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 #41: Chapter Six (6)**

**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” (continuation)**

To understand the words of the Meiri cited in the previous *shiur*, we will illustrate two of the phenomena that he mentions, "The text is defective, and should read thus" (*chasurei mechasera ve-hakhi* *katanei*) and "Explain it thus" (*tareitz ve-eima hakhi*), beginning with the former.

The Gemara (*Kiddushin* 44b) cites the opinion of Rav Nachman that a *na'ara* (a young girl, between the ages of twelve and twelve and a half) can accept a *get* on her own, but she cannot appoint an agent to accept it on her behalf, such that she would be divorced as soon as the agent receives the *get*. The Gemara then raises an objection against Rav Nachman, from a *mishna* that implies otherwise:

If a *ketana* [a young girl below the age of twelve] says: "Accept my *get* on my behalf," it is not a valid *get* until it reaches her hand. Therefore, should the husband wish to retract, he may do so, for a minor cannot appoint an agent. But if her father says to him [the agent]: "Go and accept the *get* for my daughter," should her husband wish to retract, he cannot do so. (Mishna *Gittin* 6:3)

This *mishna* specifies that a *ketana* cannot appoint an agent to receive her *get*, implying that a *na'ara* can in fact appoint such an agent: "Hence, in the case of a *na'ara*,it is a valid *get*! (*Kiddushin* 44b). The Gemara reconciles the difficulty with an *ukimta*: "With what are we dealing here? With a girl who has no father." That is to say, the *mishna* speaks of a girl who has no father, and therefore, if she is a *na'ara*, she can indeed appoint an agent herself to receive her *get*.[[1]](#footnote-1) A *na'ara* who has a father, however, cannot appoint such an agent. The Gemara raises an objection against this *ukimta* from the second part of the *mishna*, "But if her father says to him" – which implies that we are discussing a girl who does have a father, but nevertheless, only a *ketana* cannot appoint an agent. Thus, the objection against Rav Nachman stands! In order to reconcile the position of Rav Nachman, the Gemara proposes that "the text [of the *mishna*] is defective," and explains what the *Mishna* actually means:

The text [of the Mishna] is defective, and should read thus: If a *ketana* says: "Accept my *get* for me," it is not a [valid] *get* until it reaches her hand; but in the case of a *na'ara*, it is a [valid] *get*. When is that said? If she has no father. But if she has a father and he says: "Go and accept the *get* for my daughter," and [then] the husband wishes to retract, he cannot do so.

Inserting these words into the *mishna* changes the entire picture and allows us to reconcile Rav Nachman’s position, that a *na'ara* cannot appoint an agent to receive her *get*, with the *mishna*.

According to the Meiri, we can well understand the course of the Talmudic passage. Rav Nachman maintained a certain position, but a difficulty was raised against it from a *mishna* that contradicts his view. In order not to directly disagree with a *mishna*, Rav Nachman took the approach of "the text [of the *mishna*] is defective, and should read thus," and added words that removed the *mishna* from its plain meaning and made it consistent with his opinion.

In another example, the Mishna states: "On three occasions of the year, the priests lift up their hands [to bless the people] four times during the day: at the *Shacharit* service, at the *Musaf* service, at the *Mincha* service, and at the closing of the gates. [The three occasions are:] fast days, *ma'amadot*, and Yom Kippur" (*Ta'anit* 4:1). According to the plain sense of this *mishna*, the *Musaf* service was recited even on fast days and on *ma'amadot*,[[2]](#footnote-2) as on Yom Kippur. The Gemara expresses surprise: "Is there a *Musaf* service on fast days and *ma'amadot*?" and it resolves the matter by arguing that "the text [of the Mishna] is defective":

The text [of the *mishna*] is defective, and should read thus: "On three occasions, the priests lift their hands [to bless the people] at all services, and on one of these occasions four times during the day, at the *Shacharit* service, at the *Musaf* service, at the *Mincha* service, and at the closing of the gates. The following are the three occasions: Fast days, *ma'amadot*, and Yom Kippur. (*Ta'anit* 26b)

On the other hand, it is clear in a parallel passage in the Tosefta that indeed, they used to recite the *Musaf* service on fast days: "On public fast days, the priests lift their hands [to bless the people] four times during the day, which is not the case on a private fast day" (Tosefta *Ta'aniyot* 2:4, p. 331). The solution of "the text is defective" does not work here, for Yom Kippur is not mentioned at all. The *Yerushalmi* also implies that the *mishna* was understood in its plain sense: "Infer from here three things: that we fast on *ma'amadot*, that we pray four times, and that there is no lifting of the hands [to bless the people] at night, but only during the day" (*Yerushalmi* *Ta'anit* 4:1, 67b). It seems that this is a case in which the *Bavli* disagrees with the *Yerushalmi*; the *Bavli* maintains that there is no *Musaf* service on fast days, and therefore it offers a forced explanation of the *mishna*.[[3]](#footnote-3) Similar examples can be found in other cases as well.[[4]](#footnote-4)

The same is true for the second phenomenon: "Explain it thus." For example, the Gemara cites Rava’s position that a *sukka* whose *sekhakh* branches are not all at the same level is nevertheless valid, even if there are three handbreadths between them, as long as the upper branch is a handbreadth wide:

Rava said: Even if there are three handbreadths between one and another, we also do not say [that the *sukka* is invalid], unless the upper reed is not a handbreadth wide; but if the upper reed is a handbreadth wide, it is valid, since we apply to it the law of "beat and throw it down." (*Sukka* 22a)

The Gemara raises an objection against Rava’s statement based on a *baraita* that implies the *sekhakh* can be considered as uniform, despite the differences in height, even without the width of a handbreadth:

If one was above and the other below, Rabbi Yosi son of Rabbi Yehuda said: We regard the upper one as though it were lower down or the lower one as though it were higher, provided that the upper one is not more than twenty [cubits from the ground] nor the lower one less than ten [cubits from the ground]. (*Sukka* 22b)

This *baraita* indicates that it suffices if the beams are within the height of a valid *sukka* – i.e., not higher than twenty cubits and not lower than ten handbreadths – and they do not have to be at the same height even if the upper beam is not a handbreadth in width. The Gemara answers that according to the opinion of Rava, words must be added to the *baraita*:

He said to him: Explain it thus: Provided that the upper one is not more than twenty [cubits from the ground], but within the twenty [cubits], **and the lower one is near it within less than three [handbreadths],** or else: Provided that the lower one is not less than ten [cubits from the ground] but more than ten, **and the upper one is near it within less than three [handbreadths].** (ibid.)

According to Rava, if the upper beam is not a handbreadth wide, the *sukka* is valid only if the distance between the two beams is less than three handbreadths; if the distance between them is greater, the *sukka* is valid only if the upper beam is a handbreadth wide. Inserting the condition, "near it within less than three handbreadths," into the *baraita* changes its meaning entirely. According to the approach of the Meiri, Rava maintained that these words must be added to the *baraita* in order to make it consistent with his view that in order for the *sukka* to be valid, the upper beam must be a handbreadth wide. In effect, this was his way of expressing his position that disagreed with the positions appearing in the Tannaitic sources.

This is how it is explained in the name of the Vilna Gaon by his disciple Rabbi Israel of Shklov:[[5]](#footnote-5)

He knew regarding all instances of "the text is defective" in the Talmud, that nothing is defective in what our Holy Rabbi [Rabbi Yehuda Ha-Nasi] arranged in the Mishna, and it is not the way that something should be missing. It is only that Rabbi [Yehuda Ha-Nasi] agreed with one *Tanna* and formulated the Mishna in accordance with him, and nothing is defective according to him, whereas the Gemara agreed with another *Tanna*, and in accordance with him, the Gemara said "the text is defective, and should read thus." And he expounded the verse: "The roundings [*chamukei*] of your thighs" (*Shir Ha-shirim* 7:2), that is to say, the initial letters of "the text is defective, and should read thus" (***ch****asurei* ***m****echasera* ***v****e-hakhi* ***k****atanei*) are like your thighs; just as your thighs are concealed, so too regarding the words of the Torah; the greatness of the ways of the Oral Law is found in the most concealed place.[[6]](#footnote-6) (*Pe'at Ha-shulchan*, introduction).

According to this approach, when the Gemara says "the text [of the *mishna*] is defective, and should read thus," it means to adapt the *mishna* to the opinion of another *Tanna* – while the plain meaning of the *mishna* reflects the opinion of the *Tanna* who taught it, and whose words Rabbi Yehuda Ha-Nasi chose to include in the Mishna. According to him, any other understanding impairs the grand enterprise of Rabbi Yehuda Ha-Nasi, who, were this true, would have included *mishnayot* in his Mishna that are not properly formulated. It should be noted, however, that the Vilna Gaon accepts this approach only when the emendation is done to adapt the Tannatic source to the opinion of some other *Tanna*;[[7]](#footnote-7) he does not say what the Meiri said, that this is a way for an *Amora* to disagree with a *Tanna*.[[8]](#footnote-8)

1. This is based on the assumption that a *na'ara* who has no father stands entirely on her own, while as long as she has a father, she is to a certain extent subject to her father's authority, and therefore lacks the authority to appoint an agent herself to receive her *get.* [↑](#footnote-ref-1)
2. The "*ma'amadot*" are twenty-four groups of people, comprised of ordinary Israelites who are not priests or Levites, who would gather in turn every week, in parallel to the twenty-four *mishmarot* of the priesthood, each *ma'amad* corresponding to one *mishmar*, as explained in the next *mishna*: "The earlier prophets instituted twenty-four *mishmarot*, and each *mishmar* was represented [at the Temple] by its own *ma'amad* of priests, Levites, and Israelites. When the time came for the *mishmar* to go up [to Jerusalem], the priests and Levites went up to Jerusalem and the Israelites of the *mishmar* assembled in their cities and read [from the Torah] the story of creation" (*Ta'anit* 4:2). [↑](#footnote-ref-2)
3. See on this *Tosefta ki-Peshuta*, vol. 5, New York 5722, pp. 1086-1087. [↑](#footnote-ref-3)
4. See also the words of *Tosafot* (*Berakhot* 15b, s.v. *dilma*) regarding the Gemara's proposal to interpret an entire *mishna* as the position of Rabbi Yehuda, even though Rabbi Yehuda is mentioned only in the last clause of the *mishna* and seems to disagree with the anonymous first *Tanna* there: "This is astonishing, for nowhere do we say that “the text is defective” and should be interpreted in accordance with a single Tanna. And furthermore, let us interpret it in accordance with Rabbi Yosi, and without saying the text is defective! Rather, we can say that since below we rule in accordance with Rabbi Yehuda, therefore it is preferable to interpret the *mishna* in accordance with him."

   A similar case is brought in *Eruvin* 42a, where the argument of "the text is defective" is implemented to remove a *baraita* from its plain meaning and make it consistent with the position of Rav Pappa that is brought there.

   On the other hand, there are many instances in which the Gemara uses the argument of "the text is defective" not in order to reconcile an Amoraic opinion with a Tannaitic source, but in order to resolve an internal difficulty in the Tannaitic source itself. In such cases, the "defect" usually emerges from the plain meaning of the *mishna*. Thus, for example, in several places the Mishna brings a law followed by a story that seems to contradict that law. In such cases, the Gemara asks: "Does not the incident contradict [the *mishna*]?" – why bring a story that contradicts the law that was just mentioned? Usually, the answer is based on the argument of a "defective text," which does not necessarily involve a real addition of words to the text; instead, it can be seen as explaining the plain meaning of the *mishna*, by inserting words of clarification that clearly reflect the intended meaning, even if they are not stated explicitly in the *mishna*. For example, the Mishna states: "A minor who is not dependent on his mother is obligated in the law of *sukka*. It once happened that the daughter-in-law of Shammai the Elder gave birth to a child, and he broke away the plaster of the roof and put *sukka*-covering over the bed for the sake of the child" (*Sukka* 2:8). The Gemara asks about this (*Sukka* 28b): "Does not the incident contradict the *mishna*?" The *mishna* said a minor is not required to dwell in a *sukka*, whereas the incident that it brings indicates that he must! It answers: "The text [of the Mishna] is defective, and should read thus: **"But Shammai is stringent,** and [indeed] it once happened that the daughter-in-law of Shammai the Elder gave birth to a child and he broke away the plaster of the roof and put *sukka-*covering over the bed for the sake of the child." Though the Gemara adds the words "but Shammai is stringent," it is quite possible that it does not mean to say these words are actually missing from the text of the *mishna*; rather, it asserts that this is the original intention of the *mishna*, even in its more concise formulation. This seems to be how the Vilna Gaon understood the matter: "That which they sometimes said: 'The text [of the *mishna*] is defective, and should read thus' – there is nothing defective in the wording of Rabbi [Yehuda Ha-Nasi's] Mishna. That which they added is understood in the clear language of our Holy Rabbi, of blessed memory, but in order to explain before the masses, who see [only] what is directly before them, it is necessary to explain more. One who examines his words will see that it is included in his words in a single superfluous letter. This is the way it should be explained in all places" (*Kol Eliyahu*, *Beitza* 8a). Clearly, the Meiri was not referring to such cases, which do not represent the phenomenon that he wished to prove. [↑](#footnote-ref-4)
5. Rabbi Israel of Shklov (1770-1839) was born in Shklov, studied in Vilna with the Vilna Gaon, immigrated to Eretz Israel, and was included among the Sages of Safed. His book, *Pe'at Ha-shulchan*, was written as an addendum to the *Shulchan Arukh* regarding the *mitzvot* that are associated with the Land of Israel. In his introduction to the book, he describes in detail the methodology of his teacher, the Vilna Gaon, in Torah study. [↑](#footnote-ref-5)
6. This exposition of the initial letters of ***ch****asurei* ***m****echasera* ***v****e-hakhi* ***k****atanei* is based on a *baraita*: "The school of Rav Anan taught: What is the meaning of that which is written: 'The roundings of your thighs'? Why are the words of the Torah compared to the thigh? To teach you that just as the thigh is hidden, so should the words of the Torah be hidden" (*Sukka* 49b). [↑](#footnote-ref-6)
7. A similar idea emerges from the words of Rashi in *Bava Kama* 111b, s.v. *demetartzina*; see Rabbi D. Tz. Hoffman, *Melamed le-Ho'il*, part 3, no. 61. For other ways of understanding "the text is defective," see Y. N. Epstein, *Mavo le-Nusach ha-Mishna*, Jerusalem 5760, pp. 595-598; A. Sofer, "*Chasurei – Mi Chasera? Be-Inyan Chasurei Mechasera be-Shas*," *Asif* 2, 5775, pp. 417-434. [↑](#footnote-ref-7)
8. For more on the impact of the Vilna Gaon's approach on this issue and on the controversy regarding his position, see in detail Ch. Gafni, *Peshuta shel Mishna*, Tel Aviv 5751, pp. 50-72. [↑](#footnote-ref-8)