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Bava Kamma Daf 100

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### ***Beyond the Letter of the Law***

Rav Yosef taught in a *braisa* that one should try to maintain a conduct beyond the letter of the law: It is written: *And you shall make known to them*. This is referring to the way of their livelihood (*the study of Torah*). The verse continues: *The way*. This means deeds of kindness. *That they shall walk* means the visitation of the sick. *In it* means burial, and *the actions* means the law. *Which they shall do* means beyond the letter of the law. (99b – 100a)

### ***Garmi***

Rish Lakish showed a *dinar* to Rabbi Elozar, who told him that it was good. Rish Lakish said to him: You see that I am relying upon you. He replied: Suppose you do rely on me, what of it? Do you think that if it is found to be bad, I would be obligated to exchange it for a good one? Didn't you yourself state that it was Rabbi Meir who judges liability in a case of *garmi* (*liability for damage done indirectly*), which apparently means that it was only Rabbi Meir who maintained so, whereas we did not hold in accordance with his view? But Rish Lakish said to him: No! Rabbi Meir maintained so and we hold with him.

The *Gemora* asks: But to what statement of Rabbi Meir was he referring to? If you will say that it is from the following *Mishna* in which we learned: If a judge in

giving judgment in a monetary case has declared innocent the person who was really liable or made liable a person who was really innocent, declared *tamei* a thing which was really *tahor*, or declared *tahor* a thing which was really *tamei*, his decision would stand, but he would have to make reparation out of his own property. [*Perhaps this is because the halachah of garmi.*] This is not the reason, for was it not taught in connection with this that Rabbi Il'a said in the name of Rav that this would be so only where the judge personally took the money from one person and gave it to another (*and obviously has nothing to do with garmi, which does not involve a direct action*). [*See Rashi how he explains all of these cases where the judge took matters into his own hand based upon his ruling.*]

The reference therefore appears to be the one of Rabbi Meir which we learned: If wool was handed over to a dyer to dye it red but he dyed it black, or to dye it black and he dyed it red, Rabbi Meir says that he would have to pay the owner for the value of his wool. But (*this is also not because of garmi*), did he not in that case also do the damage with his own hands!?

The reference must therefore be to the one of Rabbi Meir which we learned: [*One is not allowed to plant vines within four amos of someone's grain unless there is a wall separating them.*] If a wall of a vineyard (*which is adjacent to a field of grain belonging to his fellow*) falls down, he (*the owner of the grain*) may tell him (*the*

owner of the vineyard) to build the wall (for otherwise, the new grain that grows will be prohibited as kilayim of the vineyard, and if the new growth reaches a point where it is more than one part to two-hundred parts of the permitted produce, the entire grain will become prohibited, for the new part is too large to be nullified). If the wall fell down again, he may tell him to rebuild it again. If the owner of the vineyard abandoned the wall and did not rebuild it, he has caused his fellow's grain to become unfit (*kilayim*) and he will be liable for the damages. [This is the teaching which demonstrates a liability for *garmi*.] (100a – 100b)

### **Mishna**

If one gives wool to the dyer and the pot burned it, he (*the dyer*) must give him the value of the wool. If he dyed it poorly, the *halachah* is as follows: If the appreciation to the wool is more than the expenditure of the dyeing, he (*the owner*) gives him (*the dyer*) the expenditure (*but not his fee*); and if the expenditure is more than the appreciation, he (*the owner*) gives him (*the dyer*) the appreciation. If he gave it to him to dye it red, and he dyed it black; black, and he dyed it red, Rabbi Meir says: He gives him the value of his wool. Rabbi Yehudah says: If the appreciation to the wool is more than the expenditure of the dyeing, he (*the owner*) gives him (*the dyer*) the expenditure (*but not his fee*); and if the expenditure is more than the appreciation, he (*the owner*) gives him (*the dyer*) the appreciation. (100b)

### **Poorly**

Rabbah bar bar Chanah explains "poorly" in the *Mishna* to be referring to *kelabus*. Rabbah bar Shmuel explains *kelabus* to be referring to the residue of the dye which

was left in the pot (*which was used to prepare the dye*). (100b – 101a)

## **INSIGHTS TO THE DAF**

### **The mitzvah of bikur cholim**

Chazal take the pasuk "You shall tell them the way that they must go in" [Shemos 18:20] and learn from it that it is a mitzvah to visit the sick even though the visitor may take away with him one-sixtieth of the illness. [See Ran on Nedarim 39b] Many Rishonim hold that bikur cholim is a mitzvah mid'oraissa. [Rabbenu Yonah on Berachos ch. 3, et al.] The Rambam, however [Eivel 14:1], holds that it is a mitzvah mid'rabbanan that stems from the mitzvah of "love your neighbor as yourself." In other words, the Torah commands us to do kindness for others, but the command does not specify which actions we should take on this account. Chazal were the ones, in this view, who laid out specific actions as fulfilling the mitzvah, including aiding a sick person in his recovery.

(Is a person who is visiting the sick exempt at the time from other mitzvos? The Gaon R. Gedaliah Nadel shlit'a [Kuntres Acharon 4:11] demonstrates the practical consequences of Chazal's specifying bikur cholim as a mitzvah of its own. As is well known, "while doing a mitzvah one is exempt from other mitzvos." Now, in the course of his life a Jew does countless mitzvos. When he eats he is doing the mitzvah of preserving his life; when he dresses his children he is doing kindness for them; and so on. Should we understand that in each of these moments he is exempt from all other obligations? Certainly not! Only is only exempt when he is doing a specific action commanded by the Torah or by Chazal. So, if bikur cholim were only a branch of the mitzvah of doing kindness, we would not be

exempt from anything else while doing it. However, once Chazal define bikur cholim as a mitzvah of its own, the rule applies that "while doing a mitzvah one is exempt from other mitzvos.")

### DAILY MASHAL

R. Akiva Eiger's hospital. Our Sages have always taken special care about this mitzvah. (The obligation extends to every person, though, as the Rambam says [Loc. cit., §4]: "Everyone is obligated to do bikur cholim.") It is told about R. Akiva Eiger zt'l [Toldos R. Akiva Eiger] that while he was the Rav of Friedland he would visit every sick person in the town every week. When an epidemic struck the region, he personally examined all the babies in the town once a week, to be sure that the parents were keeping proper hygienic standards. In recognition of his many efforts to prevent the plague's spread, he received a gold medal from the Kaiser. Later on, when he was appointed Rav of Posen, he found that his endless duties kept him so busy, he could no longer keep up his custom of bikur cholim. So he hired two men, whom he paid out of his own pocket, to visit all sick people daily and report to him how they were doing. Some years later he founded a hospital in Posen.

The Chafetz Chaim [Ahavas Chesed III ch. 3] mentions his amazement at how people neglect this mitzvah, especially since it is obligatory upon everyone. For that matter, hundreds of years ago a talmid chacham who was a doctor in Yerushalayim [R. Refael Mordechai Malki, Sefer HaLikutim II] recommended founding a Bikur Cholim Society in every city. As the Tzitz Eliezer mentions [V, Ramas Rachel 6:3], it is almost impossible to uphold the mitzvah fully, especially in a large city where the sick are numerous. Therefore, he says, one should found a Bikur Cholim Society to act as representatives of the citizens.

Visiting the sick privately. The Shlah HaKadosh writes [II, Maseches Pesachim] that the mitzvah of bikur cholim involves body, soul, and property in its fulfillment. The body tends to the sick man's needs; the soul prays for his recovery; and one's money goes for medicine and upkeep, when needed. The Leshon Chachamim [II §25] adds that when people go to visit the sick in groups, on Shabbos after prayers, they have not upheld the mitzvah. First, they cannot pray for the man's recovery on Shabbos; and second, he is not likely to admit his true suffering in front of so many people. Therefore, concludes the Leshon Chachamim, one should visit the sick privately, for then the sufferers can unburden themselves freely.

Encouraging repentance. It is only natural for a sick man to think about repentance. [Meiri on Nedarim 40a] Chazal tell us [Yalkut Shim'oni, Iyov §919], "No sick man recovers until he has been forgiven all his sins." Therefore, says the Shlah [loc. cit.], everyone who visits a sick person should encourage him to admit his sins and repent for them. Clearly, he writes, if we are commanded to tend to his bodily needs then still more we should see to his soul's need. In fact, the Chafetz Chaim instructs us [loc. cit.] that when we visit a wealthy sick man, if he has not given tzedakah in a while we should encourage him to do so generously.