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Law is Like R’ Eliezer

The *Gemora* asks: And there are no other cases where Shmuel maintains that the *halachah* is in accordance with Rabbi Eliezer? But there is that which was taught in the following *Mishna* (in *Yevamos*): If the husband of the adult sister died (*he may not perform yibum because he is Rabbinically married to her sister; there is a Biblical zikah-attachment*), Rabbi Eliezer says: They teach the minor to refuse him (*known as mi’un – a girl whose father had died could be given in marriage while still a minor (under the age of twelve) by her mother or older brother; this marriage is only valid Rabbinically; as long as she has not attained the age of twelve, she may nullify the marriage by refusing to live with her husband; this act of refusal, referred to as mi’un nullifies the marriage retroactively*), and in connection with this, Rav Yehudah citing Shmuel stated: The *halachah* is in accordance with Rabbi Eliezer!?

The *Gemora* answers that when Shmuel stated that the *halachah* is in accordance with Rabbi Eliezer in four matters, he was referring to rulings in the Order of *Taharos* (where *Tractate Niddah* is located), but in the other Orders there are many such rulings (and the *Mishna* cited above is in *Yevamos*, which is in the Order of *Nashim*).

The *Gemora* notes that this also stands to reason, for we learned in a *Mishna*: Rabbi Eliezer ruled: Also in the case of one who takes out loaves of bread (*which were made of quantities of dough, each of which was not greater than one and a fourth kav, for only when dough is larger than that, is it subject to the challah obligation*) from an oven and puts them into a basket (*where, in total, there is the required amount*), the basket causes them to be combined in respect of their liability to *challah* (*where a portion must be separated and given to the Kohen*). And in connection with this Rav Yehudah, citing Shmuel, stated: The *halachah* is in accordance with

Rabbi Eliezer. This indeed is conclusive (*that when Shmuel stated that the halachah is in accordance with Rabbi Eliezer in four matters, he was referring to rulings in the Order of Taharos*).

The *Gemora* asks: But why is the latter source (*the Mishna of challah*) a stronger proof than the former (*dealing with mi’un*)?

The *Gemora* answers: It is because in the former case, Rabbi Elozar (*the Tanna*) maintains the same position as Rabbi Eliezer (and perhaps that is the only reason why the *halachah* follows R’ Eliezer), for we learned in a *Mishna*: Rabbi Elozar said: They teach the minor to refuse him.

The *Gemora* asks: But does Rabbi Elozar take up the same position as Rabbi Eliezer? Have we not in fact shown (*in Yevamos*) that both rulings were required, because they are not similar to each other?

The *Gemora* answers: Rather say (*that the Mishna of mi’un is not a strong proof*) because Rabbi Yehudah ben Bava maintains the same position as Rabbi Eliezer (and perhaps that is the only reason why the *halachah* follows R’ Eliezer), for we learned in a *Mishna*: Rabbi Yehudah ben Bava testified concerning five things: 1. That minors are instructed to exercise their right of *mi’un*; 2. that a woman is allowed to remarry on the testimony (*that her husband has died*) of one witness; 3. that a rooster was stoned in Yerushalayim because it had killed a person (*by pecking at the head of an infant; the novelty is that it is not only an ox, the animal mentioned in the Torah, that receives this penalty*); 4. that wine which was forty days old was poured as a libation upon the Altar (*for then it is regarded as aged wine*); 5. and that the *tamid* offering (*the daily morning olah*) may be offered up until four hours of the day (*including the fourth hour*). Now, doesn’t the term ‘minors’ (*in the plural form*) imply the one of which Rabbi Elozar and the one of which Rabbi Eliezer spoke (*thus proving that R’ Eliezer and R’ Yehudah ben Bava maintained the same position*)?



The *Gemora* deflects the proof by saying that the term ‘minors’ refers to minors in general.

The *Gemora* asks: If so, should it not have been stated, in the case of the woman (*who was allowed to remarry on the testimony of one witness*) also, ‘women,’ therefore referring to women in general? As in the latter case, however, it was stated ‘woman,’ and in the former ‘minors,’ it may be concluded that the terms are to be taken literally. This indeed is conclusive.

The *Gemora* says: Rabbi Elozar (*the Amora*) also stated: The *halachah* is in accordance with Rabbi Eliezer in four matters.

The *Gemora* asks: But are there no more of such rulings? Have we not in fact learned in a *Mishna* that Rabbi Eliezer said: They instruct the minor to refuse him; and in connection with this, Rabbi Elozar stated: The *halachah* is in accordance with Rabbi Eliezer!?

The *Gemora* suggests an answer, but immediately rejects it: And were you to reply that when Rabbi Elozar stated that the *halachah* is in accordance with Rabbi Eliezer in four matters, he referred to the rulings in the Order of *Taharos*, but that in the other Orders there are many more such rulings, it could then be retorted: But are there any such rulings (*in the other Orders where R’ Elozar ruled in accordance with R’ Eliezer*)? But we learned in a *Mishna*: The rose, henna, birthwort and *ketaf* (*resin of the balsam tree*), as well as their proceeds are subject to the laws of *Shemittah* (*the owners must abandon them, and they cannot sell them*), and they and their proceeds are also subject to the law of *bi’ur* (*removing - the produce of Shemittah may be kept as long as that produce is still available in the fields for the animals; afterwards, it may no longer remain in the house*). And in connection with that, Rabbi Pedas (*the son of R’ Elozar bar Pedas*) observed: Who is the *Tanna* that taught that *ketaf* is a fruit? It is Rabbi Eliezer. Rabbi Zeira said to him: I see that between you and your father you will cause *ketaf* to be permitted to everyone (*and it will not be subject to the laws of Shemittah*), since you said, “Who taught that *ketaf* is a fruit? It is Rabbi Eliezer,” and your father said, “The *halachah* is in accordance with Rabbi Eliezer in four matters (but not regarding this one).” Now, if it were so (that when R’ Elozar stated that the *halachah* is in accordance with R’ Eliezer in four matters, he referred to the rulings in the Order of *Taharos*, but that in the other Orders there are many more such rulings), why didn’t Rabbi Pedas reply to him by saying that

when my father stated that the *halachah* is in accordance with Rabbi Eliezer in four matters, he referred to the rulings in the Order of *Taharos*, but that in the other Orders there are many more such rulings? [*Evidently, it was meant to include all rulings – everywhere.*]

Accordingly, the *Gemora* asks: But then, the previous difficulty remains (*as to why the case of mi’un was not included*)!?

The *Gemora* answers: It is because in that case, Rabbi Elozar (*the Tanna*) maintains the same position as Rabbi Eliezer (*and perhaps that is the only reason why the halachah follows R’ Eliezer*), for we learned in a *Mishna*: Rabbi Elozar said: They teach the minor to refuse him.

The *Gemora* asks: But does Rabbi Elozar take up the same position as Rabbi Eliezer? Have we not in fact shown (*in Yevamos*) that both rulings were required, because they are not similar to each other?

The *Gemora* answers: Rather say (*that the Mishna of mi’un is not included*) because Rabbi Yehudah ben Bava maintains the same position as Rabbi Eliezer (*and perhaps that is the only reason why the halachah follows R’ Eliezer*).

The *Gemora* asks: But are there no more such rulings? Did we not in fact learn in the following *Mishna*: Rabbi Akiva said: One says it (*the blessing of havdalah – attah chonantanu - in the Maariv service at the conclusion of Shabbos*) independently, as the fourth blessing. Rabbi Eliezer said: One includes it in the blessing of Thanksgiving (*Modim*). And in connection with this, Rabbi Elozar stated: The *halachah* is in accordance with Rabbi Eliezer!?

Rabbi Abba replied: That was said it in the name of Rabbi Chanina ben Gamliel, for it was taught in a *braisa*: Rabbi Akiva said: One says it independently, as the fourth blessing. Rabbi Chanina ben Gamliel said: One includes it in the blessing of Thanksgiving (*Modim*).

The *Gemora* asks: But wasn’t Rabbi Eliezer much older than Rabbi Chanina ben Gamliel (*and he wouldn’t be saying things in the name of him*)?

The *Gemora* answers: Rather say that it was because Rabbi Chanina ben Gamliel maintained the same position as Rabbi Eliezer (*and perhaps that is the only reason why the halachah follows R’ Eliezer*).

The *Gemora* asks: But does Rabbi Chanina ben Gamliel in fact agree with him? But it was taught in a *braisa*: On the night of *Yom Kippur* (in *Maariv*), and in the *Shacharis*, *Mussaf*, and *Minchah* prayers of *Yom Kippur* day, one prays a *Shemoneh Esrei* that is comprised of seven blessings and he also confesses his sins in the *Shemoneh Esrei*. In the *Maariv* prayer that follows *Yom Kippur*, one prays an abridged version of the eighteen-blessing *Shemoneh Esrei* that one usually recites during the weekday. Rabbi Chanina ben Gamliel said in the name of his forefathers that even in the *Maariv* prayer following *Yom Kippur*, one prays the full eighteen-blessing *Shemoneh Esrei* because he is required to recite *havdalah* in the blessing of *chonen hada'as* (the blessing where we praise Hashem for graciously endowing us with understanding).

Rav Nachman bar Yitzchak replied: He said it in the name of his forefathers, but he himself did not hold like that.

Rabbi Yirmiyah said to Rabbi Zeira: But do you not yourself hold that he who taught that *ketaf* is a fruit is Rabbi Eliezer, seeing that we have learned in a *Mishna*: Rabbi Eliezer said: One who curdles milk with the sap of *orlah* (the fruit that grows from a tree; the first three years of its life, they are forbidden for all benefit) – the cheese is forbidden. [Evidently, R' Eliezer maintains that *ketaf* is a fruit.]

The *Gemora* answers: This *Mishna* might be even in accordance with the view of the Rabbis, since they differed from Rabbi Eliezer only in respect of the resin of the trunk of the tree, but in the case of the sap of the fruit, they agree with him (that it is regarded as fruit), for we have learned in a *Mishna*: Rabbi Yehoshua stated: I have explicitly heard that milk curdled with the sap of the leaves or with the sap of the trunk (of an *orlah* tree) (the cheese) is permitted, but if the milk was curdled with the sap of unripe figs, it is forbidden, because it is regarded as a fruit.

Alternatively, I might reply that the Rabbis differ from Rabbi Eliezer only in respect of a fruit producing tree, but in the case of a tree that does not produce fruit, they agree that the resin is regarded as its fruit, for we have learned in a *Mishna*: Rabbi Shimon said: *Ketaf* is not subject to the laws of *Shemittah*, and the Sages ruled that *ketaf* is subject to the laws of *Shemittah*, because the resin of the tree is regarded as its fruit. Now, who are these Rabbis? Are they not in fact the Rabbis who disagree with Rabbi Eliezer?!

A certain elder replied to him that Rabbi Yochanan said: Who are the Rabbis? They are none other than Rabbi Eliezer, who ruled that its resin is its fruit.

The *Gemora* asks: But if by the 'Rabbis,' Rabbi Eliezer was meant, what was the point in speaking of a tree that does not produce fruit seeing that even where a tree produces fruit - its resin is regarded as its fruit?

The *Gemora* answers: Rabbi Eliezer spoke to them (*R' Shimon*) according to their view, and this is what he was saying: According to my view, even in the case of a fruit producing tree, its resin is regarded as its fruit, but according to your view, agree with me at least in this case of a tree that produces no fruit that its resin is regarded as its fruit. But the Rabbis told him: There is no difference (and resin is never regarded as fruit). (7b – 8b)