



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

### Kiddushin Daf Mem Gimmel

- **Q:** The previous Gemara said that we can't learn from me'ila and the case of the shomer using the subject property, or from the case of me'ila and the case of the stolen and slaughtered or sold animal, that shlichus can work even for an aveirah, because these are 2 pesukim saying the same concept, and when 2 pesukim say the same concept, they cannot be a source to teach to other places. Now this is true only according to the view that when we have 2 pesukim like that we cannot use them to teach elsewhere. However, according to the view that they can be used to teach to elsewhere, why can't these pesukim serve as the source that shlichus can even work for an aveirah!? **A:** The Torah uses the excluding term of "hahu" regarding one who shechts a korbon outside of the Beis Hamikdash, and this teaches that a shaliach could not make a person liable for that. We then learn all other cases for this case.
  - **Q:** Why are we learning from the case of shechting outside the Beis Hamikdash, which teaches that there is no concept of shlichus for an aveirah, why don't we instead learn from me'ilah or the others and teach that there is a concept of shlichus for an aveirah!? **A:** The pasuk regarding shechting the korbon outside of the Beis Hamikdash complex again uses the limiting word of "hahu", which is not needed for this case (since it was learned from the first word of "hahu") and therefore teaches regarding all other cases in the Torah, that there is no shlichus for an aveirah.
  - **Q:** According to the view that we can't learn from 2 pesukim that are teaching the same thing, and we therefore don't need to learn this from the case of shechting outside of the Beis Hamikdash, how do we darshen the words of "hahu"? **A:** They would say that one "hahu" comes to exclude the case where 2 people held the knife together and shechted, and the other "hahu" comes to exclude the cases of oneis, of shogeg, and of where he was tricked into shechting there.
    - The other view will say that the pasuk could have said "hu" and instead says "hahu", and we darshen that to teach these halachos. The opposing view will not darshen the extra "ha" of the word "hahu".
- **Q:** A Braisa says, if a person sends a shaliach to kill somebody, and the shaliach does so, the shaliach is chayuv. **Shammai Hazaken in the name of Chagai Hanavi** says that the principle would be chayuv, as we learn that Dovid Hamelech was given blame for the death of Uri even though he didn't actually kill him, but had him sent to the front lines of the war to be killed there. How can **Shammai** say that when we have just shown that there is no concept of shlichus for an aveirah!? **A:** He holds that we can learn from two pesukim that teach the same thing, and therefore can learn from me'ilah that there is shlichus for an aveirah, and he also does not darshen the "hu" and "hahu" drasha. Therefore, he has no place that teaches that there is no shlichus for an aveirah. **A2:** He agrees to the drasha of "hu" and "hahu", and he means that the principle would be chayuv in the Heavenly Court, but he would not be chayuv in Beis Din.
  - **Q:** This would mean that the **T"K** holds that the principle would be patur even by the Heavenly Court, which seems hard to believe!? **A:** He agrees that the principle would be chayuv by the Heavenly Court, but he says that would be to a lesser degree than **Shammai** says.
  - **A3:** We can also say that although **Shammai** agrees that in general there is no shlichus for an aveirah, the aveirah of murder is different, as is taught to us in the pasuk regarding Dovid Hamelech.
    - **Q:** How does the **T"K** understand that pasuk? **A:** He will say that the Navi was telling Dovid, just as you have no guilt for the people killed by the enemy at war, you likewise have no guilt for the death of Uri. The reason for that is, because

Uri was considered to have rebelled against the king, in which case the halacha is that he is chayuv misah.

- **Rava** said, even according to the first answer, that **Shammai Hazaken** holds that there is the concept of shlichus for an aveirah, **Shammai** would agree that if a person tells a shaliach to go and be mezaneh or to go and eat cheilev, that it is the shaliach who would be chayuv, and not the principle. This is because we don't find any place in the Torah where one person is chayuv for the benefit that was had by another.
- We have learned that **Rav** says a shaliach can also be a witness to the transaction that he was sent to do, and in the yeshiva of **R' Shila** they said that a shaliach cannot be a witness for that transaction.
  - **Q:** What is the reason for the view of **R' Shila**? If it is because the shaliach wasn't asked to be a witness, we find that if someone gave kiddushin in front of two people without having asked them to be witnesses, the kiddushin is valid, so we see that a witness need not be asked!? **A:** Rather, we must say that **Rav** holds the shaliach can serve as a witness, because his having been the shaliach makes him a more reliable witness. **R' Shila** holds that he cannot serve as a witness, because he holds that since a shaliach is considered to be the same as the principle, he cannot serve as a witness for the principle.
  - **Q:** A Braisa says, if a person told 3 people, "Go and be mekadesh a woman for me", **B" S** say one of them acts as the shaliach and the other two can be the witnesses. **B" H** say that they all act as the shaliach, and a shaliach cannot act as a witness. Now, it is only when there are 3 people that **B" S** seems to argue and say that they can act as witnesses. It seems that if there were only 2 people, even **B" S** would agree that they cannot act as witnesses, because a shaliach cannot act as a witness. This refutes the view of **Rav**!? **A:** **Rav** holds like another version of this machlokes in a Braisa where **R' Nosson** says that **B" S** holds that even if only 2 people were sent, one can act as the shaliach, and the two of them together can then be the witnesses, and **B" H** say that there must be two witnesses besides the shaliach.
    - **Q:** This would mean that **Rav** is saying like **B" S** (which is not the accepted view)!? **A:** We must reverse the shittos in the Braisa with **R' Nosson**, so that it is **B" H** who hold that the shaliach can act as the witness. Based on this, **Rav** holds like **B" H**.
  - **R' Acha the son of Rava** said that **Rav** is the one who holds that a shaliach cannot be a witness, and **R' Shila** is the one who says that a shaliach can be a witness.
  - The Gemara paskens that a shaliach can act as a witness as well.
  - **Rava in the name of R' Nachman** said, if a person tells two people, "Go and be mekadesh a woman for me", they can be the sheluchim and the witnesses. The same is true for a case of gittin. The same is for a monetary case.
    - He needed to delineate all 3 cases. If he would have only said the case of kiddushin, we would think in that case we can believe them as witnesses, because they don't stand to benefit by lying, since by saying she was given kiddushin makes her assur to them, but in a case of gittin, where we must be concerned that they are lying so that she becomes mutar to them, maybe we shouldn't believe them. And, if we would say the case of gittin, we would say that we can believe them there, because at best she would become mutar to only one of them, and the other person wouldn't lie to help the first person. Therefore they are believed. However, in a monetary case, where they could be lying to split the money, maybe they shouldn't be believed. That is why all 3 cases are necessary to be stated.
    - **Q:** If **R' Nachman** holds that when one borrows in front of witnesses he must pay back in front of witnesses, then how can the shiluchim be the witnesses? If they don't testify that they paid back the money to the creditor as instructed by the debtor, then they will be required to pay the money back to the debtor. So they can't be trusted to say that they paid the money to the creditor!? If he holds that witnesses are not needed when returning the money, then the whole conversation does not even begin!? **A:** Really he holds that witnesses are not needed to pay back a loan. However, in this case, since the debtor is unable to

say with certainty that the money reached the lender, he needs the witnesses to say that the money was returned to the lender. Now, since the witnesses would be believed by Beis Din if they said “we took the money and gave it to the debtor”, they are also believed to say that they gave it to the lender.

- After the institution that a person who fully denies something must swear, the shiluchim would no longer be believed to say that they gave the money to the lender. Instead, they would have to swear to the debtor that they gave the money to the lender, the lender would then have to swear that he never received the money, and the debtor would be forced to pay the lender for the debt again.