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Horayos Daf 4

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***Par Helem Davar***

Rabbi Yosi the son of Rabbi Avin, and some say Rabbi Yosi bar Zevida, say: What is a parable for the law of Sumchus (*who says that a person would not bring an asham taluy for eating forbidden fat that Beis Din mistakenly permitted in the case of the Mishna on 3b*)? It is like a person who offers his sacrifice during twilight. It is unclear whether his sacrifice was offered during the day or at night. Such a person would not bring an *asham taluy*. [

The *Gemora* continues: This is not only according to the opinion that *Beis Din* brings the *par helem davar* (*communal-error bull*), as according to them it is certainly not well publicized. Even according to the opinion that the public pays for this sacrifice, and it therefore became well known that *Beis Din* made a mistake and people would have told him so had he asked, he is still exempt from bringing an *asham taluy*. We say it is similar to twilight, as if he would ask someone if it is night or day, they would not be able to answer him. Similarly, if he would ask someone about the nature of the sacrifice being brought by the public, they also might not know the answer (*and he is therefore exempt*). (*This explanation is based on the explanation of the Be’air Sheva.*)

The *Mishna* had stated: Ben Azzai asked: Why is this different from someone who is sitting in his house etc.?

The *Gemora* asks: Rabbi Akiva gave a strong reply to Ben Azzai! (*What is Ben Azzai’s reasoning?*)

Rava answers: The difference between them is a person who starts traveling. According to Ben Azzai he is liable, as he is still in his house (*and can hear whether or not this is permitted*). According to Rabbi Akiva he is exempt, as he has already started his journey (*and therefore is not free to find out about what is going on*). (4a)

***Uprooting a Law***

The *Mishna* discusses a case where *Beis Din* decided to uproot an entire *mitzvah*.

The *braisa* states: *And the matter was hidden*. This indicates that (*par helem davar is only brought if*) one matter (*i.e. aspect of a mitzvah*) was hidden, not the entire *mitzvah*. What is the case? If they say, there are no laws of *niddah*, or *Shabbos*, or idolatry in the Torah, one might think this qualifies for the bringing of a *par helem davar*. This is why the verse states: *And the matter was hidden*, indicating that one matter was hidden, not the entire *mitzvah*. They therefore do not bring a *par helem davar*. However, if they said that there is *niddah*, but it is permissible for one to cohabit with a woman who is a *shomeres yom*, or if they said that there is *Shabbos*, but one may carry from the private domain to the public domain on *Shabbos*, or if they said there is idolatry, but one may bow down to idols, one might think that they are exempt. This is why the verse says: *And the matter was hidden*, indicating that one matter was hidden, not the entire *mitzvah*.

The *braisa* had stated: One might think one is exempt (*if they only ruled regarding part of a mitzvah*).

The *Gemora* asks: If the *braisa* already stated they are exempt if they rule out the entire *mitzvah*, why would we think one is exempt if they rule out part of the *mitzvah*? How else could one be liable?

The *Gemora* answers: The *Tanna* has the following difficulty. Why don't we say that *matter* implies an entire category, and not a detail? This is why the verse says: *and the matter will be hidden*. What does this imply? Ulla explains: It implies, *and from the matter will be hidden*. (*Rashi explained that this uses a method of derivation where the last letter of a word is added to the beginning of the next word, turning v'nelam davar into v'nelam mi'davar.*)

Chizkiyah derives this from the verse: *And they transgress from one of the mitzvos*. This implies *from a mitzvah*, and not all of a *mitzvah*.

The *Gemora* asks: Doesn't *mitzvos* mean two *mitzvos* (*from one of the mitzvos should indicate an entire mitzvah out of multiple mitzvos*)?

Rav Nachman bar Yitzchak answers: *Mitzvos* is written with one *vav* (*implying a singular mitzvah, despite the fact that the pronunciation indicates multiple mitzvos*).

Rav Ashi says: We derive *davar davar* from *zaken mamrei*. The verse says regarding *zaken mamrei*: *If something will be beyond you, don't turn away from the matter that they will tell you neither left nor right*. Just as regarding *zaken mamrei* the verse says: *from the matter* (*i.e. mitzvah*) implying not all of the matter, so too regarding *par helem davar* this refers to part of a *mitzvah* and not all of it. (4a)

### **The Sadducees do not Agree with**

Rav Yehudah says in the name of Shmuel: *Beis Din* is only liable if they rule regarding something for which the Sadducees do not agree that one is liable. However, if the

Sadducees agree one is liable (*and Beis Din mistakenly thought it was permitted*), they are exempt from a *par helem davar*. Why is this? It is because it is something clearly stated in the Torah (*that everyone can see is forbidden, meaning that this was not accidental transgression*).

The *Gemora* asks from our *Mishna*: However, if they said that there is *niddah*, but it is permissible for one to cohabit with a woman who is a *shomeres yom*, they are liable.

The *Gemora* asks: If something clearly stated in the Torah cannot be the cause for a *helem davar*, how can *shomeres yom* be a reason? The verse explicitly says: *And she will count for herself* teaching that she counts everyday that she sees blood!?

Rather, the *Gemora* answers: The *Mishna* means that they said that initial stage of intercourse with a *shomeres yom* is permitted, and only having a complete cohabitation is forbidden.

The *Gemora* asks: Doesn't the verse say, *Her source he penetrated?* [*This is clearly in the Torah!*]

Rather, the *Gemora* answers: They say that only cohabiting in a normal fashion is forbidden, not in an unnatural fashion (*shelo k'darkah*).

The *Gemora* asks: Doesn't the verse say: *the copulations of a woman* (*indicating there is more than one way for which one is liable*)?

The *Gemora* answers: They say that one is even liable for the initial stage of intercourse when having normal relations, but must have full relations when having abnormal relations in order to be liable.

The *Gemora* asks: What does this have to do with a *shomeres yom*? The *Mishna* could have said they understand this to be



true regarding a *niddah* as well! (*The Sadducees do not believe this to be true regarding niddah or shomeres yom.*)

The *Gemora* answers: In truth, it is only referring to a case the initial stage of intercourse in a normal way regarding a *shomeres yom*. The Sadducees do not agree that this applies by a *shomeres yom*, but do agree it applies to a *niddah*, as the verse: *Her source he penetrated* is said regarding a *niddah*. This is why the *Mishna* only said this regarding a *shomeres yom*.

Alternatively, the *Gemora* answers: The case is where they rule regarding a *zavah* (*someone who sees this type of emission when she is not a niddah three days in a row*) that it can only happen if she sees emissions during the day, as the verse says: *All the days of her emissions*. [*This is incorrect, as we rule the same rule applies at night.*] (4a)

### ***Uprooting Shabbos***

The *Mishna* said: If they said that there is *Shabbos*, but one may carry from the private domain to the public domain on *Shabbos*, they are liable.

The *Gemora* asks: Doesn't the verse explicitly say: *you should not carry from your houses* (*Yirmiya 17:22*)?

The *Gemora* answers: The case is where they say it is forbidden to carry out of your house, but you may bring things into your house.

Alternatively, the *Gemora* answers: The case is where they say carrying back and forth is forbidden, but passing things and throwing things from one domain to the other is permitted. (4a)

### ***Uprooting Idolatry***

The *Mishna* says: If they said there is idolatry, but one may bow down to idols, they are liable.

The *Gemora* asks: Bowing down to idols is explicitly stated in the verse, as it says: *Do not bow down to another god!*

The *Gemora* answers: The case is where they say that one is only forbidden to bow down to an idol if it is normally served in that fashion. However, if it is normally served in that fashion one may do so. They therefore must bring a *helem davar*.

Alternatively, the *Gemora* answers: They said that one is only forbidden to bow down if he stretches out his hands and legs while bowing down. If he does not, it is permitted. They therefore must bring a *helem davar*. (4a)

### ***Uprooting a Partial Mitzvah***

Rav Yosef inquired: What is the law if they said there is no prohibition against plowing on *Shabbos*? Do we say that because they agree that the other *melachos* are forbidden, it is considered that they are only permitting an aspect of *Shabbos*? Or do we say that being that they are uprooting the entire prohibition against plowing, it is as if they are taking away an entire *mitzvah*?

The *Gemora* attempts to answer from the *Mishna*. The *Mishna* says: However, if they said that there is *niddah*, but it is permissible for one to cohabit with a woman who is a *shomeres yom*, they are liable. Why should they be liable if they are completely uprooting *shomeres yom*? (*It must be that they would also be liable for uprooting plowing!*)

Rav Yosef answers: This is not a proof, as we explained earlier that it is not referring to uprooting the entire concept of *shomeres yom*.

The *Gemora* attempts again to answer from the *Mishna*. The *Mishna* said: If they said that there is *Shabbos*, but one may carry from the private domain to the public domain on *Shabbos*, they are liable. Why should they be liable if they

completely uproot carrying? (*It must be that they would also be liable for uprooting plowing!*)

Rav Yosef answers: This is not a proof, as we explained earlier that it is not referring to uprooting the entire concept of carrying.

The *Gemora* attempts another answer from the *Mishna*. The *Mishna* says: If they said there is idolatry, but one may bow down to idols, they are liable. (*It must be that they would also be liable for uprooting plowing!*)

Rav Yosef answers: This is not a proof, as we explained earlier that it is not referring to uprooting the entire concept of bowing down. (4b)

### **Shabbos during Shemittah**

Rabbi Zeira asked: What if they say there is no *Shabbos* during *Shemittah*? What is their mistake? They misunderstood the verse: *in the plowing and harvesting you should rest*. They thought that when people plow they have *Shabbos*, as opposed to *Shemittah* when there is no plowing, that there is also no *Shabbos*. Do we say that because they keep *Shabbos* during the other years, it is considered part of a law? Or do we say that because they entirely uproot *Shabbos* during *Shemittah*, they are considered to uproot an entire *mitzvah*?

Ravina says: If a prophet says a “prophecy” that we should uproot something from the Torah, he is liable to be killed. If he says we should not do part of a law, Rabbi Shimon says he is not killed. However, if it is relative to idolatry, even if he says to worship something today and nullify it tomorrow, he is liable. This proves that if *Beis Din* says there is no *Shabbos* on *Shemittah*, it is like a part of a law. (4b)

### **Mishna**

If *Beis Din* issued a ruling, and one of them knew they had made a mistake and he told them so, or the elder of *Beis Din* was not present at the time, or if one of the members of *Beis Din* was a convert, *mamzer*, or *Nasin*, or an elderly person who cannot father children, they are exempt. This is derived from the fact that the word *eidah* is used to describe *Beis Din* by *par helem davar*, and it is also used to describe a *Beis Din* that judges. Just as in the verse about them judging, they all must be fit to rule, so too for a *par helem davar* they all must be fit to rule. (4b)

### **Elder is Required**

The *Mishna* says that they are exempt if the elder was not there.

The *Gemora* asks: How do we know this?

Rav Sheishes answers, as is taught by the academy of Rabbi Yishmael: Why do they say that if they rule regarding something the Sadducees deem forbidden they are exempt from *par helem davar*? This is because they should have learned, and did not. So too, if the elder is not there they are exempt, as they should have learned and did not. (4b)

### **Fit to Rule**

The *Mishna* says: The word *eidah* is used to describe *Beis Din* by *par helem davar*, and it is also used to describe a *Beis Din* that judges. Just as in the verse about them judging, they all must be fit to rule, so too for a *par helem davar* they all must be fit to rule.

The *Gemora* asks: How do we know in the verse explaining that they judge, that they must be fit to rule?

Rav Chisda explains: The verse says: *And they will stand there with you*, implying that they should be similar to you.



## DAILY MASHAL

The *Gemora* asks: Perhaps this means the *Shechinah* was with Moshe?

Rather, Rav Nachman bar Yitzchak says: The verse says: *And they will carry with you*, implying they should be like you. (4b)

### **Mishna**

If *Beis Din* ruled mistakenly and the entire congregation followed their ruling, they bring a *par helem davar*. If they deliberately ruled incorrectly and the congregation sinned inadvertently, they bring a sheep or a goat (*for an individual korban chatas*). If they ruled inadvertently and the congregation deliberately sinned, they are exempt. (4b)

### **Inference from the Mishna**

The *Mishna* says: If they ruled mistakenly and the congregation deliberately sinned, they are exempt. This implies that if they were accidental sinners who are like purposeful sinners, they are liable. What is the case? *Beis Din* ruled that forbidden fats are permitted, and a person had forbidden fats and permitted fat, and he mistakenly ate the forbidden fat.

The *Gemora* asks: If this is so, we should answer the question of Rami bar Chama (*who discussed this case and did not know the law*)!

Rami bar Chama will answer: This is not proof. It is possible the *Mishna* only stated if they ruled mistakenly and the congregation deliberately sinned, because of the first case discussed - where they deliberately ruled incorrectly and the congregation was mistaken. (*In other words, this deduction is not necessarily correct.*) (4b)

### **A Murderer with a Kamatz and a Murderer with a Patach**

*Chazal* said (Avodah Zarah 19b) that one who is unfit to rule halachah but does so and one who is fit to rule halachah but doesn't, are both like murderers. The Vilna Gaon zt"l revealed a hint for this in the verse "You shall not murder" (*Lo tirtzach*), where the vowel under the *tzadi* may be either a *kamatz* or a *patach* (depending on whether the *ta"am elyon* is used for the reading of the Torah, or the *ta"am tachton*). In other words, there is murder when a person remains quiet (*kamatz piv*), regarding someone who is fit to rule halachah but does not. There is murder if a person speaks (*patach piv*), regarding someone who is unfit to rule halachah but does so (*Kol Eliyahu*).