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Sanhedrin Daf 88

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Zaken Mamrei

a person who was tamei would eat from it, he would not be liable to kares.]

Rav Pappa explains the dispute regarding *tzara’as* on clothing: It is in reference to the argument between Rabbi Yonasan ben Avtolmos and the *Chachamim*, for it was taught in a *braisa*: Rabbi Yonasan ben Avtolmos said: How do we know that if *tzara’as* spreads over an entire garment, it is *tahor* (*just like if it would happen on the skin of a person*)? It is derived through a *gezeirah shavah* from *tzara’as* by a person.

He explains the *braisa* regarding a *cheirem* vow: It is referring to an argument between Rabbi Yehudah ben Beseirah and the *Chachamim*, for it was taught in a *Mishna*: Rabbi Yehudah ben Beseirah holds that an unspecified *cheirem* goes to the upkeep of the Temple, while the *Chachamim* maintain that it goes to the *Kohanim*. [*According to Rabbi Yehudah ben Beseirah, it can result in the requirement to bring a trespass offering – which can then lead to kares.*]

The *braisa* had stated: *Matters of refer to verbal dedications of cheirem, erachin, and hekdesch. Rav Pappa explains that erachin refers to the dispute between Rabbi Meir and the Chachamim, for it was taught in a braisa: If one dedicates the value of an infant less than a month old (where the Torah does not fix a value for such an age), Rabbi Meir rules that he must give its value (for he knows that the Torah did not set a value, and he obviously intends to give its full value, for a person does not utter a vow in vain), and the Chachamim maintain that he has said nothing (for they hold that a person might utter a vow in vain). [Rashi offers two explanations as to how kares can be applicable: If the Temple treasurer took money for the infant’s value – according to Rabbi Meir, this becomes hekdesch, but according to the Chachamim, it does not. Accordingly, if this pledge was used as kiddushin, it is valid according to the Chachamim, but not according to Rabbi Meir unless it was used with the full knowledge that it was hekdesch. Another example of kares would be if it was unwittingly used, a trespass offering must be brought according to Rabbi Meir, which if a person who was tamei would eat it, he would be liable to kares; but according to the Chachamim, it is not hekdesch, and if someone uses it, he would not be required to bring an offering, and if he would bring the offering, the sacrifice is invalid and regarded as chullin, and consequently if*

He then explains the *braisa* regarding *hekdesch*: It is referring to the dispute between Rabbi Eliezer ben Yaakov and the *Chachamim*, for it was taught in a *braisa*: Rabbi Eliezer ben Yaakov said that even a spinning fork of the Temple property requires ten people (*to appraise it*) for its redemption. [*Accordingly, if only three judges redeem it, it is still hekdesch according to Rabbi Eliezer, and is subject to the me’ilah prohibition.*]

The *braisa* had stated: *Disputes refer to the sotah waters, eglah arufah, and purifying a metzora. Rav Pappa explains that sotah refers to the dispute between Rabbi Eliezer and Rabbi Yehoshua, for it was taught in a Mishna: Regarding one who warned his wife (not to seclude herself with another man), Rabbi Eliezer said: He warns her in front of two witnesses (otherwise, she will not be forbidden to her husband and she will not be compelled to drink the bitter waters) and causes her to drink through one witness, or even by himself (if he or one witness testifies that she did seclude herself with that man after the warning, she is forbidden to her husband and she is required to drink the bitter waters). Rabbi Yehoshua said: He warns her in front of two witnesses and causes her to*

drink through two witnesses. [Now, instead of submitting to the drinking of the water, she could demand a divorce, but without the *kesuvah* (marriage settlement). Therefore, if there are no witnesses or only one witness and she demands her divorce, in the opinion of Rabbi Eliezer, she is not entitled to the *kesuvah*, while in that of Rabbi Yehoshua she is. Consequently, if she sold the rights in her *kesuvah* to another man, and the latter seizes the amount involved from the husband, it does not belong to the purchaser, according to Rabbi Eliezer, but it does according to Rabbi Yehoshua; if the rebellious sage would rule like Rabbi Eliezer, and the person who bought the *kesuvah* would use the assets to betroth a woman, the ruling of the sage would be that the *kiddushin* is invalid, while according to the Sanhedrin, it would be valid.]

He explains the *braisa* regarding the *eglah arufah*: It refers to the dispute between Rabbi Eliezer and Rabbi Akiva, for it was taught in a *Mishna*: Where would they measure from? Rabbi Eliezer says: From the navel. Rabbi Akiva says: From his nose. Rabbi Eliezer ben Yaakov says: From where he became a corpse - from his neck. [Now, if one gives this *eglah arufah* as *kiddushin*, it is invalid. Consequently, if there are two cities, one is nearest the victim's navel, and the other to his nose, and the rebellious sage ruled like Rabbi Eliezer against the High Court's decision like Rabbi Akiva, the sage's heifer is fit for *kiddushin*, and the other is not.]

He explains the *braisa* regarding the purifying of the *metzora*: It refers to the dispute between Rabbi Shimon and the *Chachamim*, for it was taught in a *Mishna*: If a *metzora* does not have a right thumb, right big toe, or right ear, he can never become pure (as he lacks sprinkling on these places as stated by the Torah). Rabbi Eliezer says: One can sprinkle on that area, and this is good enough. Rabbi Shimon says: The left can be used, and this is good enough. [A *metzora* who enters the Temple before becoming *tahor* would be liable to *kares*.]

The *braisa* had stated: In your gates refers to *leket*, *shich'chah*, and *pe'ah*. Rav Pappa explains that *leket* refers to the *Mishna* which states that if two ears fall together – it is *leket* (and a poor person can collect it), but three falling

together are not *leket*. *Shich'chah* is referring to the following *Mishna*: Two forgotten bundles are regarded as *shich'chah*; three are not. Beis Shammai argues and holds that three (by *leket* and *shich'chah*) belong to the poor person; four would belong to the owner. *Pe'ah* refers to the dispute mentioned in the following *braisa*: The *mitzvah* of *pe'ah* requires that it should be set aside from standing crops. If, however, the owner did not set it aside from standing crops, he should set it aside from the sheaves. If he did not set it aside from the sheaves, he should set it aside from the pile of kernels so long as he has not evened the pile. But if he had already evened the pile, he must first take *ma'aser* from it (for although *pe'ah* and all gifts to the poor are exempt from *ma'aser*, once the pile has been evened and *pe'ah* has not been removed from it, the *ma'aser* obligation takes effect) and then set aside the *pe'ah* for the poor. Moreover, in the name of Rabbi Yishmael it was stated that the owner would even have to set it aside from the dough and give it to the poor (for even after it was baked into bread, it is still the same item and there is still an obligation to give *pe'ah* from it). [In all of these cases – if a poor person would collect something that is not rightfully his and then he would betroth a woman with it, or if he rightfully collected it but the owner repossessed it and he betrothed a woman with it – the rebellious sage would be ruling on a matter involving *kares*.]

The *Mishna* had stated: There were three courts in Yerushalayim etc.

Rav Kahana said: If he says, "I base my ruling on a tradition I heard from my teachers," and they say likewise, he is not executed. If he says, "Thus it appears to me," and they say, "Thus it appears to us," he is not executed. How much more so (he is not executed), if he says, "I base my ruling on a tradition I heard from my teachers," and they say, "Thus it appears to us." He is executed only when he says, "Thus it appears to me," and they say, "We base our ruling on a tradition we heard from our teachers." Proof to this can be brought from the fact that Akavya ben Mahalalel was not executed (for although he maintained his view, he was not



executed, for he claimed that his ruling was based upon tradition).

Rabbi Elozar said: Even if he says, "I base my ruling on a tradition I heard from my teachers," and they say, "Thus it appears to us," he is executed, in order that strife may not spread in Israel; and if you would argue: Why was Akavya ben Mahalalel not executed? The answer is because he did not instruct them to act according to his ruling.

The *Gemora* brings a proof to Rabbi Elozar from the following *braisa*: Rabbi Yoshiyah said: Three things Zeira told me from the men of Yerushalayim: If a husband withdrew his warning, the warning is retracted. If a *Beis Din* wished to pardon an elder who rebelled against their decision, they may pardon him. And if the parents wished to forgive a wayward and rebellious son, they may do so. When, I, however, came to my colleagues in the South, they agreed with me in respect of two of those rulings, but did not agree with me in respect of the rebellious elder, so that disputes should not multiply in Israel. [This is precisely Rabbi Elozar's line of reasoning!] The *Gemora* concludes that this indeed is a refutation of Rav Kahana.

The *Gemora* cites a *braisa*: Rabbi Yosi said; Originally there were not many disputes in Israel, but one *Beis Din* of seventy-one members sat in the *Lishkas Hagazis*, and two courts of twenty-three sat - one at the entrance of the Temple Mount and one at the door of the Temple Courtyard, and other courts of twenty-three sat in all Jewish cities. If a matter of inquiry arose, the local *Beis Din* was consulted. If they had heard a tradition about it, they stated it; if not, they went to the closest *Beis Din*. If they had heard a tradition about it, they stated it; if not, they went to the *Beis Din* situated at the entrance to the Temple Mount. If they had heard a tradition about it, they stated it; if not, they went to the one situated at the entrance of the Courtyard, and the sage declared, "Thus have I expounded, and thus have my colleagues expounded; thus have I taught, and thus have they taught." If they had heard a tradition about it, they stated it, and if not, they all proceeded to the *Lishkas Hagazis*, where the Great

Sanhedrin sat from the time that the morning *tamid* was brought until the evening *tamid*. On *Shabbos* and *Yom Tov* they sat within the *Cheil* (in order that it should not appear as if they were judging on *Shabbos*). The question was then put before them. If they had heard a tradition about it, they stated it; if not, they took a vote: if the majority voted *tamei*, they declared it so; if the majority voted *tahor*, they ruled like so. But when the amount of disciples of Shammai and Hillel, who had insufficiently studied (they did not serve as apprentices to Torah scholars), increased, disputes multiplied in Israel, and the Torah became as two *Toros*. From the *Lishkas Hagazis* documents were written and sent to all Israel, appointing wise and humble men and who were agreeable by their fellowmen. From there they were promoted to the *Beis Din* of the Temple Mount, then to the Courtyard, and then to the *Lishkas Hagazis*.

They sent a message from *Eretz Yisroel*: Who is destined for the World to Come? He who is modest, humble, bowing on entering and on going out, and a constant Torah studier without claiming credit for himself. The Rabbis cast their eyes upon Rav Ulla bar Abba (as someone endowed with all these qualities).

There is greater stringency in the words of the *Soferim* (early sages) than in the words of the Torah. If one says, "There is no *tefillin*," in order to transgress the words of the Torah, he is exempt (for it is obvious that there is such a *mitzvah*; it cannot be regarded as a ruling at all). If he says, "There are five compartments in *tefillin*," in order to add to the words of the *Soferim*, he is liable.

Rabbi Elozar said in the name of Rabbi Oshaya: A *zaken mamrei* is liable only for a matter of which the essence of the law is Biblical, while its interpretation is of the *Soferim*, and in which there is room for addition, which addition, however, is actually a detraction (for he disqualifies it from being used for a *mitzvah*). Now, the only *mitzvah* (which fulfills these conditions) is that of *tefillin*, and this is in accordance with Rabbi Yehudah (who was of the opinion that *zaken mamrei* is



only applicable by something which is written in the Torah and explained by the sages).

The Gemora asks: But is there not the *mitzvah* of *lulav*, of which the essence of the law is Biblical, while its interpretation is of the *Soferim*, and in which there is room for addition, which addition, however, is actually a detraction (*for if he rules that five species should be taken, he invalidates the mitzvah*).

The Gemora answers: Now, what is our opinion? If we hold that the *lulav* is not required to be bound (*with the hadasim and aravos*), each stands apart (*and the fact that he is holding another specie will not detract from the mitzvah*); while if we maintain that the *lulav* needs to be bound, it is defective from the very outset (*when he bound them all together; accordingly, he never had a valid mitzvah of which to disqualify*).

The Gemora asks: But is there not the *mitzvah* of *tzitzis*, of which the essence of the law is Biblical, while its interpretation is of the *Soferim*, and in which there is room for addition, which addition, however, is actually a detraction (*for if he rules that five fringes should be placed on the corner of the garment, he invalidates the mitzvah*).

The Gemora answers: What is our opinion? If we maintain that the upper knot is not required by Biblical law, they each stand separate from each other; while if we hold it is necessary, it is defective from the very outset.

The Gemora asks: If so, in the case of *tefillin* too - if one initially made four compartments, and then he placed a fifth one at their side, each stands separately; while if one made five compartments, it is defective from the very outset!?

The Gemora answers: Rabbi Zeira said: If the outer compartment does not look upon the air, it is invalid (*so it is disqualified even if he places a fifth compartment afterwards*). (87b – 89a)

DAILY MASHAL

A Rav related: I once was in Philadelphia. On the same street as the yeshivah, stands the Re'im Ahuvim Synagogue in a building 110 years old. When praying at this synagogue I noticed a very old man sitting facing a Gemara with a ruler in hand. The left page was the original text and the right page was an English translation. Helped by the ruler, he would read a line of the Gemara and then learn its translation. I sat aside and watched him. He was very absorbed in his learning. You could see that his whole world consisted of the Gemara, the translation and the ruler. He finally noticed me and explained that most of his day was devoted to making a living but that when *Shas* was completed in the cycle of Daf HaYomi many years ago, he liked the idea.

He said, "At first, I asked myself what I could have to do with the Daf HaYomi. My hair was already gray and I was close to my late seventies but decided I would lose nothing by trying to start to learn." He concluded, "What should I say? I'm about to finish the *Shas* for the second time!" he exclaimed, ruler in hand. Line by line, page by page, he devoted every morning to his learning and eventually finished the *Shas*.

Use your time! The same applies to every spiritual endeavor. Someone who becomes moved to start a positive action should exploit the chance to begin things immediately.