

שבת קודש פרשת בשלח | מסכת נדרים דף טו'

INSIGHTS FROM OUR CHABUROS

An oath to not eat for thirty days

שבועה שלא אישן שלשה ימים מלקין אותו וישן לאלתר

Rabbi Yochanan teaches that if a person makes a neder that he will not sleep for three days, he is immediately liable for lashes. He has pronounced a neder that is physically impossible to fulfill, and his words constitute a false utterance. In fact, we do not have to wait for sleep to overtake him, as his statement is false in its very nature, and the person may now even choose to go to sleep. The ר"ן in Shevuos (10a in the pages of the Rif, ד"ה מלקין) inquires regarding a case where a person makes a neder that he will not eat or drink for thirty days, which is a physical impossibility. It is obvious that a person who is deprived of nourishment for thirty days will not survive. Is this comparable to our case where a person declared that he will deprive himself of sleep beyond human endurance? Should we therefore say that in the case of not eating that the person is immediately liable for lashes, and that he may now eat? The ר"ן feels that the cases are not comparable. In the case of not sleeping, no matter what the person does, he will invariably fall asleep within the next seventy-two hours. Regarding eating though, the person can choose not to eat. If his physical condition deteriorates, and his life becomes in danger, he will be forced to eat due to the life or death situation, which defers the need to maintain his vow. When he eats small amounts in order just to stay alive, he will not be in violation of the vow not to eat. Therefore, the vow not to eat for thirty days is possible to be fulfilled, and the speaker has not stated a vow which is physically impossible to fulfill. The vow is valid, and we must monitor this person's progress as the month unfolds. Nevertheless, ר"ן concludes that the vow not to eat for thirty days is in direct conflict with the Torah's directive for a person not to kill himself (Bereshis 9:5, from Bava Kamma 91b). Although we will stop the person before he actually dies, the words of his vow indicate a condition which is contrary to Torah law, and, as such, the vow is null and void. Rambam (Shevuos 1:7 and 5:20) writes that any vow which is physically impossible, for example not to sleep for three days, or not to eat for seven days, is automatically a false oath. The person is liable for lashes, and he may sleep or eat immediately. Kesef Mishnah explains that Rambam agrees that the person will be fed once his life is in danger, but the emergency feeding is in and of itself a situation to which the person subjected himself. This constitutes a vow which is false, as it cannot be fulfilled. ר"ן, however, who ruled that this is not a false oath, holds that although the halacha will clearly not allow him to fulfill his words, as he will be forced to eat as the danger sets in, the person himself is not putting food into his mouth.

POINT TO PONDER

The Gemara quotes a משנה regarding a husband who told his wife that she can't derive הנאה from him until סוכות if she goes to her father's house before פסח. The משנה continues and says that if she did go before פסח she becomes אסור in getting הנאה until סוכות, and she is permitted to go after פסח. Why can't she go before פסח? The נדר was already triggered by her going once, so going again doesn't change anything?

Response to last week's Point to Ponder:

The Gemara says that if someone makes a נדר while holding a ספר תורה and says במה במה it's a valid נדר because he is referring to the אזכרות which are the names of the קדושה contained within it. The reason why this works is because the אזכרות have קדושה and this קדושה comes as a result of a human action. But isn't everything in the תורה קדוש and must be treated as קדוש? So why focus only on the אזכרות?

There are two opinions on what the גמרא means. One opinion is that he is making a שם, in which case it has to be the אזכרות. The other opinion is that he is making a שם in which case there is no need for a שם. The רשב"א writes that under the view of this latter opinion אזכרות are אדוקא.

STORIES OF THE DAF

The force of custom

בל יחל דברו מדרבנן

There were many in a certain town in Hungary who were not careful with the prohibition of חלב עכו"ם. One person tried to justify himself before the Rav of the town, "There are no tamei animals at the non-Jewish farms where we purchase our milk. In any event, even the non-Jews shirk away from drinking milk from a non-kosher animal. Perhaps using unsupervised milk is permitted in such a situation?" The young Rav of the town didn't know what to do about this question. Many people ate bread made with חלב עכו"ם, and if he ruled that eating it is prohibited, those who were more careful could not combine with others to make a זימון. This would certainly lead to strife in his community.

He decided to consult with the Chasam Sofer, zt"l. The great Rav answered, "You must know that this has always been the custom of Ashkenazic Jews, to prohibit even a mixture of milk with non-Jewish milk. Since this is the custom and has a basis in halachah, it seems more than likely that this practice has a status of a neder which is more akin to Torah law than mere custom. Even though חלב עכו"ם has the status of a Rabbinic law regarding situations of doubt, this is only because that is the manner in which this was accepted within the communities. Even so, since the Pri Chadash permits this and prohibiting it entirely would lead to great strife, for the sake of peace you should not prohibit those who are stringent from joining in a זימון with those who use such bread..." The Levushei Mordechai, zt"l, was astounded by this. "But in Nedarim 15a we see that if people consider something that is really permitted to be forbidden, it is improper to abolish the custom because of Rabbinic law. How does this fit with the Chasam Sofer's principle that if people became accustomed to something it may have the status of a Torah prohibition?" Rav Dushinsky, zt"l, explained, "The Chasam Sofer is discussing a custom adopted as a true גדר. The Gemara in Nedarim is concerned with a custom that mistakenly prohibited that which is really permitted!"

HALACHA HIGHLIGHT

Following the customs of one's ancestors

דברים המותרין ואחרים נהגו בהן איסור אי אתה רשאי להתירן בפניהם שנא' "לא יחל דברו"

Permitted matters that others treat as prohibited, One may not issue a permitted ruling in front of them as the pasuk says, "He shall not desecrate his words."

Commentators¹ on our Gemara rule that a person who follows a particular custom related to a mitzvah is considered as if he made a vow. Consequently, if he wants to cease the practice he must nullify his vow. Pri Chadash² inquires whether a child is automatically bound to follow and practice his father's customs. In his conclusion, he distinguishes between customs the father adopted on his own to be more cautious or as an expression of piety and those customs that the father practiced because they were behaviors adopted by the entire town. A child is not obligated to follow the practices his father adopted privately but a child must follow the practices of his father's town and this requirement is derived from the pasuk אל תטוש תורת אִמְךָ—Do not abandon the Torah of your mother.

Teshuvos Zichron Yosef³ also addressed this issue and suggested many different guidelines for when a child is obligated to follow his father's customs and when he is not obligated to observe his father's customs. One guideline he suggests is whether the child began to follow his father's practice or not. If the child, upon becoming an adult, followed his father's pious practices the child must continue to follow those customs but if the child never adopted those practices he is not obligated to follow them simply because that was his father's practice.

Teshuvos Divrei Malkiel⁴ was asked whether a child is permitted to shave his beard even though it constitutes a deviation from his father's practice. Divrei Malkiel answered that since in their region the practice for centuries was for the men to keep their beards and the Zohar writes very strongly about the matter, it is considered as if the community adopted the practice which binds all residents to comply. Granted, he continues, that in those countries where they did not adopt this practice it is permitted to shave but those who come from those countries that did follow this practice must abide by this custom.

1. ע' תוס' פסחים נא ד"ה אי אתה והרא"ש שם פ"ד סי' ג'
2. פרי חדש או"ח סי' תצ"ו דיני מנהגי איסור אות י'
3. שו"ת זכרון יוסף י"ד סי' י"ד
4. שו"ת דברי מלכאל ח"ד סי' ס"ו וח"ה סי' פ"א

MUSSAR FROM THE DAF

The power of community

והתניא: דברים המותרין ואחרים נהגו בהן איסור — אי אתה רשאי להתירן בפניהם, שנאמר: "לא יחל דברו"

The Gemara teaches us that you can't permit one to do an action which everybody has the minhag that this specific action is forbidden. If he does the action the person would violate the prohibition of "לא יחל דברו".

We see this concept also in Pesachim 50b, where the Gemara discusses the customs of the inhabitants of Beishan, who refrained from traveling from Tzor to Tzidon on Friday afternoons to avoid neglecting Shabbos preparations. Their children approached Rabbi Yochanan, requesting leniency, stating that their fathers could manage this practice, but they found it challenging. Rabbi Yochanan responded by citing the verse: "Hear, my son, the instruction of your father, and do not forsake the teaching of your mother" (Mishlei 1:8), indicating that the customs accepted by their ancestors were binding upon them.

However, the Gemara in Chullin 105a discusses Mar Ukva would wait 24 hours after eating meat before consuming dairy. His son, however, would only wait 6 hours between eating meat and dairy. Why wasn't his father's chumrah binding on him?

The Pri Chadash explains that when a minhag is adopted by the entire city, as the Shulchan Aruch refers to it, it is considered a kabbalah d'rabim (a custom accepted by the public). However, when one's father takes on a minhag, it is only a personal minhag (yachid), and one is not necessarily bound by it. What is the difference? When the Chachamim established a takanah (decree) for the city, one must adhere to it, even if they personally feel it shouldn't apply. The reason is that if one person does not keep it, it may create a breach in the collective community. However, when one's father adopts a minhag, it does not affect others, and therefore, an individual is not bound by it. From the Pri Chadash, we see how important it is not to separate oneself from the community. If the community has taken on something, one must do everything possible to follow them even if one thinks it does not apply to them personally. One's actions are significant and can influence how others perceive and respond to the actions of the community.

PARSHA CONNECTION

In this week's daf the Gemara discusses a case where a husband told his wife that she will not be able to derive הנאה from him until פסח if she goes to her father's home before פסח. We read פרשת שירה on the last day of פסח because it represents the completion of יציאת מצרים and took place seven days after the Bnei Yisroel left מצרים. Before reading the שירה which we also say every day, we read the following possuk (שמות יד' לא) וירא ישראל את־היד הגדלה אשר:

עשה ה' במצרים וייראו העם את־ה' ויאמינו בה' ובמשה עבדו. The מפרשים ask how is it possible that בני ישראל, who witnessed all ten מכות in מצרים didn't believe in ה' until הקב"ה offers a fascinating answer. When we look carefully at the פסוק we find two descriptions for the people who are the subject of the פסוק, it first says וירא ישראל and subsequently it says וייראו העם. These are actually two distinct groups of people according to the זהר which the quotes, בני ישראל represents the בני יעקב who had אמונה in ה' even before they left מצרים, while העם refers to the ערב רב, who only joined ישראל when the Jews left מצרים. This group, meaning the ערב רב are the ones who didn't have אמונה in ה' but now after קריעת ים סוף, even they had אמונה. This is why the פסוק uses two different descriptions to highlight who it is referring to when it says ויאמינו בה' namely the ערב רב.

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, dafaweek.org, or download the app

To share an insight from your Chabura please email info@dafaweek.org

The shavua matters is published by the Daf a week program under the rabbinical guidance of Harav Meir Stern shlita and Harav Shmuel Kamenetsky shlita

To sponsor a publication, please contact Rabbi Zacharia Adler, Executive Director at info@dafaweek.org or call 507-daf-week. Sponsorship for one week is \$100

Sections reprinted with permission from the Chicago Torah Center