

שבת קודש פרשת וארא | מסכת כתובות דף י"ט

INSIGHTS FROM OUR CHABUROS

Follow the Majority

כל קבוע במחצה על מחצה דמי

The גמרא says in the name of רב חסדא that ר"מ holds that witnesses are not believed to invalidate a שטר even if they said that they only signed because their life was in danger since that makes them into a רשע. רבא immediately asks that we would certainly tell the witnesses that they shouldn't give up their lives for signing falsely so of course they aren't רשעים for signing under those conditions. The question is what did רב חסדא hold? The א"א answers that people think it is a נדת חסידות to give up your life to not sign falsely. In fact, he says it is considered murder to give up your life for anything other than תוספות (this is also the opinion of the רמב"ם which is not like תוספות in כ"ז דף ע"ז who says you can opt in to give up your life for a מצוה). Nonetheless, since people think it is a נדת חסידות and something you should do, it is enough to be considered making yourself into a רשע according to רבי מאיר. This is a tremendous חידוש since according to the רמב"א you would be an actual רשע if you gave up your life and yet if you didn't you are still considered רשע. The רמב"ן brings an דאמרי that brings a חיצונית that says that רבי מאיר says there are four things one must give up their life for: the three mentioned above and גזל. רבא's response to that was that even ר"מ knows that we will go like רבנן so if the עדים went to a ב"ד who hold like רבנן they will have done the right thing in which case they aren't רשעים. The רמב"ן does not like this פשט. Many have pointed out that this sounds like שיטה רש"י in גמרא in ב"ק דף ס ע"ב. There the גמרא asks "מהו להציל עצמו בממון חברו" and the גמרא says (according to רש"י) that the חכמים told דוד המלך that he could not take someone else's money even to save a life. תוספות there says the question was just if דוד המלך would have to pay. רש"י is even more extreme than the פשט from the רמב"ן since according to רש"י even רבנן hold that you would need to give up your life to not do גזל and not just ר"מ who is a יחיד.

STORIES OFF THE DAF

The Helpful Priest

"עבודה זרה..."

Once there was a woman from a poor family who married a wealthy man. From the outset it was clear that they were not suited to one another. Eventually, the wife requested a divorce but the husband fled to Brazil and sent his wife a devastating message, "I will never give you a divorce!"

The unfortunate woman went to the Av Beis Din in Ashdod, Rav Sheinin, shlit"א. The Rav worked tirelessly to obtain a divorce for the poor woman, but to no avail. Finally, the Rav decided to fly to Brazil and advertise the sad story in the papers in the hope of finding a way to convince the husband to stop being so cruel and finally divorce his wife.

A priest saw the article and was so moved that he contacted the Rav asking him to meet since he wished to use his formidable influence in the community to help the poor woman. The two met and shortly through the influence of the priest the woman was finally freed.

When the Rav returned he remembered that it is preferable to die than to admit to the power of idolatry, as we find in Kesuvos 19a. Perhaps having the priest deal with the problem was a tacit admission on his part.

No one he asked could give him a clear answer and eventually this question was asked of the Gadol Hador, Rav Chaim Kanievsky, zt"l. "Since the priest was not approached in order to recognize avodah zarah or to give him honor for his beliefs, you have done no wrong.

He was approached because he had influence which could have helped with the problem, as indeed it did. This is not considered any sort of admission of the power of idolatry about which the Gemara says it is better to die. Quite the contrary! The man did a mitzvah by freeing the poor agunah!"

PARSHA CONNECTION

In this week's daf we find a reference to the concept of שפיכות דמים. Killing is described as spilling blood because blood represents life. In the פרשה we see that the first מכה was דם, מכת דם, whose purpose was to show the control הקב"ה maintains over life. The פסוק regarding this plague includes the words: מימיהם ועל כל מקוה. These words seem redundant because if ALL water in the Nile and it's related lakes turns to blood, what is added with the word מקוה? The מידה כנגד מידה that explains the מדרש that explains the Mitzva of using the Mikva for blood. The Egyptians prevented the Jewish women from using the Mikva for טבילה and this plague was punishing them for doing so. It therefore includes this word in the פסוק as a hint for one of its reasons, namely stopping Jews from using water as a מקוה.

HALACHA HIGHLIGHT

Retaining a Corrupted Text

ספר שאינו מוגה אמר ר' אמי עד שלשים יום מותר לשהותו מכאן ואילך אסור לשהותו

A sefer that has not been corrected, R' Ami said that one is permitted to retain it for thirty days but beyond that it is prohibited

Rava¹ rules that one who corrects a “dalet” into a “reish” on Shabbos is liable for the melacha of writing. Rashi² explains that the reason for liability is that fixing this one letter is considered a significant constructive act since it is prohibited to retain a Sefer Torah that is not corrected. This indicates that the threshold for violating this prohibition is crossed when even one letter is incorrect. The Noda B'Yehudah³ also seemingly subscribes to this opinion. At the end of a teshuvah that addresses the question of whether it is permitted to put an invalid Sefer Torah into the Aron Kodesh, he makes the following comment. “From all this it appears that there is no prohibition regarding the question of the sanctity of the Aron Kodesh. There is another prohibition involved in storing the invalid Sefer Torah in the Aron Kodesh. The concern is that someone may take the invalid Sefer Torah from the Aron Kodesh and will study from the uncorrected text. Therefore, a decision has to be made within the thirty days, the time allowed by the Gemara to retain the corrupted text, whether it will be corrected or buried.” This comment supports Rashi’s assertion that the prohibition against retaining a sefer that is not corrected applies even when one letter is incorrect.

Teshuvos Da’as Kohen⁴ cites this position of Rashi and Noda B’ehudah and adds that it is obvious that the concern for an uncorrected sefer applies specifically to the books of Tanach and only during those times that people use these sefarim for Torah study. Nowadays, when people no longer use Sifrei Tanach for the purpose of studying, the restrictions are relaxed. On the other hand the Aruch HaShulchan⁵ writes that the prohibition includes Gemaras, halachic works and other commentaries that are corrupted. The reason is that since people study from these works there is a concern that a small error could lead to a major error when deciding a halachic matter. The Mishneh Halachos⁶, however, suggests that with the abundance of printed sefarim it may be that this prohibition does not apply but does not fully explain the rationale for this ruling.

1. גמי שבת קד
2. רש"י שם ד"ה רבא אמר
3. שו"ת נוב"י מהד"ק או"ח סי' ט'
4. שו"ת דעת כהן עניני יו"ד סי' קע"ד
5. ערוה"ש יו"ד סי' רע"ט סעי' א'
6. שו"ת משנה הלכות ח"ב סי' ר"ח

MUSSAR FROM THE DAF

Beyond Obligation

אמר רב חסדא, קסבר רבי מאיר: עדים שאמרו להם "חתמו שקר ואל תהרגו" — יהרגו ואל יחתמו שקר

The Gemara quotes Rav Chisda (in the חו"מ) who explains R' Meir's reasoning that עדים are not believed to revoke their עדות by stating היינו אנוסין (we were coerced) because R' Meir holds that a person should allow themselves to be killed before they sign falsely on a שטר. By stating they signed on such a שטר, they are incriminating themselves, and we have a rule that a person cannot make himself into a rasha.

The Ritva asks, how can the Gemara say that R' Meir holds that one has to give up one's life before they sign falsely? We know that one only has to give up their life for the three Averos חמורות (i.e., ושפיכות דמים, וגלוי עריות, ועבודה זרה, ועבודה זרה)?

The Ritva answers that this is not an obligation but rather a נדת חסידות since it would be so abhorrent to sign a שטר falsely (even if threatened with one's life) that people would give up their life, rather than commit such a depraved act.

According to the Ritva that it is only a נדת חסידות to refrain from signing a שטר falsely under duress why would a person not be allowed to say this about themselves? Since there is no obligation it should not turn a person into a Rasha to testify falsely under these circumstances? How then do we understand pshat in the Ritva?

We see from this Ritva that there are times when doing an action or not doing an action may not be an obligation but one can still be considered a Rasha if they miss the opportunity to respond properly. For example, feeling the pain and davening for a loved one may not be an obligation but one who doesn't sensitize themselves to respond properly for this person may be approaching the status of Rasha.

How we act is not only what Halacha obligates but it is also about developing the proper sensitivities which ultimately need to dictate our actions.

POINT TO PONDER

The Gemara states that if two witnesses signed a שטר and died, and now two עדים come and testify that they recognize the signatures but the witnesses were קטנים when they signed the שטר, the halacha would depend on whether the עדים' signatures were already confirmed, in which case we do not believe the second pair of עדים. On this the גמרא asks, isn't it תרי ותרי. Since the second pair is saying that the witnesses were קטנים and we have no contradicting testimony, why would it be considered two pairs contradicting each other?

Response to last week's Point to Ponder:

The גמרא asks why the משנה didn't use a case of והאכלתיו בידי לאביך בידי והאכלתיו. In the immediately preceding case the Gemara discussed why the משנה didn't give the example of לוייתו מחר, i.e., directly from you. Why did the גמרא now change back to a case where the claim involved a loan from the father and he repaid half, and not a similar case to before where he borrowed from the son and repaid him half?

The ש"ך סימן פח ס"ק נז explains based on the תביעה, for example he admitted to owing fifty without anyone asking him for money, but after he admitted the other person remembers the loan and claims that he never received any payment. If it's the original מלוה ולוה he would have to make a שבועה but if it is the son of the מנה לאביך רעהו is פטור. That's why the גמרא chooses a case of ר"ח.

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