



לע"נ ברוך בענדיט ובורה גרוס ע"ה
by Mr. & Mrs. Duvy Gross

The Hakuk Edition **English Topics on the Daf**

Dedicated l'refuah sheleima for Yaakov ben Victoria

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THE EIGHTH PEREK OF YEVAMOS IS DEDICATED:

לזכר נשמת שלמה בן יהושע והחבר דוד בן החבר מרדכי

DAF 83 IS DEDICATED

L'REFUAH SHELAIMA AVRAHAM BEN SHOSHANA

Yevamos Daf 83

Androginus

This unfortunate condition, discussed on our daf, is mentioned throughout Shas. The final psak is quite a debate, though.

The Rambam writes that one with both organs is a "safek," a doubt. He goes on to say that a tumtum is also a safek (Hilchos Ishus 2:24). Are they the same safek? Not necessarily – Tosfos HaRosh (Nidda 28) explains that they are in different categories since their "doubt" is different. The gender of an androginus cannot be determined. A tumtum, on the other hand, is certainly either male or female; just we don't know which it is. If at a later date the area is opened then the gender will be clear.

To illustrate, there's a Gemara which differentiates between them concerning blowing a shofar. An androginus may blow for others who have a similar condition, but a tumtum may not. Why? Because we don't know the gender of any of the tumtums, in the meantime. Since one may

be female and the other a male, neither one can blow the shofar for the other. This is the halacha (O.C. 589:4).

Another opinion about androginus is the Raavad's. On that halacha about shofar (Hilchos Shofar 2:2), he comments that it's dependent on one's understanding of the status of androginus. The halacha would be true according to the classification of "a creation of its own," but not if it's considered half male, half female. With the second view, he would not be able to blow the shofar for other similar people, comparable to the Gemara's paradigmatic half servant/half free man (mentioned next in Siman 589).

Ramban (here, in Ritva) takes the Gemara's expression literally – a creation that stands alone, neither male nor female.

If an androginus is mekadesh a woman or receives kiddushin from a man, it is a safek kiddushin. A get is needed for the other person to marry anyone else. This is

the psak of the Shulchan Aruch, like the Rambam above, that androgynus is a questionable gender. But the Rema adds that some say it has the status of a male (E.H. 44:5). Rashi and Tosfos in our sugya hold like this, since “the halacha is like R’ Yosi” of our Mishnah.

A most intriguing view is brought by the Magen Avraham in the name of the Rif, that androgynus are sometimes male and sometimes female! Thus, regarding blowing the shofar, one androgynus cannot exempt another one if they are displaying differing genders at the time. The Be’er Heitiv notes that “some people say they are male one month, female the next.” However, the poskim are up in arms over this: it sounds bizarre, the sources in Chazal do not indicate such a thing, we can’t find the Rif saying this, and so on (see commentaries on O.C. 589:4).

The most practical application of this debate is how to determine a child’s gender and then surgically remove the opposing gender segments. Many teshuvos address this, taking the particular details of each case into account. Just a sampling:

The late Dr. Shusheim asked the Tzitz Eliezer about a baby born with no visible male organs, mostly female chromosomes, and yet with one genital hidden within (and male genes). The question was if they may surgically remove the latter and make the baby completely female. The Tzitz Eliezer responded that they may. Since the outward appearance is female, that already decides the essential gender and this is not an androgynus. Since such a person cannot bear children, sirus (emasculation) is not an issue; some poskim permitted operations of this kind even for a real androgynus (i.e. with both male and female organs fully developed).

He comments that if surgery is done on androgynus, it’s actually preferable to remove the female parts and ascertain a male status, for several reasons enumerated there (Vol. 11:78).

Shevet Halevi dealt with several such questions (6:149; 9:267), and in cases of certain androgynus was reluctant to permit surgery. The situations he addressed concerned babies with clearly female inner organs and barely formed male ones. He inclined to ascribe female status to them, after stressing again and again that they must ascertain that no male organs are present inside. His position mirrors the Tzitz Eliezer’s to some degree, although he wrote that the inner organs are crucial, as opposed to the outer appearance defining the gender.