YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**"My Children have Defeated Me"**

**Fundamental questions in the study of the Oral Law**

**Rav Amnon Bazak**

**Shiur #18: Chapter Three (VI)**

**Creative Midrash (*Midrash Yotzer*), Sustaining Midrash (*Midrash* *Mekayem*), and Scriptural Support (*Asmakhta*)**

**4. The differences between Rabbi Yishmael and Rabbi Akiva (continued)**

[Many controversies have arisen between the different approaches of Rabbi Yishmael and Rabbi Akiva on several levels (continued)]:

b. In some cases, we find that Rabbi Yishmael and Rabbi Akiva do not disagree about the law itself, but each presents the law according to his own method of exposition: Rabbi Yishmael bases the law on the hermeneutical rules by way of which the Torah is expounded, through logical analysis of the text, whereas Rabbi Akiva emphasizes that the law is based on "extraneous" words that could have been done without, in a manner that clearly does not stem from analysis of the verse.

For example, in the passage dealing with the punishment for blasphemy, we find three words derived from the root *kof-resh-tof*:

But the soul that does anything with a high hand, whether he be home-born or a stranger, the same blasphemes the Lord; and that soul **shall be cut off (*ve-nikhreta*)**from among his people. Because he has despised the word of the Lord, and has broken His commandment; that soul **shall utterly be cut off** **(*hikaret tikaret*)**; his iniquity shall be upon him. (*Bamidbar* 15:30-31)

The *Tannaim* disagree about the significance of these three mentions of *karet*:

As it has been taught: "That soul shall utterly be cut off (*hikaret tikaret*)" – *hikaret* in this world, *tikaret* in the World-to-Come; these are the words of Rabbi Akiva. Rabbi Yishmael said to him: But surely it was already stated: "That soul shall be cut off (*ve-nikhreta*)." Are there three worlds? Rather, *ve-nikhreta* – in this world, *hikaret* – in the World-to-Come, *tikaret* – the Torah speaks in the language of men. (*Sanhedrin* 64b)

Rabbi Akiva concludes that the redundancy of *hikaret tikaret* must be intended to include something, for the Torah could have said merely *hikaret*; he expounds that the word *hikaret* comes to teach about *karet* in this world, and *tikaret* includes *karet* in the World-to-Come as well. Rabbi Yishmael notes ironically that the previous verse uses the word *ve-nikhreta*, and what can be learned from that? "Are there three worlds?"[[1]](#footnote-1)For this reason, Rabbi Yishmael explains that the word *ve-nikhreta* teaches about *karet* in this world, and the full phrase *hikaret tikaret* teaches about *karet* in the World-to-Come. The two-word phrase, *hikaret tikaret*, does not teach us two things; rather, it is an instance of "the Torah speaks in the language of men." Rabbi Yishmael assumes that when the Torah uses a phrase like *hikaret tikaret* instead of *tikaret*, it is simply using the ordinary language of human beings, and therefore nothing can be inferred from the Torah's use of a word that could have been done without. Rabbi Akiva, on the other hand, maintains that every extraneous word comes to teach us something, even if analysis of the word and its context in the verse does not lead to one direct exegetical conclusion.

The same is true regarding the law of *Pesach Sheni*. The Torah presents two cases in which a person who did not bring his Paschal offering on the 14th of Nisan can bring *Pesach Sheni* a month later: "If any man of you or of your generations shall be unclean by reason of a dead body, or be in a journey afar off, he shall keep the Passover to the Lord" (*Bamidbar* 9:10). What is the law regarding a person who was not unclean or far away, but for some other reason was prevented from bringing his Paschal offering on the 14th of Nisan? Both Rabbi Yishmael and Rabbi Akiva agree that he can bring a *Pesach Sheni,* but each *Tanna* derives this law in his own way:

I only know about one who is unclean by reason of a dead body. From where do I know about those who [were prevented from bringing the Paschal offering] by circumstances beyond their control [*anus*] or because of oversight [*shogeg*]? Therefore the verse states: "If any man of you (*ish ish*)." This includes [those cases]. Thus far in accordance with Rabbi Akiva. In accordance with Rabbi Yishmael, how so? Rabbi Yishmael taught: One who is unclean by reason of a dead body is not analogous to one who is in a journey afar off, and one who is in a journey afar off is not analogous to one who is unclean by reason of a dead body. Yet the point common to all is that one who did not bring the first [Paschal offering] brings the second. So too I will include those who because of circumstances beyond their control or oversight did not bring the first [Paschal offering], that they bring the second. (*Yerushalmi Pesachim* 9:1, 36c)

The *Yerushalmi* first presents the derivation from the words "*ish ish*," which bases the law regarding those who did not bring the first Paschal offering because of circumstances beyond their control or because of oversight on the seeming redundancy in these words. However, the *Yerushalmi* immediately notes that this derivation accords only with the approach of Rabbi Akiva,[[2]](#footnote-2) whereas within Rabbi Yishmael’s perspective, it is necessary to look for a source that is based on textual analysis.[[3]](#footnote-3) In fact, Rabbi Yishmael derives this law by way of one of the hermeneutical rules – namely, *binyan av*, a rule deduced from two passages. The Torah provides two examples, and we learn from those two that the possibility of bringing a *Pesach Sheni* is also offered to anyone who did not bring the Paschal offering because of circumstances beyond his control or because of oversight.

Here is another example: The Torah states that the Paschal offering may not be boiled in water; "Eat not of it raw, nor boiled at all (*u-vashel mevushal*) with water; but roast with fire" (*Shemot* 12:9). All agree that the Paschal offering may also not be boiled in other liquids, but here too the *Tannaim* disagree about the Scriptural source of this law. The *Yerushalmi* presents the disagreement in a manner identical to the disagreement that we saw above:

I only know about water. From where do I know to include other liquids? Therefore the verse states: "Nor boiled at all" (*u-vashel mevushal*) – in any manner. Thus far in accordance with Rabbi Akiva. In accordance with Rabbi Yishmael, how so? Rabbi Yishmael taught: A *kal va-chomer* argument: If water, which does not give up its taste [to the substance boiled in it], you say is prohibited, all the more so other liquids which give up their taste [to the substance boiled in it]. (*Yerushalmi* 2:7, 29c)

Here too, Rabbi Akiva derives the law from a redundancy, "*u-vashel mevushal*," while Rabbi Yishmael, who maintains that the Torah speaks in the language of men, does not see this redundancy as a source for any derivation whatsoever and instead infers the same law based on logical analysis of the verse, by way of a *kal va-chomer* argument.[[4]](#footnote-4)

c. Rabbi Akiva and Rabbi Yishmael also disagree about the very hermeneutical rules by way of which the Torah is expounded, and thus they continue an earlier controversy between their teachers:

Rabbi Yochanan said: Rabbi Yishmael who ministered to Rabbi Nechunya ben Hakana, who expounded the whole Torah on the principle of *kelal u-perat* (generalization and specification), also expounded it on the principle of *kelal u-perat*; Akiva who ministered to Nachum of Gimzo,[[5]](#footnote-5) who expounded the whole Torah on the principle of *riba u-mi'et* (amplification and limitation), also expounded it on the principle of *riba u-mi'et.* (*Shevu'ot* 26a)

The controversy pertains to a common phenomenon in the Torah: a law is brought in a generalized formulation and also with specific examples. Wherever this phenomenon is found, we must identify the determining factor: Do we follow the general rule, and see the specific examples merely as cases brought to illustrate that rule; or do we follow the specific examples, and understand them as limiting the general rule?

Rabbi Yishmael has three rules regarding this matter, the first two of which relate to the question of which came first: the generalization or the specification. If the general formulation came first, and afterwards the specific examples, the examples are viewed as coming to restrict the general rule. For example, in the verse at the beginning of the book of *Vayikra* (1:2): "When any man of you brings an offering to the Lord, you shall bring your offering of the beasts, of the herd, or of the flock," the verse begins with a generalization – "of the beasts," that is to say, of all the living creatures that walk on the earth, including undomesticated animals, herds, and flocks.[[6]](#footnote-6) Afterwards come the specific examples, which do not include undomesticated animals – "of the herd, or of the flock." Rabbi Yishmael presents the hermeneutical rule: "Generalization and specification – the generalization includes only that which is contained in the specification" (*Baraita de-Rabbi Yishmael*, 2a). Therefore, the conclusion is that an offering must not be brought from undomesticated animals, as the verse is read as follows: "When any man of you brings an offering to the Lord, you shall bring your offering of the beasts; [what types of beasts? Only] of the herd, or of the flock." This reading accords with the plain sense of the verse.

The same is true in the opposite case, when the specific examples appear first, and a general formulation is presented afterward – as in this verse in the section dealing with bailees: "If a man deliver to his neighbor a donkey, or an ox, or a sheep, or any cattle to keep" (*Shemot* 22:9). After three specific examples, "a donkey, or an ox, or a sheep," a general rule appears: "or any cattle." Rabbi Yishmael applies the rule that "Specification and generalization – the generalization adds to the specification" (*Baraita de-Rabbi Yishmael*, ibid.); therefore, the rules of bailees apply to all types of animals. This reading, as well, fits in well with the plain sense of the verse.[[7]](#footnote-7)

The third rule in this context relates to a more complicated situation, in which a generalized formulation is followed by several specific examples and then another generalization. Rabbi Yishmael and Rabbi Akiva disagree about this situation. Rabbi Yishmael calls this situation: "Generalization, specification, and generalization," and establishes: "You may include in the generalization only that which is similar to the specification" (ibid.). The meaning of this rule is that this is an intermediate situation, in which the law applies not only to the specified examples (as in the rule of "generalization and specification"), and also not to the entire generalization (as in the rule of "specification and generalization"), but rather to the common denominator of the specific examples. A *baraita* brought in tractate *Shevu'ot* (26a) considers a verse regarding the obligation to bring an offering if an oath was violated: "Or if any one swear clearly with his lips to do evil, or to do good, whatsoever it be that a man shall utter clearly with an oath, and it be hid from him; and, when he knows of it, be guilty in one of these things" (*Vayikra* 5:4). First comes a generalized formulation: "Or if anyone swear clearly with his lips," which implies that there is liability for any oath that one swears clearly with his lips. Next, the Torah offers two specific details: "to do evil, or to do good," from which it may be inferred that there is liability only if a person obligates himself to do something which could be evil or good for somebody. At the end, however, comes another generalized formulation: "Whatsoever it be that a man shall utter clearly with an oath."

And Rabbi Yishmael expounds it on the principle of generalization and specification. "Or if anyone swear clearly with his lips" – a generalization; "to do evil, or to do good" – a specification; "whatever it be that a man shall utter clearly [with an oath]" – again a generalization. A generalization, a specification, and a generalization – you may include in the generalization only [those oaths which are] similar to the specification: just as the specification is clearly in the future, so all [oaths] in the future [may be included].

The conclusion to be drawn from this analysis of the verse is that liability for an oath relates to what is common to the specific cases, i.e., any oath relating to an action in the future, even if it does not involve doing evil or doing good. According to Rabbi Yishmael, a person is liable for an offering for violating his oath only if he swore to perform some action in the future and failed to do so; he is not liable for an offering if he took an oath about some fact in the past. As in the previous cases, this derivation accords with what is implied by the plain sense of the verse.

In contrast, Rabbi Akiva (ibid.) refers to these cases as "amplification, limitation, and amplification," and this difference reflects a different form of derivation from the verse:

How does Rabbi Akiva expound it on the principle of amplifications and limitations? It has been taught: "Or if anyone swear [clearly with his lips]" — this amplifies; "to do evil, or to do good" — this limits; "whatsoever it be that a man shall utter clearly [with an oath]" — this again amplifies. Because it amplifies, limits, and amplifies, it includes all. What does it include? It includes all things. What does it exclude? It excludes [an oath relating to] a mitzva.

According to Rabbi Akiva, in such a situation, the amplification is viewed as the main thing, and we exclude only one specific type of case. In the case of oaths, Rabbi Akiva maintains that the exclusion relates to oaths taken to fulfill or annul a mitzva. Here too, it is clear that Rabbi Akiva's position is not based on an analysis of the verse, for there are various possible exclusions[[8]](#footnote-8) and the verse offers no hint that what should be excluded is an oath relating to a mitzva*.* It seems, therefore, that in this case as well Rabbi Akiva follows the approach of “sustaining *midrash*,” according to which the law stems from a different source and was attached to this verse only after the law was already known.

(Translated by David Strauss)

1. As for the question of how Rabbi Akiva deals with this argument, see Rashi (s.v. *ve-halo*) and *Yad Rama* (s.v. *amar*), ad loc. [↑](#footnote-ref-1)
2. *Korban ha-Eida*, ad loc.: "Who expounds redundancies in the Torah as amplifications." [↑](#footnote-ref-2)
3. *Korban ha-Eida*, ad loc.: "Like Rabbi Yishmael, who said that the Torah speaks in the language of men." [↑](#footnote-ref-3)
4. The *Yerushalmi* also presents other disputes between Rabbi Akiva and Rabbi Yishmael that relate to their respective methods of expounding the Biblical text, and not to the law itself, in the same manner. See, for example, *Yerushalmi Berakhot* 7:1, 11a; *Shabbat* 19:2, 17a; *Gittin* 8:1, 49b; and many other places. [↑](#footnote-ref-4)
5. The relationship between Nachum of Gimzo and his disciple Rabbi Akiva was discussed in the previous *shiur*. [↑](#footnote-ref-5)
6. In the Torah, the term "*chaya*" usually refers to animals that do not grow naturally in a civilized area, as opposed to *tzon* (sheep) and *bakar* (cattle), which are usually domesticated. From several places in the Torah, *Chazal* concluded that the term "*beheima*" includes all animals that walk on the earth, and thus "*chaya* is included in *beheima*" (*Sifrei Devarim* 100, p. 160, and many other places), as is evident from, among other places, the verse: "These are the living things (*chaya*) which you may eat among all the beasts (*behema*) that are on the earth" (*Vayikra* 11:2). From here it may be concluded that in the verse at the beginning of the book of *Vayikra*, as well, the words "of the beasts (*min ha-beheima*)" are a generalization that includes undomesticated animals (*chaya*). [↑](#footnote-ref-6)
7. In both situations, the question arises as to why the Torah wrote both the generalized formulation and the specific examples, and did not content itself with only the specific examples (in the case of generalization and specification, where the rule includes only that which is contained in the specification), or only the generalized formulation (in the case of specification and generalization, where the generalized formulation adds to the specific examples). The *Tosafot* (*Nazir* 35b, s.v. *ika*) explain that the phrasing comes to emphasize that the law applies only to the specific examples (in the case of generalization and specification), or to the entire generalization (in the case of specification and generalization), so that other hermeneutical rules will not be used to say differently. [↑](#footnote-ref-7)
8. See, for example, the possibilites noted by *Tosafot*, ad loc. (s.v. *mi'et davar*). [↑](#footnote-ref-8)