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Mădălina Vârtejanu-Joubert

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The Right Type of Knowledge: Theory and Experience in Two Passages of the Babylonian Talmud

Madalina Vârtejanu-Joubert

The rabbinical construction of the genre, the metaphorization of the feminine body and especially the significance of the niddah have been the object of numerous scholarly analyses, such as those of Charlotte Elisheva Fonrobert, Judith Baskin, Cynthia Baker and, most recently, the study of Evyatar Marienberg. Though not attempting to relate them, some of these works also focus on the two Talmud passages which have drawn my attention and which I mean to analyze in the following pages.

The passages in question, Bekhorot 45a and Niddah 30ab, highlight an experimentation whose object is the womanly body. Or, my attention is drawn by this very aspect of “experimentation” because I consider it is interesting to examine the way in which rabbis conceive the relation between theoretical acquisition and empirical observation. When knowledge of the human body is at stake, the fact that this one is sexually constructed immediately raises the question of unity and difference, a question which rabbis want to solve in their own terms. My inquiry will follow the trajectory of the text in the attempt to create a way of demonstration which starts from the precept, goes on to look for proofs in observation and finally returns to generalization. Therefore, my paper aims to describe a way of thinking, a manner of producing theoretical data meant to guide the practice. Such a key-topic is the distinction between femininity and masculinity: what is it that defines a woman and what is it that defines a man? How can one acknowledge each of them and under what circumstances are they acknowledgeable? Those interrogations meet the modern concept of science only partially and never completely especially since the methods and theoretical devices of the Rabbis are not identical to those of contemporary physicians or biologists.

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1 This paper is a revised version of the communication given at the colloquium “Women in Medicine, Medicine for Women”, organised by Ilana Zinguer and Avner Gilad from the University of Haifa, on January 2-5 2006. I am grateful to the organizers and the Korot editors for the invitation they addressed to me. I am especially indebted to Prof. Mark Geller (University College London), for his questions and remarks, especially on a sensitive epistemological topic – the fictional character of the Talmudic stories. His fine knowledge of Akkadian, Greek and Talmudic medicine was also very valuable to me. My special thanks are addressed to Dana Mihailescu from the University of Bucharest, who provided the English version of this paper.

In this respect, the possible fictional character of the two stories is a secondary parameter. Of course, it will be interesting to emphasize, when possible, the degree to which the story corresponds to “reality” but, as we shall see, this inadequacy is difficult to assess. Fiction is not devoid of documentary value, especially when our search is centered on mind, thinking or demonstration: in this case, fiction provides us with the current model. The Talmudic stories have also the particular trait that they legitimate or establish a rule, in our case the rule for manipulating and avoiding masculine and feminine impurity.

Before going further, it is useful to sum up two main points which initially relate the two passages:

1. On the one hand, there is the literary allocation of the plot to Rabbi Ishmael, a much celebrated Tanna of the first and second centuries who was also contemporary with and an opponent of Rabbi Akiba. In fact, the two rabbis are mainly related by the dispute they started on the issue of exegetic norms. Both in Bekhorot 45a and Nidda 20ab, it is Rabbi Ishmael’s opinion around which the rabbinical debate organizes itself for generations of Tannaim and Amoraim. In this sense, it is interesting to see to what degree Rabbi Ishmael’s thought as known from other sources can help us to understand the two contexts which we focus upon here.

2. On the other hand, there is the defiance to know the inside of the human body under conditions of restrictive exams. As Salvatore Principe proved in his book on the anatomy of the Mishna\(^3\), palpation prevails in the production of knowledge on the human body. The passages we will analyze represent an exception to the rule as they relate a human dissection or maybe even a human vivisection. As is well known, cutting the human body, dead or alive, was prohibited throughout Antiquity and until the Renaissance with one noticeable exception: Herophilus of Alexandria (4\(^{\text{th}}\) century B.C.). The main source of human anatomy knowledge was, by association, the animal dissection (as Aristotle and Galen recommended, for example). This interdiction also operated in Jewish culture which considered that the human being represented the image of God. Nevertheless, in this latter case the Rabbis chose dissection as a story maker and a debatable proof device. Did they “really” dissect or did they only make a script of it? Rabbis did not have an adequate knowledge of the female body (see articles by

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Tirza Meacham⁴). But errors were also noticed in Herophilus’ anatomical descriptions and this makes one point of scholarly issue concerning the authenticity of Alexandrian human dissection/vivisection⁵.

1. Bekhoroth 45a

For the moment, let us return to the Talmudic text and start from the context given by the excerpt in Bekhoroth 45a: The Mishna establishes the physical criteria which determine the purity or impurity of a priest and, consequently, disqualify one from the right to perform religious services. The point of departure is nothing less than the utter perfection of the priest’s body and, in keeping with logics, the defaults which open that perfection to doubt. At the side of “functional” defaults (knees which knock against each other etc), a certain number of interdictions concern “structural” defaults, i.e. the surplus or lack of certain parts of the body (an extra finger, a broken finger, etc.). Thus gets engaged a whole process of counting especially drawn in order to quantify the human body and, by that very fact, in order to assess its own perfection or simply its “normalcy”. Therefore, in the Guemara following this mishna, the discussion is structured around the impurity that a broken finger can impose on the person who touches it as well as on the tent. In this way, one can easily notice how the center of interest moves away from the living body of the priest towards the dead body or dead parts of anyone’s body. Following this logic, the Guemara introduces a baraita which mentions the rules of counting in relation to the impurity of the body: as known from the Mishna Ohalot 2.1, “the largest part of a corpse and the majority of its limbs, even if there isn’t a quarter of a kab of bones, make the tent impure”. Then the tanaïtic commentary of the baraïtha specifies the concrete significance of these unities of measure: the “largest part of a corpse” is represented by “two legs and a thigh” and the “majority of its limbs” by number 125⁶.


⁵ The ancient reports that Herophilus conducted dissections and, particularly, vivisections on human subjects have, however, met with considerable scepticism on the part of some scholars, who point to the enduring nature of traditional Greek inhibitions and to Herophilus’ failure to make certain observations which, they argue, any vivisector ‘inevitably’ would have made”: Heinrich von Staden, Herophilus. The Art of Medicine in Early Alexandria, New York, Cambridge University Press, 1989, p. 142.

⁶ According to Mishna Ohalot 1.8, the full number of human limbs is 248. The most usual rabbinc definition of a “limb”, ever, is: bone, sinews and flesh (but for example the membrum virile is also considered a limb), see Principe, op. cit., p. 11. In Nedarim 32b a midrash explains this number by the gematria of the name of Abraham: 1+2+200+5+40 = 248. The “majority” of human limbs are then “half plus one”: 124+1 = 125. Another midrashic explanation pertaining to Rabbi Simlai, links the number of limbs to the number of negative precepts; addition of 248 to 365 (number of solar days in the year) leads to 613 the number of mitsvot (Makkot 23b).

Both 248 and 252 (see infra) figure in some fixed formula of Aramaic magic bowls: “and all pains and vows … go forth from the two hundred and forty eight limbs of his stature – mṭtn ṣrb ṣyn ṣtmny ḥdm ḡmtḥ”
The Amoraic commentary which follows the *baraitha* is written at a much later date (if we are to believe in the Talmudic attributions, it belongs to the fifth or sixth generation of Babylonian Amoraim), but it is important in light of the final composition. The discussion between Rabina and Raba, who both lived at the end of the fourth century, brings forward the case of an individual (or was it a corpse?) who has fewer parts than the norm (for instance 200) or more parts than the norm (for example 281). In this case, whatever lacks or is in excess is automatically counted among the 125 limbs that constitute the majority. This means that even if there is no “actual” majority (e.g. 101 limbs in the first case and 141 limbs in the second) one will count 125 limbs in order to fit this “ideal” majority. The principle on whose basis the Amoraim so stipulated in light of the Mishna is the “majority principle”. In other words, in the face of the infinite diversity of possible bodily anomalies, the law takes into consideration that which is valid for the greatest number. The two Amoraim establish a gap between natural order, which they implicitly acknowledge, and legal order which is fixed by convention. I would even venture to say that what we have here is an example of becoming aware of the opposition between nature and culture: the generic man becomes identical to the social man who does not correspond to institutionalized norms but acts on their basis.

It is precisely at this point that the anonymous writer of the Talmud considers convenient to introduce another *baraitha* as to the number of parts making the human body, a *baraitha* that does not remain a generality but brings into discussion a concrete example of an exception to the rule of 248 bodily components.

Rabbi Judah related in the name of Samuel7: The disciples of Rabbi Ishmael once boiled (shlq8) the body of a prostitute who had been condemned to be burnt by the king. They examined and found 252 joints and limbs. They came and inquired of R. Ishmael: ‘How many joints does the human body have?’ He replied to them: ‘248’. Thereupon they said to him: ‘But we have examined and found two hundred and fifty-two’? He replied to them: ‘Perhaps you made the postmortem examination on a woman, in whose case Scripture adds two hinges and two doors of the womb’.

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7 That is probably Judah ben Baba, student of Samuel ha-Qatan (cca 90-110) transmitting his predecessor’s teachings, Rabbi Ishmael ben Elisha (cca 65-135).

8 The form *shlq*, interpreted by Jastrow as *shaphel* of *h*lq, has two meanings: “to make smooth/to boil” or “to divide”. Therefore we cannot establish a firm translation for this passage. On the other hand, the rabbinic punishment of “burning” consisted in pouring molten lead into the mouth of the condemned (*Mishna Sanhedrin* 7.2, 9.1).
The assertions in the Mishna must face the test of all imaginable objections. To my knowledge, the test of observation is a very rare case in the Talmud and, in this sense, I am aware of no other Talmudic passages on this issue except the two around which my essay is built. Rabbis tend to build mechanisms of demonstration that are very sophisticated, sometimes pushing the limits of plausibility very far away; yet, these intellectual actions are always deconstructed by means of a logical type of reasoning or by reference to biblical verses. In such a case theory must prove its capacity to solve any imaginable complications. By contrast, in our passage, the procedure is reversed, given the fact that theory is placed here in direct confrontation with reality.

It is difficult to know under what impulse the framework of an experimentation was created in the time of the Tannaim. Anyway, it was the womanly body which was called to play the role of the opponent to the established norm. It is proved that, after the direct examination of the female body, the number of its component parts is not identical with the traditionally inscribed one and this creates the premises of a cognitive dissonance. Rabbi Ishmael solves that dissonance not by making reference to a prostitute’s status, but by taking the distinction back to the biblical text proper. If the body of a prostitute who was sentenced to death represented a plausible object for observing a corpse, that anomaly of status is not justified by an innate anomaly. A prostitute’s corpse can be subject to manipulation but it remains witness to femininity as a general category.9

1.a Explaining the Woman Surplus: Hinges and Gates

The passage continues with three midrashim attributed to three rabbis who were contemporary with Rabbi Ishmael and who probably inspired this one’s assertions regarding the woman’s two hinges and two gates. Rabbi Eliezer compares the woman’s body to a house and relies on 1 Samuel 4.19: “she bent herself and gave birth because the hinges10 turned on top of her” (）。Rabbi Joshua establishes the same comparison by choosing, however, the verse from Job 3.10: “Because he hadn’t closed the gates of the womb where I was” (）。Getting his inspiration from his contemporaries, Rabbi Ishmael operates here a midrash halacha, the

9 Experiments using fatal drugs and performed on slaves or condemned persons were a quite usual practice in Antiquity. See Heinrich von Staden, Herophilus, passim.

10 The midrash plays with the word ספּיר whose meaning is both “pang” and “hinge”.
exegetical genre which has made him famous. If Rabbi Eliezer and Rabbi Joshua only establish that the woman possesses hinges and gates, Rabbi Ishmael goes on to deduce the specific difference between the man’s body and the woman’s body.

Finally, a third midrash, belonging to Rabbi Akiba, further contributes to the discussion as can be seen below:

Rabbi Akiba says: “Just as a house has a key, so does a woman have a key, as it is written in the Scriptures (Gen. 30.22) ‘And opened her womb’ (מֵעָלָה). In Rabbi Akiba’s opinion there is a difficulty contrasting with the disciples of Rabbi Ishmael! That might be because, being small, it has dissolved at the time of the procedure.

We notice the way in which the final author makes the best out of two types of knowledge: that which transmits the teaching of an authority and that which expresses the result of observation. In the previous paragraph, the troubling point was differently solved because Rabbi Ishmael’s disciples addressed themselves directly to their master in order to explain the cognitive dissonance and he himself did that by means of a midrash halachah. By contrast, in this latter passage, the master, Rabbi Ishmael, is dead but his knowledge is considered as ever-present: what needs to be found, then, is a compromise which does not deny legitimacy to either one of the two cases presented above.

1.b The Amoraic Sugyia: Additional Limbs and Impurity Matters

Finally, the last part of this sugyia goes back on the question of the corpse’s impurity, formerly introduced by the Mishna, by means of a dialogue between two Amoraim: Rava and Abaye.

Rava says: “All this does not lead to the impurity of the tent because the Scriptures say (Nb 19.14): ‘This is the law for a person who dies in a tent.’ (מֵעָלָה) – Thus, (what causes the impurity of a tent) can be only what people (adam) have in common.

Abaye’s objection: “And has not a man also [some of these additional limbs]? Doesn’t the Scripture say (Is 21.3) ‘Pangs / hinges (מֵעָלָה) take hold of me, just as the pangs / hinges of a woman in labour’? These are hinges of flesh.”

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11 The pun involves here the root מֵעָלָה: as a verb, patah מַטָּה, it means to open, as a noun, מַטָּה, it means “key”.

12 We refer this lecture by Rav because it is more logical: Rava can dialogue with Abaye, as they belong to the same generation, one at Mahoza, the other at Pumbeditha.

13 This means additional limbs.

14 This is because of the word מַטָּה which designates the human being in general.

15 Apart from flesh, an ever should normally contain bone and sinews. See. supra, n. 5.
But doesn’t Scripture say (Dn 10.16): O my lord, by reason of the vision my pains, [zirai], have come upon me 16 and I lost all vigor.

This is also a case of hinges of flesh. For if you will not say so, to whom then will you apply the accepted statement that there exist 248 limbs, for it can apply neither to a man nor to a woman?

The Babylonian Amoraim of the mid-fourth century also ask themselves about the physical specificities of men and women. By establishing number 248 as the common denominator, Rava implicitly defines the woman as a man who also possesses 5 extra parts. By relying on the term of adam he is an innovator, as the Mishna and the baraitot of the Talmud explain number 248 on the basis of the guematria related to Abraham’s name and thus model it on the male body (see supra, n. 5).

Abaye puts to doubt the “anatomical” knowledge which he has received; he does that in evoking the possibility of identifying hinges at the masculine sex. This does not destabilize so much the difference between male and female – the two gates and the key remain – but these remarks destabilize canonical knowledge. Consequently, the resolution of the conflict comes by resorting to “natural common sense”: it would be absurd to contradict an “accepted assertion” which has also been handed down by tradition.

There is a clear difference between the approach of the Tannaim and that of the Amoraim. If the Tannaim are still “in a position” to create their own knowledge, if they are still “authorized” to confront reality, the Amoraim operate with dicta, with what has been bequeathed to them by their predecessors. They follow the opinion of “the majority”, what is “common” for men and women and “the common sense” which represents recognizing the validity of tradition. The Tannaim determine the discovery of the quantitative difference between man and woman and we will see that Rabbi Ishmael persists in formulating that difference by taking into consideration other criteria in the second excerpt we have chosen, Nidda 30ab. Amoraic anthropology centers on the common denominator of men and women: in the case of practical matters, one is to follow the majority principle; in that sense, one has to look for and take into consideration the common aspects of the two sexes. By contrast to other ritual domains, one is struck to discover that in the face of death, the male and female bodies are equal.

16 My Lord, the vision has filled me with dread, and I have lost all vigour.
2. Niddah 30ab

But what can we make of the beginning of life? Does it coincide for men and women? The excerpt from the *Nidda* treatise tackles that aspect and, following the bias of birth, the rabbis still talk about death. By introducing the concepts of “true” and “false” birth, the rabbis mention their great dread: the contact with death and the dead body.

*Mishna:* If a woman miscarried (*mapelet*) on the 40th day, she needs not take into consideration the possibility of a *vlad*; but if on the 41st day, she must continue [her periods of uncleanness and cleanness as] for both a male and a female as for a *niddah*.

R. Ishmael ruled: [If she miscarried on] the 41st day she continues [her periods of uncleanness and cleanness as] for a male and a *niddah*, but if on the 81st day she must continue [these periods as] for a male and a female and a *niddah*; because a male is fully fashioned (*nigmar*) on the 41st day and a female on the 81st day.

The Sages, however, maintain that both the fashioning of the male and the fashioning of the female take the same course, each lasting 41 days.

*Gemara:* […] R. Ishmael ruled […]: It was taught: R. Ishmael stated, “Scripture prescribed uncleanness and cleanness in respect of a male (Lev 12.2-4) and it also prescribed uncleanness and cleanness in respect of a female (Lev 12.5), as in the case of the former his fashioning period corresponds to his unclean and clean periods so also in the case of the latter her fashioning period corresponds to her unclean and clean periods.” They replied: “The duration of the fashioning period cannot be derived from that of uncleanness.” Furthermore, they said to R. Ishmael, “A story is told of Cleopatra the queen of Alexandria that when her handmaids were sentenced to death by royal decree they were subjected to a test and it was found that both [a male and a female embryo] were fully fashioned on the forty-first day.” He replied: “I bring you proof from the Torah and you bring proof from some fools!”

Alone against his peers, Rabbi Ishmael is the theoretician of the difference between sexes in what concerns the duration of what we would call today organ-genesis. In considering the opinion of Rabbi Ishmael and that of his colleagues, we witness the setting of a competition between two anthropological logics. On the one hand, the gestation and evolution of the embryo are placed in direct relationship with the flow of blood in the woman’s body; on the other hand, evolution is considered to be uniform and the juridical implications are seen as identical both in the case of a male and a female fetus.

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17 The usual translation of *vlad* is “embryo”; nevertheless we don’t consider this translation to be the most appropriate one. A complete semantic study of the item has been lacking until now, but one passage of *Mishna Ohalot* 7.6 raises doubt as to the equivalence between the modern embryo and the ancient *vlad*: “If a woman is in hard labour, one cuts up the child (*vlad*) in her womb and brings it forth member by member, because her life comes first. But if the greater part has come out, one may not touch it, for one may not sacrifice one person’s life for that of another.” Here *vlad* clearly means the completely fashioned newborn. Thus, a more abstract and specific notion may stay behind the word *vlad*. 
In the previously analyzed passage, Rabbi Ishmael only assumed the role of explaining the quantitative difference between the male and female body. By contrast, here, by making another midrash halachah, he gives a ruling on that difference by establishing distinct temporalities and by relying on a feminine biological rhythm which is differentiated on whether the body “makes” a male or a female.

The biblical verses alluded to in Rabbi Ishmael’s remarks are those from Leviticus 12.2-5 (just as in the case of the previous passage, he does not quote the verse as such).

For the boy, Leviticus 12.2-4\footnote{18}:

If a woman has conceived seed and born a male child, \textit{she shall be unclean seven days}; according to the days of niddah shall she be unclean. [...] And she shall then wait thirty three days for the purification of her blood; she shall touch no hallowed thing, nor come into the sanctuary, until the days of her purifying be fulfilled.

For the girl, Leviticus 12.5\footnote{19}:

But if she bears a female child, then \textit{she shall be unclean two weeks}, like during her niddah: and she shall wait sixty six days for the purification of her blood. (In sum 80 days)

The rabbis oppose a veto to this: we cannot deduce the duration needed to procreate a baby from the duration of the impure state. Thus, they dissociate gestation from the functioning of the female body. A first interpretation of this intellectual stance can refer to the tendency towards the equal treatment of the male and female embryo.

Yet, a second interpretation cannot be ignored: in eliminating the criterion referring to the amount of blood which is drained, the rabbis rule out the idea of any feminine participation in the creation of a human being. Behind the scenes, the much ignored rabbinical embryology considers that the woman participates at giving birth with her red matter (odem) – this is how she is designated in Nidda 31a\footnote{20} –, or with blood as it is specified in a midrash.

\footnote{18}{There are three partners inside the human being: “the male seed out of which bones, tendons, nails, the brain and eye’s white are made; the female seed (mazra’at odem) out of which the skin, flesh, hair and the eye’s...}
from *Leviticus Rabba* 14.9: “the woman’s uterus is full of blood and its flux determines menstruation. But the moment God decides, a drop of white matter enters, drops in the middle and so a child is formed. This resembles a jar of milk: when a drop of meso\(^{21}\) is dropped inside, it solidifies and holds, if not it remains a liquid.”

Should we then understand our Mishna as recognizing the participation of blood in equal measures for both the baby-boy and the baby-girl or should we understand it as the denial of its importance? It is difficult to choose one of these two possible ways of understanding the rabbis’ opposition to Rabbi Ishmael’s opinion. It seems that Rabbi Ishmael makes no difference between a miscarriage and a birth, as he assigns the same procedure for the woman’s purification; by contrast, the Rabbis make this distinction. Then, for Rabbi Ishmael the blood quantity difference needed for making a baby-boy or a baby-girl is preserved throughout the entire gestation process while for the Rabbis this difference counts from the 41\(^{st}\) day onwards.

The two opinions are based on two different categories of argumentation. Faithful to his exegetical method, Rabbi Ishmael invokes the *gzera shava*: at the same time he indicates that the duration needed to procreate a male embryo was taken for granted. To this the rabbis first make an objection of principle which they rely on facts resulting from experimentation. The validity of the test is rejected by Rabbi Ishmael who, without trying to explain his beliefs, qualifies it as “proof from fools”. The Amoraim then try to reconstruct arguments belonging to some people or others; they do so by pointing to the epistemological weak points of a test.

The text continues as follows:

But what was his ‘proof from the Torah’? If it was the argument, ‘Scripture prescribed uncleanness and cleanness in respect of a male (Lev 12.2-4) and it also prescribed uncleanness and cleanness in respect of a female (Lev 12.5) etc.’, have they not already replied, ‘The duration of the fashioning period cannot be derived from that of uncleanness’? – The Scriptural text says, *She bear*, Scripture thus doubles the ante-natal period in the case of a female\(^{22}\).

But why [should the test spoken of by the Rabbis be described as] ‘proof from some fools’? [Because] One could suggest that the conception of a girl had preceded that of a boy by 40 days.

And what was the Rabbis’ answer? They were made to drink a scattering drug\(^{23}\).

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\(^{21}\) *Meso*: a liquid substance used for curdling.

\(^{22}\) The phrase *She bear* is superfluous, the sentence being intelligible without this specification. But as Rabbis consider that nothing is aimless in the Bible, they interpret it as signifying the doubling of the fashioning period for a baby-girl.

\(^{23}\) A drug able to eliminate possible preexistent embryos.
And what was Rabbi Ishmael’s answer? Certain constitutions are insensitive to medicines. Then said R. Ishmael to them: A story is told of Cleopatra the Greek queen: “When her handmaids were sentenced to death under a government order they were subjected to a test and it was found that a male embryo was fully fashioned on the 41st day and a female embryo on the 81st day.”

They answered: “No one brings proof from fools.”

What was the reason [for calling it ‘proof from fools’]? It is possible that the handmaid carrying the female embryo had delayed her intercourse by 40 days and that it was only then that conception occurred.

And what was Rabbi Ishmael’s answer? They had been placed under surveillance.

What was the Rabbis’ answer? There is no guardian against unchastity. Even a guardian could have had intercourse with them.

Had the surgical intervention occurred on the 41st day, could we have found out that the female embryo was found in a fully fashioned conditioned as the male embryo? Abaye replied: “They were equal as far as their distinguishing marks were concerned.”

The Sages maintain, however, that the fashioning of a baby-boy and a baby-girl follows the same course and both are accomplished on the 41st day. Isn’t the decision of the Sages identical with that of the first Tanna (meaning the mishna)?

And even if it were in order to indicate that the anonymous mishna is identical to the opinion of the Sages, given the fact that once an individual is contradicted by the majority, the halacha follows the majority, isn’t that obvious? We could have believed that Rabbi Ishmael’s reasons were acceptable because they relied on biblical verses – so we are informed that the halacha follows the opinion of the Sages.

The experiment is deconstructed in several ways, both Rabbi Ishmael and the Rabbis questioning the conditions by means of which it was conducted24.

They don’t question the factor of hazard in the setting of the test, i.e. the certitude that the two servants would both become pregnant at the same time, supposingly after a first sexual intercourse, one carrying a male embryo, the other – a female embryo. The exceptional character of the facts described doesn’t bring any doubt to their spirit.

By contrast, they take into consideration the possibility that one of the two women had been pregnant before the test. Consequently, it is not the inherent, hazard-determined fragility of the test which draws the rabbis’ attention, but the players’ cheating.

24 What is striking in this story is the inclusion of a character named Cleopatra. Does it point to the last Pharaoh, Cleopatra VII, or to the Alexandrian woman physician with the same name, living during the 1st century A.D.? A treatise on women’s diseases is attributed either to Cleopatra the queen or to the physician. Also, poison experimentation on slaves is assigned to the Egyptian queen by Plutarch, Life of Marcus Antonius, 71 and Pliny the Elder relates about Cleopatra’s experiment with chaplets: The Natural History 21.9. If Rabbis had knowledge of those stories it is certainly through the mediation of Latin authors.
Yet, for a long time, the Amoraim remain skeptical to the decision which is present in the Mishna: their reconstructions of the contradictory debates don’t manage to clearly rule in favor of the opinion held by the majority of the Sages. They conclude as follows: “We could have believed that Rabbi Ishmael’s reasons were acceptable because they relied on biblical verses – so we are informed that the halacha follows the opinion of the Sages.” This means restating that the difference of opinions in regard to the fabrication of the sex is alive in the fourth century, if one is to use Thomas Laqueur’s terminology.

3. Conclusions

What are the conclusions that can be drawn from the analysis of these two passages? These are two texts which, though starting from two very different situations, conceptualize on one and the same object, namely the specificity of the masculine and the feminine as distinct but complementary forms of the human species. At the same time, the epistemological aspect appears in both texts which feature a debate over the procedures of the right type of knowledge in relation to sexual differentiation. Finally, a third aspect brings the two texts together, namely the initial point of reflecting on the body, both in its human generality and in its sexual specificity – that starting point is represented by a questioning of the appropriate way to deal with the impurity of an inanimate body.

This impurity becomes problematic in two situations: 1) when its vehicle, the corpse, is not a whole, and 2) when the same medium is uncertain as a corpse. Such extreme situations determine the questioning of the male / female duality, a duality which is anchored in the body. The body exists in a specific form, that of the man and that of the woman, and its abstraction does not go by itself: it must go through the caudine forks of demonstration. This is why rabbis proceed to a reasoned examination of the different types of proofs and privilege one or another, depending on their temporal or spatial location. The body per se and consequently, the individual, do not represent a given for rabbis but a result of their exegetical (midrashic) reflections. Rather paradoxically, rabbis refuse or grant a totally insignificant place to the direct experimentation and observation of the human body. Nevertheless, it was by being highly sensitive to observation that they became aware of the sexualized existence of the human body. We notice that Rabbis make use of exception and prohibited methods of enquiry only in respect to sex/gender differentiation.

26 Fonrobert reads in Bekhoroth 45a an example of instrumentalizing women’s body as a preliminary to women’s exclusion from studying the Torah: Fonrobert, Menstrual purity, p. 57.
It seems interesting at this point to quote Françoise Héritier who writes: “it is the *observation* of the differences between sexes which represents the foundation of thought, be it traditional or scientific. Ever since the emergence of thought, people’s reflection could only fall on what they were given to observe and which was closest to them: the body and the environment in which it was plunged. The human body as the place of observing constants – the place of organs, basic functions, and moods – is characterized by a remarkable and certainly scandalous trait, namely sexualized difference and the different role of the sexes in reproduction. This has struck me as the ultimate buffer of thought on which an essential conceptual opposition is founded: that which opposes the identical to the different, one of those archaic *themata* that can be found in any scientific thought, be it ancient or modern, and in all systems of representation.”

In the former analyzed passage, *Bekhorot 45a*, femininity expresses itself quantitatively in the number of bodily parts. Significantly, this surplus concerns the reproductive functions of women and is situated inside, it cannot be observed from outside. Only one exegesis which is confirmed by the examination of a feminine corpse informs this subject.

In the latter passage, *Nidda 30ab*, the definition of femininity concerns both the mother and the baby. The two factors taken into consideration when conceptualizing sex are the duration for procreating the baby and the quantity of the blood which is drained at expulsion (according to the period of impurity). These factors are not unanimously agreed upon and also contain the opposition sustained by the majority of the time’s Sages, the Tannaim included, even if they have not furnished arguments in that sense. In fact, the Amoraïm also sense this weakness and limit themselves to accepting the *Mishna* in itself.

In both cases, the tendency is that of defining the female sex as surplus: surplus of bodily parts and surplus regarding the duration needed to procreate the baby. Rabbis tend to establish the identical and the different by reference to *number* and *quantity*: while they stipulate on the basis of the majority principle, they elaborate decisions concerning the

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28 Cf “Men come into the world totally supplied; women have to ask what is provided for their existence.” This is a reflection on the construction of gender which does not take the body into consideration.

29 The idea of “measure” should be thoroughly explored in another paper. To mention the ancient background of this “medical” mentality it will suffice here to quote the Egyptian Ebers papyrus: “Concerning: you examine a man. That means counting *(ip)* someone… like counting things with the ip.t measure. Counting something with one’s fingers [occurs] in order to learn… Measuring things with the ip.t measure is like counting a disease with it, just like measuring the disease of a man to recognize the course of his heart.” Apud Heinrich von Staden, *Herophilus*, pp. 9-10.
manipulation of the human body in accordance to what is common “to the majority”, women and men. Following the same principle, a fetus becomes a human being with a life of its own the moment when the greatest part of its body has come out of the mother’s womb. In this way, they depart from the binary oppositions marking the Greek world, namely the hot and humid male, the cold and dry female. By introducing the idea of counting in the discussion, the rabbis also introduce the notions of degree and of the “smallest common denominator”. The body thus presents itself as the medium from which cognitive theories are elaborated implicitly but also explicitly. This has made the two Talmudic excerpts particularly interesting to me.