

Review of Makos Lesson 23 - Daf 5B:

4)WHEN ARE EDIM ZOMEMIM KILLED?

(a)(**Mishnah**): Edim Zomemim are killed only if there was a final verdict to kill the defendant;

(b)The Tzedukim say, they are not killed unless the Nidon (accused) was killed, for it says "Nefesh Tachas Nafesh";

1.**Chachamim**: "Va'Asisem Lo Ka'asher Zamam La'asos *I'Archiv*" connotes that the Nidon is still alive!

2.**Question**: Why does it say "Nefesh Tachas Nafesh"

3.**Answer - Suggestion**: Perhaps Edim Zomemim are liable once they testified!

i.**Rejection**: "Nefesh Tachas Nafesh" - they are killed only if there was a final verdict.

(c)(**Gemara - Beraisa - Beribi (a Tana)**): If they did not kill, they are killed. If they killed, they are not killed.

1.**Beribi's father**: If when they did not kill they are killed, all the more so if they killed they should be killed!

2.**Beribi**: You taught us that we do not punish based on a Kal va'Chomer!

i.(**Beraisa**) **Suggestion**: Perhaps "v'Ish Asher Yikach Es Achosso Bas Aviv Oh Vas Imo" obligates only for a paternal or maternal sister, but one is exempt for a sister from both parents!

ii.**Rejection**: "Ervas Achosso Gilah."

iii.**Question**: Since one is liable for a half sister, and all the more so he should be liable for a full sister. Why is the verse needed?

iv.**Answer**: This teaches that we do not punish based on a Kal va'Chomer.

(d)**Question**: What is the source that a Lav cannot be derived from a Kal va'Chomer?

(e)**Answer - Question**: "Ervas Achoscha Bas Avicha Oh Vas Imecha (Lo Segaleh)" forbids a half sister. What Lav forbids Bi'ah with a full sister?

1.**Answer**: "Ervas Bas Eshes Avicha Moledes Avicha Achoscha Hi (Lo Segaleh Ervasah)";

2.**Question**: Since a half sister is forbidden, and all the more a full sister is! Why is the verse needed?

3.**Answer**: This teaches that we do not derive a Lav from a Kal va'Chomer.

(f)**Question**: What is the source regarding lashes (that Edim Zomemim who tried to obligate lashes are punished only if there was a final verdict)?

(g)**Answer**: We learn a Gezerah Shavah "Rasha-Rasha" from Chayavei Misos. (Those executed)

(h)**Question**: What is the source for Galus?

(i)**Answer**: We learn a Gezerah Shavah "Rotze'ach-Rotze'ach" from Chayavei Misos.

(j)(**Beraisa - R. Yehudah ben Tabai**): I should see consolation (this is a euphemism for 'I should not see consolation'; alternatively it means 'may I lose my sons and have to be consoled upon their death') if I did not kill an Ed Zomem to refute the Tzedukim, who say that Edim Zomemim are killed only if the Nidon was killed.

1.**Shimon ben Shetach**: I should see consolation if you did not spill innocent blood! We do not kill or lash witnesses unless both are Huzmu!

2.**R. Yehudah ben Tabai** immediately resolved that he would give rulings only in front of Shimon ben Shetach. The rest of his days, he prostrated in front of the grave of the man he killed. People heard a voice. They assumed it was the victim's.

3.**R. Yehudah ben Tabai**: No, it is my voice. You will see that after I die, you will not hear it!

(k)**Question (Rav Acha brei d'Rava)**: Perhaps it was the victim's voice. It ceased after R. Yehudah ben Tabai died, because he had a judgment with his victim, or appeased him!