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Yevamos Daf 7

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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

Rav Shimi bar Ashi said: The Tanna who used the verse to teach us that Beis Din may not perform an execution on Shabbos did not need the verse because otherwise we would have thought that a positive commandment overrides a prohibition even though it involves *kares*. Rather, the verse was necessary, for otherwise we would have derived that Beis Din can execute a capital offender on Shabbos through the means of a *kal vachomer*, and this is what he is saying: Regarding the application of the text: Every one that profanes it shall surely be put to death, it might have been said to apply to the several kinds of labor other than that of the execution of a judicial death sentence, but that a judicial death sentence does override the Shabbos, based on the following *kal vachomer*: *Avodah (service in the Beis Hamikdash) overrides Shabbos (the kohanim may perform the service on Shabbos), nevertheless, execution overrides avodah (a kohen, who has committed murder and was sentenced to death, Beis Din sends agents to bring him to be executed even if he wishes to perform the avodah), as it is written: from beside My altar shall you take him to die; Shabbos, which is overridden by the avodah, shouldn't an execution certainly override it (Beis Din should be permitted to perform an execution on Shabbos).* How, then, could it be said, 'Or perhaps it is not so'?<sup>1</sup> — He means this: The burial of a meis mitzvah might prove [the contrary], since it overrides the Temple service and does not nevertheless override the Shabbos. Then he argued: It might be inferred through a *kal vachomer* that the burial of a meis mitzvah should override the Shabbos, [thus]: If the Temple service

which overrides the Shabbos is overridden by the burial of a meis mitzvah, by deduction from: *or for his sister*, how much more should the Shabbos which is overridden by the Temple service be overridden by the burial of a meis mitzvah; hence it was explicitly stated: You shall not kindle a fire. (6b3 – 7a1)

According to our previous assumption, however, that a positive commandment overrides a prohibition, what is meant by, 'Or perhaps it is not so'? — It is this that was meant: Regarding the application of the text, Every one that profanes it shall surely be put to death, it might have been said to apply to the several kinds of labor other than the execution of a judicial death sentence, but that a judicial death sentence does override the Shabbos, for a positive commandment overrides the prohibition. Then he argued: It might be suggested that a positive commandment overrides a prohibition in the case of a mere prohibition only; has it, however, been heard to override a prohibition which involves *kares*? Then he concluded: Even where a positive commandment overrides a prohibition, isn't the prohibition of a more serious nature than the commandment? And yet the positive commandment comes and overrides the prohibited; on what grounds, then, should a distinction be made between a minor and a major prohibition? Hence it was explicitly stated: You shall not kindle a fire. (7a1 – 7a2)

But [this is the reason why a specific text] was needed:<sup>2</sup> It might have been assumed that this [case of a] brother's wife should be regarded as a subject which was included in a

<sup>1</sup> Since the inference was made by means of a *kal vachomer*, how could anyone dispute it?

<sup>2</sup> The Gemora concludes that there is no source to teach us that the positive commandment of *yibum* will override the *kares*

prohibition of taking his wife's sister; nevertheless the verse *aleha* is required to teach us that he may not.



general proposition and was subsequently singled out in order to predicate another law, the predication of which is not intended to apply to itself alone but to the whole of the general proposition.<sup>3</sup>

For it was taught in a Baraisa: A subject which was included in a general proposition and was subsequently singled out, etc. How [is this to be understood]? It is written [Vayikra 17:20]: *A person who eats flesh from the shelamim offering while his tumah is upon him, that soul shall be cut off from its people. Shelamim* did not have to be mentioned separately, since they are included in the general rule of sacred offerings; why then are they mentioned separately? It is to teach us that only sacrifices brought to the altar are included in this rule, however animals dedicated to the Temple upkeep are excluded, and they are not subject to the *kares* penalty if eaten in a state of *tumah*.

The Gemora now explains how this principle is relevant to *yibum*. Here also, the prohibition of taking a brother's wife was included in the general prohibition of all *arayos* (forbidden relations), and it was singled out in regards to *yibum*. This teaches us that just as this prohibition is permitted for the sake of *yibum*, so too all other *arayos* will be permitted for the sake of *yibum*.

The Gemora objects to this comparison between the two cases: By the halachos of *tumah*, both the general rule (all sacrifices) and the one singled out (*shelamim*) are dealing with prohibitions; whereas here by *yibum*, the general rule (all *arayos*) is dealing with the prohibition and the one which is singled out (*brother's wife*) is permitted. (7a2 – 7a3)

Rather, the Gemora states that this (*the permissibility of yibum to a brother's wife*) is compared to a different principle: (*One of the thirteen principles of Biblical exegesis*

<sup>3</sup> *One of the thirteen principles of Biblical exegesis is as follows: Something that was included in the general rule, and departed from that rule to teach something new, did not depart to teach only about itself, but rather to teach about the entire general rule.*

*is as follows*): Something that was included in the general rule, and departed to be treated as a new case; you cannot return it to its general rule unless the Torah returns it explicitly, for it was taught in a Baraisa: Something that was included in the general rule, and departed to be treated as a new case; you cannot return it to its general rule unless the Torah returns it explicitly. How is this? It is written regarding a *metzora* [Vayikra 14:13]: *He shall slaughter the (asham) lamb in the place where one slaughters the chatas and the olah, in a holy place. For the asham is like the chatas, for the kohen.* Now since there was no need to state, '*For the asham is like the chatas.*' Why did Scripture explicitly state: *For the asham is like the chatas?*<sup>4</sup> The Gemora answers: Since the *metzora's asham* departed from other *asham's* to teach something new, insofar as it requires the placing of its blood on the right thumb and big toe of the *metzora*, one might think that it should not require blood applications or the burning of its sacrificial parts on the Altar. The Torah, therefore, says: *For the asham is like the chatas*, teaching us that just like a *chatas* requires blood applications and the burning of its sacrificial parts on the Altar, so too, the *metzora's asham* requires blood applications and the burning of its sacrificial parts on the Altar.

Had Scripture not restored it, however, it would have been assumed that it was singled out only in respect of what was explicitly specified but not in any other respect; here also, by *yibum*, all *arayos* were prohibited and a brother's wife was excluded from the general rule and became permitted for the sake of *yibum*; only a brother's wife should be permitted, but all other prohibitions should remain prohibited even in a case of *yibum*. [Accordingly, why did the Torah require a verse prohibiting *yibum* with one's wife's sister?] (7a3 – 7b1)

The Gemora offers another reason why the verse *aleha* is required to teach us that he may not perform a *yibum* on his

<sup>4</sup> What is this verse coming to teach us? Was it not already stated regarding the law of the *asham* that it was required to be slaughtered in the north?

wife's sister. Perhaps we would have made a comparison to a brother's wife. Just like one can perform a *yibum* on his brother's wife (*even though, she should be forbidden, if not for the mitzvah of yibum*), so too, one can perform a *yibum* on his wife's sister.

The Gemora asks: How can the two cases be compared? By a regular case of *yibum*, there is only one prohibition, whereas here, there are two prohibitions?

The Gemora answers: We might have thought that once the prohibition of taking a brother's wife has been lifted, so too, the prohibition of taking his wife's sister should also be lifted. (7b1)

The Gemora asks: How do you know that this (*when one prohibition is lifted, so too, another one should also be lifted*) is a valid principle?

The Gemora answers: It was taught in a Baraisa: A *metzora* whose eighth day (*of purification*) fell on Erev Pesach, but on that day had an emission of semen (*resulting in the fact that he now cannot enter the Temple Mount to complete his purification process*), and then immersed himself, the Chachamim said that although an ordinary *tevul yom* (*one who has immersed in a mikvah but still has tumah on him until nightfall*) may not enter the Temple Mount until nightfall, this one may enter in order to complete his purification process, thus enabling him to bring his pesach offering. It is preferable for a positive commandment that involves *kares* (*pesach obligation*) to override a positive commandment that does not involve *kares* (*entering the Temple Mount while being a tevul yom*).

Rabbi Yochanan said: By the law of Torah there is not even a positive mitzvah in connection with it, for it is said, And Yehoshaphat stood in the congregation of Judah and Jerusalem, in the house of Hashem, before the new court. What does 'the new court' mean? Rabbi Yochanan said: That

they innovated a law there and ruled: A *tevul yom* must not enter the Levitical Camp.<sup>5</sup>

And Ulla said: Why do we allow this *tevul yom* to enter? He answers: Since we would allow an ordinary *metzora* to enter the Temple Mount in order to complete his purification process, we allow a *metzora* who has had an emission of semen to enter as well. [This is used as support for our logic regarding *yibum*. We might have thought that once the prohibition of taking a brother's wife has been lifted, so too, the prohibition of taking his wife's sister should also be lifted. This is why the verse *aleha* is needed to teach us that one cannot perform a *yibum* with his wife's sister.] (7b1 – 7b4)

#### INSIGHTS TO THE DAF

#### IS IT PREFERABLE TO VIOLATE A TOLDAH RATHER THAN AN AV (FOR ONE WHO IS DEATHLY ILL)?

The Tchebeiner Gaon (Dovev Meisharim, 3:82) inquires as to what the halacha would be in the following case. We are permitted to desecrate Shabbos for one who is deathly ill. Is it preferable to perform a labor which is only a *toldah*, a derivative of the *av melocha*, the primary categories of labor forbidden to do on Shabbos; or perhaps, there is no halachic difference since both are Biblically forbidden?

He ruled on this issue and cited support from our Gemora. It was taught in a Baraisa: A *metzora* whose eighth day (*of purification*) fell on Erev Pesach, but on that day had an emission of semen (*resulting in the fact that he now cannot enter the Temple Mount to complete his purification process*), and then immersed himself, the Chachamim said that although an ordinary *tevul yom* (*one who has immersed in a mikvah but still has tumah on him until nightfall*) may not enter the Temple Mount until nightfall, this one may enter in order to complete his purification process, thus enabling him to bring his pesach offering. It is preferable for

<sup>5</sup> Rabbi Yochanan maintains that it is only Rabbinically forbidden for a *tevul yom* to enter the Temple Mount.

a positive commandment that involves *kares* (*pesach obligation*) to override a positive commandment that does not involve *kares* (*entering the Temple Mount while being a tevul yom*).

Rabbi Yochanan maintains that it is only Rabbinically forbidden for a *tevul yom* to enter the Temple Mount. Ulla said: Why do we allow this *tevul yom* to enter? He answers: Since we would allow an ordinary *metzora* to enter the Temple Mount in order to complete his purification process, we allow a *metzora* who has had an emission of semen to enter as well.

Tosfos asks: Ulla maintains that a partial entry into an area which is forbidden to enter is regarded as a full entry. If so, why do we limit this *metzora*, who is a *tevul yom* to insert his right ear, thumb and big toe into the Temple Courtyard, let him be permitted to enter entirely? What would be the distinction? Tosfos answers: Entering completely into the Courtyard is regarded as being more severe than a partial entry. The Torah forbids a *tevul yom* from entering completely into the Courtyard explicitly, but a partial entry is only derived through the means of a *hekesh* (*a Midrashic juxtaposition*). Although both prohibitions are Biblical, the one that is written explicitly is stricter than the one which is merely derived from an exposition.

It emerges from here that a Biblical prohibition written explicitly is more stringent than one which is only derived through an exposition. He therefore posits that it would be preferable to engage in the labor which would only be violating a *toldah* rather than one which would constitute an *av melocha*. This is because a *toldah* is not written explicitly in the Torah.

## DAILY MASHAL

### Stolen Lulav

The Yerushalmi (Succah 11b) states that a stolen Lulav is invalid for use on Sukkos, and Levi illustrates this by way of a Mashal to a man who served a meal to a king using the

king's own food. The reaction to this is: "Woe to he whose defender has become his accuser". The Korban Edah explains that an attempt to garner merit thru the mitzvah of Arba Minim would instead bring focus onto the sin of the theft. However, the Ramban comments on the words *peri eitz hadar* that Adam HaRishon sinned with this fruit, and despite the argument that an accuser cannot be a defender, once the fruit is combined with the other 3 Minim, it is acceptable.

The Gemara (Zevachim 88b) states that Bigdei Kehuna provide atonement. For example, a Kohen's Kesones (shirt) atones for murder. The Kehilas Yaakov (1:19) cites his grandfather who derives from here that an accuser cannot be a defender only applies to Avodah Zara and nothing else, as the verse states concerned dipping Yosef's shirt in goat's blood, which is hardly an incident worth mentioning when seeking atonement for murder, yet it works.

However, the Kehilas Yaakov notes the Gemara (Yevamos 7a) which states that a Kohen who killed someone may not duchen, because an accuser cannot be a defender. Clearly, it applies to bloodshed as well as Avodah Zarah! We also find other applications of this rule, such as the Be'er Mayim Chaim's opinion that Kayin did not perform Yibum with the widow of his brother Hevel, because he himself had killed Hevel.

The Bikurei Shlomo (25:110) suggests that the rule of an accuser cannot be a defender may apply exclusively to Avodah Zarah only where the underlying sin was done by earlier generations, or ancestors. For this reason we still observe restrictions on gold during Yom Kippur, based on the Avodah Zarah of the Egel HaZahav, many years ago, unlike the Kaparah of the Kesones, which can still be effectuated, as it was not based on Avodah Zarah. However, where a restriction is based on something which one did oneself, such as a Kohen who killed, then the rule will apply in all areas as well. As such, it would not apply to *peri eitz hadar* which was a non-Avodah Zarah act of Adam, but it would apply to a Lulav that one stole himself.