

INSIGHTS FROM OUR CHABUROS

When would the penalty against the wife begin?

שאת נהנית לי עד החג אם הולכת את לבית אביך עד הפסח, הלכה לפני הפסח אסורה בהנאתו עד החג

The Gemara discusses the case of a husband who issues an oath sometime during the winter to prohibit his wife from any benefit from him until the following Sukkos if she visits her father any time until Pesach. We are immediately confronted with a dilemma, as we do not know at this moment whether the woman will eventually go and visit her father any time before Pesach. Can she now benefit from her husband? If she will eventually go to her father between the moment the vow is made and Pesach, any benefit the woman would derive is not allowed.

Rav Nachman holds that we do not restrict the woman from benefiting from her husband, as we do not require her to anticipate going to her father, which would potentially create a scenario of the benefit being prohibited. Rav Yehuda says that there is a rabbinic prohibition against her to now benefit from her husband from the moment the neder is made, but she would not be liable for lashes for violating the neder unless she benefits from her husband after she actually goes to her father's house before Pesach.

Tosafos Rabbi Akiva Eiger points out that ר"ן has ruled (later, 79b, אילינא) that any conditional neder introduced with the word אם does not become effective until the condition is actually fulfilled, unless the neder was specifically introduced with the word "מהיום—that it shall be from now." Therefore, in our Mishnah, where the husband set forth a condition that the woman be prohibited—אם / if — she goes to her father's house, she should not be prohibited until such time that she goes there. And even when she would go, she should only be prohibited from that moment and onward, not retroactively from when the neder was made. Why, then, according to Rav Yehuda is she restricted from the time the neder is pronounced?

רש"י answers that the term אם can refer to one of two situations. It can mean only as of when the condition is fulfilled, or it can refer to now, the moment the neder is made. Although it generally means as of later, when the condition is fulfilled, if the circumstances indicate that the intention is for it to take affect immediately, this would be the legal understanding in that case. In our case, the intentions of the husband were to prevent his wife from going to her father's house. He threatened his wife to stop her from going by warning her that doing so would cause her to not be able to benefit from himself. If his intentions were to only prohibit her from the moment she actually enters her father's house, his threat would be imbalanced. If she were to go now, she would incur a longer penalty without benefit from her husband, but if she only went before Pesach, the duration of the restriction would be less. This is not reasonable, and it is clearly not the intent of the husband.

REVIEW AND REMEMBER

1. What is included in a vow prohibiting fruits?
2. When is even the growth of the growths prohibited?
3. Explain the essence of Yishmael's inquiry.
4. Why did the Gemara reject R' Ami's attempt to resolve Yishmael's inquiry?

STORIES OF THE DAF

Relying on the Life of the Universe

"בשביעית..."

Nedarim 57 discusses a question regarding shemittah. It was the year after shemittah and the community of Komemius had a serious problem. They needed to plant wheat for the coming year, but they were very committed not to use any wheat that had been planted by relying on the heter mechirah. After Herculean efforts, they located some wheat left over from the sixth year. Unfortunately, the grains were cracked and wormy, hardly fit to plant. When the farmers asked what they should do, Rav Mendelssohn of Komemius replied with the language of the Yerushalmi, "If there are no other suitable kernels, plant these and rely on the Life of the Universe."

One of the farmers related, "When we planted the wheat all of our neighbors mocked us. They warned that we would regret using such inferior wheat, especially since we had waited to plant until well after shemittah. They had used quality wheat from the seventh year and planted before Rosh Hashanah. We had waited until after Sukkos of the eighth year, since we did not want to work during Chol Hamoed.

"Everyone was surprised that the land remained very dry during the earlier planting period and the mockers lost their entire crop, while we who had planted later had a very successful crop."

When the Beis Halevi, zt"l, was asked about keeping shemittah nowadays, he explained its vast importance. "Even if we hold that shemittah nowadays is solely rabbinic, there is still a Torah obligation to keep these halachos. It is explicit in Nechemia 10:30-32 that the leaders of the Jewish people made an oath binding on themselves and all generations to come that they will keep these halachos. Even if there is no Torah obligation to keep shemittah per se, there is a Torah obligation to keep this oath."

1. שמיטה בהלכה ובאגדה, ע' קס"ז
2. שו"ת בית הלוי

HALACHA HIGHLIGHT

Benefit from the exchange of a prohibited item

קונם פירות האלו עלי...אסור בחילופיהן ובגידוליהן ובב'.

One who declares these fruits to be a konam ... He is prohibited to derive benefit from items exchanged for those fruits or something that grows from those fruits

There was once a villager who owned barrels of liquor. His brother came to visit and got drunk on that liquor. After this happened a few times, the villager made a public vow (that cannot be annulled) that prohibited his brother from the liquor in his barrels. Some time later the villager exchanged his barrels of liquor for dried fruit. A fire broke out in town and the dried fruit became damaged and could only be sold with great difficulty. The drunken brother had a daughter who was ready for marriage but he did not have the funds to provide her with an honorable dowry. The villager wanted to give his brother (the drunk) the dried fruit so that he could use the proceeds to marry off his daughter. They turned to the Chasam Sofer¹ for a ruling whether it was permitted for the drunken brother to receive these dried fruits as a gift. The reason for their inquiry was that they feared that it was prohibited since the fruit was received in exchange for the liquor that was prohibited for benefit to the drunken brother.

Chasam Sofer cites our Mishnah which rules explicitly that one who prohibits fruit is prohibited from items received in exchange for those fruit. A difficulty, however, is that earlier (47a) Rami bar Chama raised the question of the status of items received in exchange for fruit that Reuven declared prohibited to Shimon and the matter remained unresolved. What was Rami bar Chama's question if our Mishnah explicitly prohibited items received in exchange for prohibited fruit? Ran explains that the difference is whether the vower is prohibiting the fruit to himself or to others.

Since our case is similar to Rami bar Chama's inquiry, since the villager prohibited the liquor to his brother, one would expect that halacha should be strict regarding Biblical matters that are in doubt (ספק דאורייתא לחומרא). Nevertheless, Chasam Sofer suggests a number of reasons for a lenient ruling in this case. One of the reasons is based on the assumption that the villager only took the vow to prevent his brother from becoming drunk. Accordingly, the brother would technically be permitted to even drink some of the liquor if it could be ascertained that he would not become drunk. Therefore, it is certainly permitted for the brother to derive benefit from what was received in exchange for that liquor since it is not possible to become drunk on that fruit.

1. שו"ת חת"ס אה"ע ח"ב סי' קע"ד

PARSHA CONNECTION

In this week's daf the Gemara discusses מעשה ידיים which is work done by a wife. Another way to describe work is יגיעת

כפיים. We find this expression in the way Yaakov described his hard work for Lavan. The Possuk (לא פסוק מב) says: לולי אלקי אבי אלקי אברהם ופחד יצחק היה לי כי עתה

ריקם שלחתי את-עניי ואת-יגיע כפי ראה אלקים ויוכח אמש

Yaakov said that if not for Hashem watching over him Lavan would have sent him away empty handed. Earlier (פסוק לח) when detailing his work Yaakov states that he did not eat Lavan's goats, and none of the animals lost their unborn offspring. זה עשרים שנה אנכי עמך רחליך ועזיך לא שכלו ואילי

How is the fact that the animals didn't experience a miscarriage a testament to his hard work, it's not something that he could control? The אלשיך הקדוש explains that not having any of the animals lose their embryos over 20 years is a miracle. Hashem would not perform a נס for someone who lacks integrity. Yaakov was proving his honesty based on the fact that Hashem performed a נס for him.

POINT TO PONDER

The Mishna writes about a husband making a נדר that his wife will not have הנאה from him until Succos if she visits her father before Pesach. It then writes that if she visits her father before Pesach the נדר is triggered and she is אסור to have הנאה from him, and she can visit her father after Pesach. What is the חידוש that she can visit after Pesach? The תנאי was only until Pesach?

Response to last week's Point to Ponder:

The Gemara writes that if someone is ר"ל in אבילות he must turn over all the beds in the house. Does this include only family members, or even guest beds (chairs) or are guest beds excluded?

This is a מחלוקת between רמב"ן and רא"ש in the third perek of מועד קטן. The רא"ש writes that it's only family members while the רמב"ן maintains that it includes all beds, including guest beds.