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Eshkolos - Scholars

The *Gemora* cites a *Mishna*: When Yosef ben Yoezer, the leader of the city of Tzereidah and Yosi ben Yehudah, leader of the city of Yerushalayim died, the “clusters” (*the Torah scholars*) – men that possess all good traits (*Torah knowledge, fear of Hashem, acts of kindness*) ceased, as it is said: *There is no cluster to eat; my soul desires the first ripe fig.*

Rav Yehudah reported in the name of Shmuel: All the ‘eshkolos’ who arose from the days of Moshe until Yosef ben Yoezer learned Torah like Moshe our Teacher. From that time onward, they did not learn Torah like Moshe our Teacher.

The *Gemora* asks: But didn’t Rav Yehudah say in the name of Shmuel that three thousand *halachos* were forgotten during the period of mourning for Moshe (*so obviously, the learning of the later generations was inferior*)?

The *Gemora* answers: Those laws which were forgotten were forgotten, but those which they knew from Tradition, they learned them like Moshe our Teacher.

The *Gemora* asks: But has it not been taught in a *braisa*: After the death of Moshe, if those who pronounced *tamei* were in the majority, the Rabbis declared the object *tamei*, and if those who pronounced *tahor* were in the majority, the Rabbis declared it *tahor* (*so evidently, it was after Moshe’s passing that the level of learning deteriorated, and disagreements broke out*)?

The *Gemora* answers: Their ‘heart’ (*minds*) diminished (*and they could not recall the laws that were forgotten by means of discussion; therefore there were differences of opinion with*

reference to them), but the laws that were settled and they had learned, they learned (*with precision*) like Moshe our Teacher.

It has been taught in a *braisa*: All the ‘eshkolos’ who arose in Israel from the days of Moshe until the death of Yosef ben Yoezer of Tzereidah were free from all flaws; from that time onward, some matter of flaw was found in them.

The *Gemora* asks: But has it not been taught in a different *braisa*: There was once a certain pious person who groaned from (*a pain in*) his heart and they consulted the doctors as to what can be done. They said that there was no remedy for him unless he sucked warm milk (*from a live animal*) every morning. A goat was brought to him and fastened to the legs of the bed, and he sucked from it every morning. After several days his colleagues came to visit him, but as soon as they noticed the goat fastened to the legs of the bed they turned around and said: Armed robbers are in the house of this man (*for otherwise, why would he have an animal that will graze illegally in other people’s fields?*); how can we come in to see him!? They sat down and inquired into his conduct, but they did not find any flaw in him except this sin about the goat. He also, at the time of his death, proclaimed: I know that I have no sin save that of the goat, when I transgressed against the words of my colleagues, for they have ruled that one may not raise small domesticated animals in *Eretz Yisroel* (*because this interferes with the Jewish settlement of the land, since small cattle destroy crops*). And it has been established that wherever it speaks of a certain pious person, it refers either to Rabbi Yehudah ben Bava or Rabbi Yehudah bar Ila’i. Now these Rabbis lived many generations after Yosef ben Yoezer, the leader of the city of Tzereidah (*and yet it was stated that they had no flaws*)!?

Rav Yosef answers: What was meant that there was no dispute, mainly the dispute concerning *semichah* on *Yom Tov*, was not found by him. [The laying of hands on the animal prior to it being slaughtered on a Festival was the very first subject – one that was intact until then - over which there was a difference of opinion; the School of Shammai held that it was permissible and the School of Hillel maintained that it was forbidden, for it is similar to riding an animal on the festival. This controversy took place after the time of Yosef ben Yoezer.]

The *Gemora* asks: But Yosef ben Yoezer himself maintains that although one may offer a sacrifice during the festival, he may not perform *semichah* on the animal!?

The *Gemora* answers: When he differed it was in his latter years, when his mental powers diminished. (15b – 16a)

Forgotten Laws

It was stated above: Rav Yehudah say in the name of Shmuel that three thousand *halachos* were forgotten during the period of mourning for Moshe.

The *Gemora* relates: They went to Yehoshua and said, “Go ask from Hashem these *halachos*.” He answered them that he cannot, for the Torah is not found in Heaven. They went to Shmuel and said, “Go ask from Hashem these *halachos*.” He answered them that he cannot, for it is written: *These are the mitzvos*, and we derive from there that a prophet does not have permission to create new laws.

Rabbi Yitzchak Nafcha said: Also the law relating to a *chatas* whose owners have died was forgotten during the period of mourning for Moshe. They went to Pinchas and said, “Go ask from Hashem these *halachos*.” He answered them that he cannot, for the Torah is not found in Heaven. They went to Elozar and said, “Go ask from Hashem these *halachos*.” He answered them that he cannot, for it is written: *These are the mitzvos*, and we derive from there that a prophet does not have permission to create new laws.

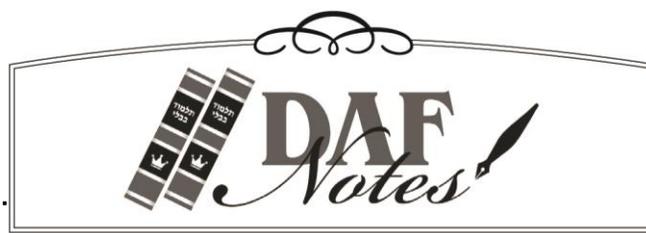
Rav Yehudah said in the name of Rav: When Moshe departed this world for the Garden of Eden, he said to Yehoshua, “Ask me concerning all the doubts you may have.” He replied to him, “My master, have I ever left you for even one moment and gone elsewhere (that I missed something)? Did you not write concerning me in the Torah: *But his servant Yehoshua the son of Nun, a lad, would not stir from within the tent?*” Immediately, the strength of Moshe weakened (for it was like he was saying that he is as great as Moshe), and Yehoshua forgot (as a punishment for paining Moshe) three hundred laws, and there arose in his mind seven hundred doubts. Then all the Israelites rose up to kill him. The Holy One, Blessed be He, then said to Yehoshua: It is impossible to tell you (these laws, for Torah is not in Heaven); go and occupy their attention in war, as it says: And it came to pass after the death of Moshe, the servant of Hashem, that Hashem spoke to Yehoshua (to cross the Jordan and take up arms).

It has been taught in a *braisa*: A thousand and seven hundred *kal vachomer* (reasoning) and *gezeirah shavah* (expositions) and specifications of those who tallied (in order that they should remember the Oral teachings, the Sages would number the points) were forgotten during the period of mourning for Moshe.

Rabbi Avahu said: Nevertheless, Osniel the son of Kenaz restored (these forgotten teachings) as a result of his analysis, as it is written: *And Osniel the son of Kenaz, the younger brother of Calev, conquered it (Kiryas Sefer, which we expound to be referring to the forgotten laws), and Calev gave him Achsah his daughter for a wife.*

Rabbi Yochanan said: Her name was called Achsah, for whoever saw her (beauty) was angry with his wife (for not being as beautiful as her).

The *Gemora* cites other Scriptural verses and expounds them: Rava said in the name of Rabbi Yitzchak: Achsah said to Calev: Just as a donkey, when it has no food in its trough, immediately cries out, so too a woman, when she has no grain in her house, cries out immediately. She said: Give me a blessing for the house



is devoid of all goodness (*money*); you have given me a man who only has Torah. Calev replied: One to whom all the secrets of the upper and lower worlds are revealed, need he ask food from me?

The *Gemora* asks: But was Calev the son of Kenaz? Was he not the son of Yefuneh?

The *Gemora* answers: [In truth, he was the son of Kenaz] He was called the son of Yefuneh, for he turned away from the counsel of the other spies.

Rava notes that he really was the son of Chetzron, but he was the stepson of Kenaz.

The *Gemora* cites a *braisa* that Osniel gave advise and proliferated Torah in Israel, and Hashem answered all that he requested. (16a)

Five Chatas Offerings that are Let to Die

The *Gemora* cites a *braisa*: Rabbi Shimon said: The Oral tradition passed down from Sinai is that there are five *chatas* offerings that are left to die:

1. The offspring of a *chatas*;
2. Temurah of a *chatas*;
3. The owner of the *chatas* died;
4. The owner of the *chatas* received atonement through a different korban;
5. The *chatas* that went passed its year.

The laws concerning some of them apply only to an individual sacrifice but not to a communal offering, for communal offerings are male and the 'offspring of a *chatas*' cannot apply, and *temurah* does not take effect with any communal offering, and the owners of a public *chatas* cannot die.

The laws concerning the *chatas* whose owners have procured atonement and a *chatas* whose year has passed we do not know if they apply to a communal *chatas* as well. Rabbi Shimon holds that if three of these five cases can only apply to an individual

sacrifice, that is an indicator that the laws governing these five cases are applicable only to individual sacrifices, and not to communal offerings.

The *Gemora* asks: But can we form an analogy between a case where there is an alternative (*the two cases which can apply by a communal chatas as well*) from a case where there is none (*for the other three cases cannot apply by a communal chatas*)?

Rish Lakish answered: Four *chatas* offerings were specified to the Israelites on Sinai to be left to die, and the rule was extended to five (*when, in the times of Yehoshua, it was forgotten which four*). Now if you suppose that these were communal *chatas* offerings, are these (*four*) cases ever brought communally? Then you must admit that we form an analogy between the cases not explicitly stated and those explicitly stated.

Rabbi Nassan said: Only one *chatas* offering was specified to them, and the rule was extended to all the five *chatas* offerings. And there were two forgettings. [*They forgot which case it was, and they forgot if it was in the category of an individual chatas or communal ones.*] And consequently they were in a difficulty. If you should think that the rule applies to the communal *chatas* offering, can these be brought communally? Then it is proven from here that we form an analogy between the cases not explicitly stated and the cases explicitly stated: Just as in the cases explicitly stated the *chatas* offering is brought by an individual and not by a community, so in the cases not explicitly stated the *chatas* offering is brought by an individual and not by a community. (16a – 16b)

INSIGHTS TO THE DAF

The Encounter at Mount Sinai: once and forever

The Gemara explains in several places that we interpret from the verse "**These** are the mitzvos and laws" (Vayikra 27:34) that "a prophet must not innovate anything" and as the Gemara states (Megilah 14a), "Forty-eight prophets and seven prophetesses prophesied for Israel and didn't subtract from or

add to what is written in the Torah.” When Mordechai and Esther instituted Purim, “the prophets were distressed about the matter; they said – it is written: “These are the mitzvos which Hashem commanded Moshe”...thus Moshe told us: no other prophet will innovate anything from now on but Mordechai and Esther want to innovate something for us. They didn’t depart till Hashem showed them supports in the Torah for instituting Purim (Yerushalmi, Megilah, Ch. 1).

The prohibition on not adding to the Torah: Many related to the source of this prohibition, including HaGaon Rabbi Moshe Feinstein zt”l who, in his youth, wrote two long responsa on the topic in which he discussed the idea suggested by a *talmid chacham*, that the prohibition that “a prophet must not innovate anything” belongs to the definition of *bal tosif*, that one mustn’t add anything to the Torah’s mitzvos. Therefore, if a prophet says that Hashem told him to add a mitzvah, we don’t believe him because there is a prohibition to add to the mitzvos and surely Hashem didn’t tell him a thing.

However, the author of *Igros Moshe* says that when we learn the Gemara, we realize that this explanation is incorrect. The Gemara recounts that “three thousand halachos were forgotten during the mourning for Moshe. They said to Yehoshua, “Ask.” He told them, “It is not in Heaven” (Devarim, 30,12). They said to Shmuel, “Ask.” He told them, “These are the mitzvos’, a prophet must not innovate anything from now on.” Would Yehoshua or Shmuel be **adding** to the mitzvos? If the basis for the prohibition on a prophet to innovate stems from the prohibition of *bal tosif*, these halachos are not innovated now but were given to Moshe and were forgotten and the prophet merely reveals them; he doesn’t create them.

Hashem doesn’t teach us the Torah after Mount Sinai: Rabbi Feinstein concludes, based on our Gemara, that the verse “These are the mitzvos...” was said to us because the Encounter at Mount Sinai was the last time that Hashem taught us Torah. “These are the mitzvos” – this time the Jews learn Torah from Hashem but no more. Therefore, even when halachos were forgotten and a prophet wants to teach them anew from Heaven, he will not be enabled to do so because we no longer

learn Torah from Heaven. “It is not in Heaven” (Responsa *Igros Moshe*, O.C., I, 14, and see *ibid*, that he found difficulty with Ramban’s commentary on the Torah, Devarim 4:2).

HaGaon Rav Yitzchak Ze’ev of Brisk zt”l learnt our Gemara in an utterly different way and reached other conclusions.

Two different replies to the same request: When Moshe passed away, the Jews asked Yehoshua to find out the forgotten halachos in Heaven. He replied, “It is not in Heaven.” Three hundred years elapsed and their descendents asked the same request of Shmuel and he replied, “These are the mitzvos’ – a prophet must not innovate anything from now on.” Didn’t they remember what Yehoshua answered to their forefathers? And if they forgot, why did Shmuel have to answer them with another interpretation? Why didn’t he use Yehoshua’s reply that “It is not in Heaven”? We have two different questions, said the Brisker Rav, and therefore two different replies. Yehoshua was asked to clarify in Heaven what he’d heard from Moshe and was forgotten. He replied that after the giving of the Torah it is impossible to clarify anything of the halachos of the Torah by prophecy or the *urim vetumim* but only from the Torah itself by learning and interpreting it. Three hundred years later, another request was presented to Shmuel. It is impossible to clarify the old halachos. Therefore receive those halachos anew straight from the Creator and we shall again accept the yoke of those mitzvos. Shmuel replied that he could also not fulfill this request, as we are told: “These are the mitzvos” – that a prophet must not innovate anything. Nothing will be added to what was given to us at Mount Sinai (see *Kisvei HaGri”z* and we can thus explain Ramban’s above statement and see *ibid*, that he remarked from Ramban’s statement, *Hilchos Yesodei HaTorah* 9:1, and see *Pnei Yehoshua*, Megilah 3a).

DAILY MASHAL

“Urim v’Tumim”

The Gemora in Yoma states the format and the position of the kohen gadol when a question is being asked to the Urim V’Tumim. There seems to be two arguments between Rashi and

the Rambam. Rashi holds that the asker (the king) and the kohen were facing each other and the kohen's face was turned towards the choshen which encased the Urim V'tumim. The Rambam holds that the kohen was facing the aron and the asker faced the back of the kohen. Another argument pertains to the voice of the one asking. The Rambam holds that nobody else should hear him, similar to the way we daven and that is the proof of the Gemora to this form the tefillah of Chanah. Rashi, however (Tosfos Yeshonim is explicit regarding this) that the kohen hears the question which is being asked.

The sefer Imrei Chein explains these opinions. They are arguing as to who is the nishal - to whom are we asking the question. Rashi holds we are asking the kohen gadol and that is why the asker faces him and that explains why he must hear the question. Rambam disagrees and holds that the question is to the Shechina. The kohen is only a conduit to the Ribono Shel Olam. This is why they both are facing the aron, the place where the Shechina resides and this explains why the kohen does not have to hear the question.

Look in Ibn Ezra in Parshas Pinchos where the Torah informs us of the asking of the Urim V'Tumim and he says two explanations in the words of the passuk 'al piv yetzu'. One pshat is by the mouth of Elozar HaKohen through the Urim V'Tumim and his second explanation is by the words of the Urim V'Tumim. The two explanations are based on what we explained before.

According to this, perhaps we can explain a Gemora in Temurah. The Gemora relates that in the days when Klal Yisroel were mourning the loss of Moshe Rabbeinu, three thousand halochos were forgotten. They went to Yehoshua and Elozar (and others) and said "Go ask from Hashem these halachos." There were two responses given. One was that a prophet does not have permission to create new laws and a second answer to them was that Torah cannot be found in the heaven. What is the significance of these two responses?

The Brisker Rov asks on how would they have asked Hashem anyway? Moshe was the only one who had a direct channel to Hashem. They couldn't speak to Hashem whenever they

wanted? He answers that the Gemora means that they would ask by utilizing the Urim V'Tumim.

We now can understand the two responses of the Gemora (bderech drush ktzas), based on the two explanations of the Urim V'Tumim. If the question was asked to the Ribono Shel Olam and the kohen is only a conduit, the response that was given to Klal Yisroel at that time was Torah cannot be found in the heavens. A halachic shaila cannot be answered using the Urim V'Tumim. If the question was asked to the kohen and he would answer using the Urim V'Tumim, his response was that a prophet cannot create new halachos and therefore he doesn't have the power to return those halachos that were forgotten.