other children – the *tumtum* and *angroginus*.

The *Ritva* however finds the flow of the *Gemara* difficult. What would be the assumption without any *pesukim*? When the *Gemara* asks for the source of the *Chachamim*'s position, it appears that the basic assumption is that a *yotzei dofen* would be no different unless there was a *pasuk* to exclude it from certain laws. Yet, the *Gemara* then continues by asking for a source for R' *Shimon* position. If the basic assumption is that it is no different, then a *pasuk* would be unnecessary.

The *Ritva* explains that the basic assumption is that *leida* is only *derech rechem*. The reason the *Gemara* asked for a source for the *Chachamim* is because it was aware that the *Chachamim* use the term "*teled*" to include a *tumtum* and

*androgenus*. That being the case, the *Gemara* was questioning why it would not also include a *yotze dofen*.

From the *Tosfot* however it appears that the basic assumption is the opposite – a *yotzei dofen* is equivalent to *derech rechem*. The *Tosfot* also asks why the *Chachamim* required a *pasuk*. The *Chachamim* could have simply connected a *yoledet* to the laws of *bechor*, a first-born animal, where there it is clear that a *yotzei dofen* would not be brought as a *korban*. The *Tosfot* answers, that were it not for the *pasuk* cited in the *Gemara*, the *Chachamim* would have preferred to learn from the *pasuk* "*teled*" drawing the same conclusion as R' *Shimon*.

Interestingly, the *Aruch LaNer* understands we find these two understandings behind another debate. The *Gemara* (*Bechorot* 47b) records a debate whether a first born who was a *yotze dofen* is considered a *bechor* for the laws of inheritance (such that he receives a double share). The *Chachamim* understand that he is not since the *Torah* writes "*yaldu lo...*" (and they bear him sons). *Rashi* understands that the *Chachamim* maintain that since a *yotze dofen* is not considered *leida* (birth), the *bechor yotze dofen* does not qualify for *yaldu lo*. The *Tosfot* however ask that we learn from our *Gemara*, that it is only because the *Torah* used the term "*tazria*" that excluded a *yotzei dofen* for a *yoledet*. The *Tosfot* therefore understand that the *Chachamim* must exclude a *bechor yotze dofen* by way of a *gezeira sheva* – common terms used – that connected our *Mishnah* to the laws of *bechor*. How do we understand this debate?

The *Aruch La'Ner* explains that *Rashi* understands like the *Ritva* above that the basic assumption is that a *yotze dofen* is not considered *leida*. That is why the term *yaldu lo* is enough to exclude a *bechor yotzei dofen*. The *Tosfot* are however consistent with their position in our *Gemara*. Since the basic assumption is that a *yotze dofen* is considered *leida*, the term *yaldu lo* alone would not exclude a *yotzei dofen*. Consequently, the *Tosfot* understand that a *gezeira shava* must have been employed.

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<sup>1</sup> R' *Chananel* (*Chagigah* 16a) learns that the manner of conception is also important for the definition of a *yoledet*. He understands that the word *tazria* teaches that to fall under the definition of *yoledet* the conception must be

way of *bi'ah*. Accordingly, in a modern context, a child born through artificial insemination would not define the mother as a *yoledet*. See *Ritva* (*Nidah* 40a), *Mosad HaRav Kook*, footnote 5.

**Revision Questions**

נידה ג' ר' – ה' :ה'

- What is the law regarding a *mapelet*:
  - But is unknown if it is male or female?
  - But is unknown if it is a *vlad* or not? (ר' ג)
  - On the fortieth day? Forty-first day? (Regarding what does *R' Yishmael* argue?) (ר' ג)
- From what age are *bnot kutim* treated as *nidot*? Why? (ר' א')
- Explain the following: כְּעֶלְיוֹן תְּחַתּוֹן מְשֻׁבָּב מְטַמְּאִים מְשֻׁבָּב תְּחַתּוֹן כְּעֶלְיוֹן? Why? (ר' א')
- Explain the debate regarding when *bnot tzedukim* have the same law as *bnot kutim*. (ר' ב')
- Explain the debate regarding *dam nochrut*. (ר' ג')
- What else is debated in the same manner? (ר' ג')
- Explain the debate regarding *dam yoledet shelo tavla*? (ר' ג')
- What is the law regarding the *tumah* of a *yoledet b'zov*? (ר' ד')
- What is a *yoledet b'zov*? (ר' ד')
- What is the *zman kishuya*? (Include all opinions.) (ר' ה')
- Regarding what cases is there a debate whether *dam kishuya* can be *tahor*? Explain that debate. (ר' ו')
- When is an *isha b'chezkat tahara*? (ר' ו')
- What is the law regarding on that does not check at the time of her *veset*? (ר' ו')
- In what case does *R' Meir* argue? (ר' ו')
- Explain the debate regarding a *yotze dofan*. (ר' ז')
- What is the difference between when a *zav* and *nidah* become *tameh*? (ר' ח')
- What is the *shiur* for *tumat zav*? (ר' ח')
- For what ages can one become *tameh nidah*? *Zava*? (ר' ט')
- What are the eleven laws listed in the *Mishnah* that apply to a one year old? (ר' ט')
- What are the laws listed that apply to a three years old girl? (ר' י')
- What are the laws listed that apply to a nine year old boy? (ר' י')

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Nidah 5:6-7	Nidah 5:8-9	Nidah 6:1-2	Nidah 6:3-4	Nidah 6:5-6	Nidah 6:7-8	Nidah 6:9-10

