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 #40: Chapter Six (5)**

**The Plain Meaning of the Mishna and Its Interpretation in the**

**Gemara**

**III. “It is the Way of the Gemara to Distort the Meaning of a Mishna so that it Agrees with the Normative Law”[[1]](#footnote-1)**

As mentioned in an earlier *shiur*, the question of the relationship between the plain meaning of a Mishna and the *ukimta* in the Gemara is reminiscent of the question of the relationship between the plain meaning of Scripture and the Midrash Halakha. Here too, I would like to divide the phenomenon into three different types of cases, which parallel the three types of cases that were presented in Chapter 4.

We will begin with the remarks of one of the great *Rishonim*, Rabbi Menachem Ha-Meiri,[[2]](#footnote-2) regarding the role of the Gemara in relation to the Mishna. First, after discussing the development of the Mishna, the Meiri points to places where the Gemara seems to raise the possibility of disputing a ruling of the Mishna:

With all this, the hearts were weakened by all the troubles, and the later sages had to write afterwards by way of explanation and expansion, and sometimes by way of contradiction and correction, when the sages of the generation agreed on that based on what they saw as a strong objection – like they said in tractate *Yom Tov*… "the *mishna* represents the view of an individual"[[3]](#footnote-3); and similarly they said: "Remove from here such and such";[[4]](#footnote-4) and similarly they said: "’[if he slaughtered] a red heifer’ is not [authoritative] Mishna";[[5]](#footnote-5) and similarly in chapter *Ha-Choletz*,regarding the *mishna* taught in [*Seder*] *Taharot* about a flax comb whose teeth were removed, "Rabbi Yochanan and Resh Lakish both said: This is not [authoritative] Mishna."[[6]](#footnote-6) (*Beit ha-Bechira*, introduction to *Avot*)[[7]](#footnote-7)

At this point, the Meiri's claim is that despite the prevailing premise in the Gemara that an *Amora* cannot disagree with a *mishna* or any other Tannaitic source, in certain cases he *can* do so; therefore, the Gemara relates to the Mishna not only "by way of explanation and expansion," but sometimes also "by way of contradiction and correction." So far, the Meiri is speaking about cases in which *Amoraim* explicitly dispute Tannaitic rulings, and his main argument is that in certain defined and exceptional situations, the *Amoraim* do indeed have the authority to do this. This argument in itself is not new, and was already explained by Rav Sherira Gaon in his epistle:[[8]](#footnote-8)

In a place where we find a faulty text in a *mishna*, and it is necessary to remove from it something which gives rise to an objection that cannot be reconciled, we say: "Remove from here such and such." As regarding the matter of "it and its young," concerning which we said: "Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: ‘A red heifer’ is not [authoritative] Mishna, ‘a heifer whose neck was to be broken’ is not [authoritative] Mishna." Thus we see that if our *mishna* is subject to a difficulty that cannot be reconciled, from a *baraita* or even from logical reasoning, we reject the entire *mishna*. Like that which we learned in *Taharot* (*Keilim* 13:8): "A flax comb whose teeth were removed." And it is stated in chapter *Ha-Choletz* (*Yevamot* 43a): "Rabbi Yochanan and Resh Lakish both said: This is not [authoritative] Mishna." And we do not act in accordance with it, "because accurate scholars conclude: [These are the words of Rabbi Shimon]."[[9]](#footnote-9)

Rabbi Sherira Gaon argues that *Amoraim* can disagree with a *mishna* based not only on a different Tannaitic source, but "even on logical reasoning." Nevertheless, it is clear that we are dealing with exceptional cases, because ordinarily, a contradictory Tannaitic source is considered a decisive refutation of an Amoraic opinion.[[10]](#footnote-10)

However, later in the passage, the Meiri notes that the ability of *Amoraim* to disagree with *Tannaim* is expressed indirectly, rather than explicitly:

And similarly, it is frequently stated: "The text is defective, [and should read thus]";[[11]](#footnote-11) and similarly: "But must you not [in any case] explain [the passage],"[[12]](#footnote-12) "explain it thus,"[[13]](#footnote-13) and many other similar phrases. As even we do today to our leaders and to our elders, who came before us and pass before us and over our heads. And as they said in general (*Chullin* 7a): "They left room for us,[[14]](#footnote-14) that is to say, perfection is not found among created beings, not even in the most select of them, to the point that those coming after them are not permitted to disagree with them in some matters.

According to the Meiri, even when the Gemara emends the reading of a *mishna* or a *baraita*, it is not because the Gemara had a different tradition about the text; rather, the addition of words is a tool for a deliberate change in the Mishna, so that it accords with the position of a particular *Amora*. He adds that a similar phenomenon exists even in his own days, and in general, he sees no difficulty in the fact that the members of a later generation disagree in certain circumstances with those who came before them, because "perfection is not found among the created beings, not even in the most select of them, to the point that those coming after them are not permitted to disagree with them in some matters."

(Translated by David Strauss)

1. This quotation, from the Netziv (*Ha’amek She’ela*, on the *She’iltot of Rav Achai Gaon*, *she’ilta* 128), will be discussed in a coming *shiur*. [↑](#footnote-ref-1)
2. Provence, 1249-1315. [↑](#footnote-ref-2)
3. The Gemara (*Beitza* 31a) brings the words of Shmuel: "One may take wood only from a collected pile in an enclosure." That is to say, one is permitted to use wood on Yom Tov, and it is not considered *muktzeh*, if and only if two conditions are met: the wood is in a collected pile and not scattered about, and it is in an enclosed area. The Gemara raises an objection based on a *mishna* (*Beitza* 4:2) that says it suffices if *one* of those conditions is met: "One may bring in from the field [fire-]wood that is gathered together, and from an enclosure even though it is scattered about." The Gemara’s resolution is: "Our *mishna* represents the opinion of an individual," based on a *baraita* (the source of which is Tosefta *Yom Tov* 3:10, pp. 295-296) that attributes this position to Rabbi Shimon ben Elazar, based on his understanding of Beit Hillel. It should be noted that the Tosefta also mentions the opinion of Rabbi Natan, who is even more lenient, but does not mention a more stringent view. [↑](#footnote-ref-3)
4. In several cases of difficulty in a *baraita*, the Gemara does not reconcile the difficulty, but simply states that part of the *baraita* should be erased: "Remove from here." For example, Rabbi Abahu taught the following *baraita* before Rabbi Yochanan: "Idolaters and [Jewish] shepherds of small cattle [a category known for robbery] need not be brought up [from a pit], though they must not be cast in, but *minim*, informers, and apostates may be cast in, and not be brought up"(*Avoda Zara* 26a-b). According to this, apostates are included among those who may be cast into a pit, and need not be brought up, in order to bring about their deaths. Rabbi Yochanan raised an objection against this from a different *baraita*, which considers an apostate to be “your brother”: "I have been learning that the words 'And so shall you do with every lost thing of your brother's' (*Devarim* 22:3) are also applicable to an apostate, and you say he may be thrown down?" The answer is: "Remove from here 'apostates,'" that is to say, the word "apostates" should be removed from the (first) *baraita*. [↑](#footnote-ref-4)
5. The Mishna (*Chullin* 5:3) brings a Tannatic dispute regarding the laws of slaughtering "it and its young": "If a person slaughtered [an animal'] and it was found to be *tereifa*, or if he slaughtered [it as an offering] to idols, or if he slaughtered the red heifer, or an ox which was condemned to be stoned, or a heifer whose neck was to be broken, Rabbi Shimon exempts him [from punishment for having violated the law of 'it and its young']; but the Sages obligate him." The Gemara (*Chullin* 81b) explains that the *Tannaim* disagree about whether or not "a slaughtering which does not render [the animal] fit [for food]" (because it is forbidden to be eaten for other halakhic reasons) is considered a slaughtering with respect to the law of "it and its young." But the Gemara (81b-82a) also raises a difficulty: Why does the *mishna* include "if he slaughtered the red heifer" as a slaughtering that does not render the animal fit? A *baraita* teaches: "Rabbi Shimon says: The red heifer contracts food impurity, since it had a period of time in which it was fit [to be used for food]," and Resh Lakish explains the nature of this "period of fitness – that according to Rabbi Shimon, if a nicer red heifer was found, the first animal can be redeemed even if it was already slaughtered and it was lying on the woodpile, ready to be burnt, so according to him, the animal was fit to be eaten when it was slaughtered (Rashi, *ad loc*. 82a, s.v. *ve-amar*). The Gemara answers: "Rav Shaman bar Abba said in the name of Rabbi Yochanan: 'The red heifer' is not [part] of our Mishna." Later in that passage, a similar statement is made about the words "a heifer whose neck was to be broken" in the *mishna*, based on a different *mishna* (*Sota* 9:7): "If the murderer was found before the heifer's neck was broken, it is set free to pasture among the herd." [↑](#footnote-ref-5)
6. The Gemara (*Yevamot* 43b) brings a *mishna* from tractate *Keilim* (13:8) that discusses the purity laws in the case of a flax-comb with missing teeth, and the words of Rabbi Yochanan and Resh Lakish: "This is not [authoritative] Mishna." The Gemara tries to understand the reason for this assertion, and ultimately concludes it is based on traditions that this *mishna* is "the words of Rabbi Shimon" and was not accepted as the normative *halakha*. [↑](#footnote-ref-6)
7. A critical edition of the Meiri's important introduction to tractate *Avot* was published under the title *Seder ha-Kabbala*, Jerusalem 5766, by S. Z. Havlin. [↑](#footnote-ref-7)
8. Rav Sherira Gaon (906-1006) was the head of the Pumbedita Yeshiva, and his famous epistle is one of the most basic sources for the development of the Oral Law. The epistle was written ca. 987 in response to questions posed by the sages of Kairouan regarding the creation of the Mishna, *baraitot*, and Talmud, and the generations of the *Tannaim*, *Amoraim*, *Savoraim*, and *Geonim* until the time of the author. The epistle was published throughout the Jewish world, and two versions of it developed: the "French" version and the "Spanish" version. B. M. Lewin, *Iggeret Rav Sherira Gaon*, Jerusalem 5732, pp. 24-25, preferred the Spanish version, and the citations brought here are taken from it. Today, however, the consensus follows Y. N. Epstein, *Mevo'ot le-Sifrut ha-Tannaim*, Jerusalem 5722, pp. 610-615, that the French version is the more accurate one. [↑](#footnote-ref-8)
9. Ed. Lewin, p. 565. [↑](#footnote-ref-9)
10. An interesting explanation for the difference between the exceptional cases, in which the Gemara rejects a *mishna*, and the majority of cases, in which there is no way for an *Amora* to dispute a Tannaitic source, is brought in the name of Rav Chaim Halevi Soloveitchik: "There is a difficulty: how do we establish the law here in accordance with Rav against the Mishna? I asked my revered teacher, the Gaon Rav Chaim Halevi of Brisk, and he answered that in truth, even an *Amora* has the power to disagree with a *Tanna*. The fact that we raise objections from *Tannaim* to *Amoraim* is because an Amora does not disagree with a Tanna, and had he known the words of the *Tanna*, he would not have disagreed with him – but in a place where [an *Amora*] explicitly disagrees [with a *Tanna*], it is possible that the *halakha* is in accordance with him." (*Kovetz Shiurim* *Bava Batra*, letter 633; and he goes on to cite the above-mentioned words of Rav Sherira Gaon are cited). In his opinion, the reason that an *Amora* generally does not disagree with a Tannaitic source is that he will not insist on his position against a Tannaitic source, but fundamentally, an *Amora* has the authority to dispute even *Tannaim*. Therefore, where it is clear that an *Amora* was aware of the Tannaitic position and nevertheless held to his differing opinion, it is possible for the *halakha* to be determined in accordance with him. [↑](#footnote-ref-10)
11. See below for an example that illustrates the phenomenon of "The text is defective, and should read thus." [↑](#footnote-ref-11)
12. For example, the Mishna in *Megilla* (2:3) deals with the resident of a town who went to a walled city and the resident of a walled city who went to a town. If he is likely to return to his own place, he reads the *megilla* according to the rule of his own place, and if he is not likely to return to his own place, he reads with the others. Rava argues that this law applies only to the resident of a town or a walled city, but villagers, whose time for reading is advanced, read in any case like the townspeople, since by right that is their time of obligation. Abaye raises an objection against Rava from a *baraita*: "If a resident of a walled city has gone to a town, in any case he reads according to the custom of his own place" (*Megilla* 19a). What is the objection? The Gemara explains that the *baraita* clearly cannot be understood in its plain sense, for the law governing the resident of a walled city is set, as explained in the Mishna, based on whether he is likely to return to his own place. Therefore, the *baraita* should be emended to read: "a resident of a village," and from here we see that the *baraita* maintains that a villager always reads in accordance with the custom of his place – not like Rava, who says he reads like the townspeople! The Gemara, however, rejects this argument: "But must you not [in any case] explain the passage? Read, [then] 'reads with the rest.'" That is to say, since in any case the text of the *baraita* must be emended, other words can be changed as well. [↑](#footnote-ref-12)
13. See the example below, and similarly, for example, in *Shevuot* 20b, where Rava emends a *baraita*: "Explain it thus: What is the binding force of a vow which is mentioned in the Torah? [↑](#footnote-ref-13)
14. Regarding this source, which R. Saadya Gaon mentioned in the context of interpreting a *mishna* in a manner different from its interpretation in the Gemara, see *shiur* 37, note 8. [↑](#footnote-ref-14)