



שבת קודש פרשת תצוה | מסכת נדרים דף יט'

INSIGHTS FROM OUR CHABUROS

Why is an unspecified vow treated stringently?

דתניא הריני נזיר אם יש בכרי הזה מאה כור והלך ומצאו שנגנב או שאבד רבי יהודה מתיר ורבי שמעון אוסר

The Gemara attempts to show that Rabbi Shimon is the author of our Mishnah which had ruled that an unspecified neder must be interpreted stringently. Here, in the Baraisa, we find a person who declares that he will be a nazir if a certain pile contains one hundred bushels. When he went to count it, the pile was stolen or lost. Rabbi Shimon rules that despite the uncertainty, the person must fulfill the vow and observe nezirus.

Although the Gemara understands the opinion of Rabbi Shimon to be congruous with the law in our Mishnah, Tosafos notes that there is a distinction that can be made. In the Baraisa, in the case of the uncounted pile of grain, Rabbi Shimon rules that the person only accepted nezirus if the pile had a full volume of grain. When the doubt arises, we say that the person meant to be stringent even though the situation cannot be resolved, but this fulfillment of nezirus is still only due to doubt. In our Mishnah, in the case of an unspecified neder, Rabbi Shimon acknowledges that this vow, with its ambiguity, is valid with certainty, and lashes would even be meted out if it is violated.

Tosafos, however, struggles with this approach. If the ruling in the Mishnah teaches that an unspecified neder is valid with certainty, and not due to doubt, perhaps we can then say that even Rabbi Yehuda would agree that it is treated stringently, whereas in a case of a doubtful neder (in the case of the missing pile) he would rule that it is treated leniently.

In Igros Moshe (3:68), R' Moshe Feinstein, zt"l, explains that our dealing with נדרים סתם stringently is not due to our assumption that the person probably had in mind to accept a prohibition upon himself. Rather, we are uncertain whether the speaker meant to utter a vow or not. Consequently, we must treat it stringently due to our doubt.

(ספק דאורייתא). This is a ספק. The speaker knows that his being unclear will cause us to treat our doubt לחומרא. Therefore, he realizes that his unclear words will immediately be treated in a harsher manner, and as a valid neder. Based upon this understanding, this is why our Gemara states that our Mishnah is authored by Rabbi Shimon, who treats doubtful vows strictly, and not according to Rabbi Yehuda who uses a lenient approach in a case of doubt.

POINT TO PONDER

The Gemara says that if we have liquids (משקין) and we don't know if they are טמא we say that they are טמא. (We assume לחומרא) But if the same liquids touch something else we assume that it's not טמא. What's the difference? If one is טמא the other should be the same.

Response to last week's Point to Ponder:

The Mishna says "סתם נדרים להחמיר". Is this an example of ספק דאורייתא? And if yes, would it only be a דרבנן, according to the רמב"ם who holds that every ספק דאורייתא is only ספק מדרבנן?

הדין דין ודאי is a רימחהל נדרים סתם of דין and is unrelated to other cases of ספק דאורייתא. The reason for this is the fact that he made a נדר leads us to assume that he wanted it to be effective. (See מחנה אפרים).

STORIES OF THE DAF

The blackmailed Kohen

לא מעייל איניש נפשיה לספיקא

There was once a woman whose husband died after a long marriage. She married again, this time to a kohen. At the time of her husband's death, she believed that since she had borne her husband a number of children, she was not a yevamah. However, since her deceased husband had outlived all of the children, she did really need chalitzah—a fact that was only pointed out to her some time into her new marriage. After the performance of chalitzah, she would be forbidden to her second husband.

After the unfortunate woman was released through chalitzah, she decided to refuse her kohen second husband a divorce until she received a very substantial sum of money from him. She knew that he would have great difficulty getting a היתר מאה רבנים since he was very busy with his numerous financial concerns. In any event, having to obtain such a היתר would cause him great embarrassment that he would likely prefer to avoid at any cost. The woman figured that, at the very least, she could settle herself financially for life if she would no longer be able to rely on the support of her current husband.

The husband consulted with his local Rav, who felt his pain, but didn't have a solution to the problem. "I will consult with the Gadol Hador, perhaps he will have a solution for you."

The Rav put his question before Rav Chaim Ozer Grodzensky, zt"l. The great Rav answered, "This unfortunate kohen may remarry without a היתר מאה רבנים. Rabbeinu Gershom Meor Hagolah created a cherem against taking a second wife only if it is certain that one has a first wife! If the marriage with the first wife is questionable there is no cherem. An example of this concept in the Gemara in Nedarim 19 which states that a person doesn't forbid something to himself on the basis of something questionable, like a man who made a conditional oath of nezirus that later could not be verified. Similarly, we can say that the cherem was never meant to apply when the first marriage was questionable.

Rav Chaim Ozer concluded, "This case is even better, since it would have been impossible for the two to have married at all!"

HALACHA HIGHLIGHT

Doubtful fulfillment of pidyon haben

ספק בכורות אחד בכורי אדם... המוציא מחבירו עליו הראיה

[Concerning] uncertain firstborns, whether a first born person ... the one who seeks to collect bears the burden of proof

Although the Gemara clearly rules that when there is a case that involves a doubt the burden of proof to collect the money of pidyon haben rests upon the kohen and a pidyon haben does not have to be performed, nonetheless there is a debate amongst the Poskim under what conditions this rule is invoked.¹ All authorities agree that when there is a doubt whether there is an obligation to perform a pidyon haben this principle is invoked. Thus, for example, when a child is born and it is not known whether he qualifies as a firstborn who requires a pidyon haben, halacha states that there is no obligation for the father to make a pidyon haben. The debate revolves around cases when it is certain that it is necessary to perform the pidyon haben and the doubt relates to whether the pidyon haben was performed correctly.

Teshuvos Binyan Tziyon² suggests that when the doubt relates to whether the pidyon haben was performed correctly it is possible that the principle of מחבירו would not be invoked. The Aruch HaShulchan³ also addresses this issue and rules definitively that when it is known that this child meets the criterion that necessitates a pidyon haben and a doubt arises whether the mother is the daughter of a kohen or levi, the child requires a pidyon haben. The reason is that most Jews (רוב) are not kohanim or levi'im, and when addressing uncertainties related to matters of prohibition halacha follows the majority.

Mahari Kurkus⁴, in his commentary to the Rambam, also draws the same distinction and explains the rationale behind it as follows. When the doubt relates whether there is an obligation to perform a pidyon haben, the doubt relates primarily to whether there is a debt that the father owes the kohen. That question is a monetary matter and the rule of מחבירו is invoked. On the other hand, when it is clear that there was an obligation to perform a pidyon haben and the question is whether it was performed properly, it is considered a case of doubt related to the fulfillment of the mitzvah (ספק) and concerning these doubts the matter is resolved by the principle לחומרא.

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MUSSAR FROM THE DAF

Determined to succeed!

רב אשי אמר: ההיא — רבי יהודה משום רבי טרפון היא. דתניא, רבי יהודה משום רבי טרפון אומר: אין אחד מהם נזיר — לפי שלא ניתנה נזירות אלא להפלאה.

The Gemara teaches that a person cannot make a Nazir vow where there is uncertainty at the time the vow was made it was uncertain whether the Nazirus would take effect. What is the underlying reason for this rule? The Gemara explains it based on the pasuk in the Torah, Bamidbar (6,2) דבר אל-בני ישראל ואמרת אליהם איש ואישה כי יפלא לנדר. The Gemara learns that the concept of requires clarity. What does the concept of have to do with the Nazir not being allowed to make conditional terms for his Nazirus?

Let's ask another question - Chazal (Sifri Devarim 434, 6) teach us that before offering the Torah to Klal Yisrael, Hashem went to all the other nations. The other nations first asked, "What's in the Torah?" before deciding whether they would accept it. But when Hashem came to Klal Yisrael, their response was Na'aseh V'Nishma – "We will do, and we will listen." Wouldn't it have been more responsible for Klal Yisrael to ask what was in the Torah first, before committing? There was once a person who decided to begin learning Daf Yomi. However, he realized that many obstacles would get in his way, and he honestly couldn't commit to completing all of Shas. Instead, he committed to doing his best. But after some time, he gave up on his goal. If this person had committed more strongly—by saying, "No matter what, I will finish Shas"—he would have been far less likely to give up so easily. The same applies to Klal Yisrael. If they had made their commitment to the Torah with conditions or reservations, it would have been a weak Kabbalah. A half-hearted commitment would not have been strong enough to serve as the foundation for Klal Yisrael to uphold the Torah for all generations.

This idea also connects to the lesson of the Nazir. The Nazir embarks on a path of extreme self-discipline and separation (Perishus). The Torah teaches that this level of Perishus must be undertaken with complete and unwavering commitment—without conditions. This is a pshat in the meaning of the words כי יפלא - to do something extraordinary, —for a person to succeed in maintaining such an extraordinary level of Perishus, they must do so with full dedication, without hesitation or uncertainty. When a person makes a commitment to achieve something, they must have a resolute intention in their heart and mind. They must be determined to succeed despite the challenges and setbacks they may face.

PARSHA CONNECTION

In this week's daf, the Gemara discusses various scenarios of a ספק (doubt). Doubt also defines עמלק which we read about every year before פורים and whose גמטריא is 240 which is the same גמטריא as the word ספק. The possuk in כה' וי' דברים says: והיה בהניח לך מכל איביך מסביב בארץ אשר ה' אלקיך נתן לך נחלה לרשתה. This possuk is different than the possuk in וי' דברים which says: ויאמר כי יד: שמוות י"ז ט"ז in contrast with the above possuk in וי' דברים which says: ויאמר כי יד: שמוות י"ז ט"ז.

The possuk in וי' דברים says that WE must eliminate עמלק whereas the possuk in וי' דברים says that WE must eliminate עמלק. Second, why does it say, "מתחת השמים" isn't it obvious that we can only eliminate them "מתחת השמים"? Lastly, if עמלק is so bad, why not get rid of them immediately? Why wait until we are settled in ארץ ישראל, and why is it so important to remember it in this way every year. The אלשיך הקדוש explains that the יצר הרע is עמלק, and that as long as we do not defeat him, we need help from הקב"ה. This is why we have one parsha saying that "we" have to eradicate עמלק and this refers to השמים meaning here on earth which represents our job of doing mitzvot. Once we do our part, הקב"ה promises to eliminate the יצר הרע completely (which is the possuk in וי' דברים). When the Torah says "בהניח לך מכל איביך" it is referring to the עבירות which are our "enemies". Only once we get rid of the עבירות are we able to fulfill the mitzvah of eradicating עמלק. This is why it's so important to remember this every year, because our גאולה is dependent on it. By understanding the essence of עמלק we can now explain why his ethos is ספק. The יצר יהי רצון שנזכה למחיית עמלק במהרה בימינו! יצר הרע always attacks us by sowing doubts.

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

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