

שבת קודש פרשת ויגש | מסכת נדרים דף סא'

This week's newsletter is dedicated in memory of Baila Sarah bas Ephraim Hakohen

**INSIGHTS FROM
OUR CHABUROS**

**Becoming involved in
ambiguity**

ורמינהי מי שיש לו שתי בתי בנות וכו'

In the Mishnah (60a), a person prohibits wine upon himself "until before Pesach." Rebbe Meir rules that he is only prohibited to drink wine until Pesach begins. This is ostensibly because a person does not subject himself to ambiguity, and he never meant for his limitation to enter the holiday, as the intention of his words only clearly refer to until the holiday begins and no more. Rebbe Yose, however, rules that the vow extends until the end of the festival. He assumes that a person is committed to fulfill the intent of any ambiguous meanings of his words. The Gemara notes a different case disputed by Rebbe Meir and Rebbe Yose. A man has two sets of daughters, one from each of his two wives. He declares that he has accepted kiddushin for "the older one." We do not know whether he is referring to the eldest of the older set, the older of the younger set, or perhaps he means the younger of the older set (as she is "older" than the older of the younger girls). Rebbe Yose rules that they are all permitted to get married, except for the oldest of the older set. The reason is that we assume that a person certainly did not intend his words to refer to anything ambiguous. This contradicts the approach of Rebbe Yose by the neder of "until before Pesach."

Sefer זרזין נדרי wonders what the comparison is between these cases, that the Gemara feels that the opinion of Rebbe Yose is inconsistent. When a person issues a neder, he intends to prohibit upon himself anything possibly indicated by his words, even ambiguous references. When declaring the kiddushin of his daughters, his intent was that the daughter should be married. If his intent would be inconclusive in any way, the girl would not be able to marry.

Rather, he understands that the question of the Gemara is in contrasting the words of Rebbe Meir who says that a person remains clear in his neder, but allows ambiguity in kiddushin.

PARSHA CONNECTION

In this week's daf the גמרא discusses a neder for a year or a number of years. In Parshas Vayigash there is a discussion of years when Pharaoh asks Yaakov Avinu ימי כמה ימי.

שני חיך. This would seem to be a strange question to ask someone who you just met. The Kli Yakar explains that when Yaakov arrived in Mitzrayim a נס happened to the Nile and it rose by itself to water the fields. Seeing that Yaakov looked like a very old man, raised a concern in Pharaoh's mind that this miracle would only be short lived because Yaakov was about to die. Yaakov answered Pharaoh with a seemingly long, unnecessary response. The Possuk (בראשית פרק מז פסוק ט) says: ויאמר יעקב אל־פרעה ימי שני מגורי.

שלושים ומאת שנה מעט ורעים היו ימי שני חיי ולא השיגו את־ימי שני חיי אבתי בימי מגוריהם

Instead of just answering that he was 130 years old, Yaakov adds that his life was difficult and his years did not reach the years of his forefathers. Why did Yaakov add these details? Second, how does he know that his years haven't reached the years of his forefathers? He is still alive and no one knows how long they will live. The Ramban explains that Yaakov understood from Pharaoh asking him about his age, that he looked very old and he therefore explained his rough life. Regarding our second question, the אלשיך הקודש explains that people have "good" years/days meaning times when things are going well, and unfortunately sometimes "not good" years. Yaakov is saying that amongst his 130 years, he had very few "good days", and in relation to his forefathers who had more "good years", in their respective lives, the number of his good years, were fewer than theirs.

**STORIES
OF THE DAF**

**The donated
Sefer Torah**

מי שיש לו שתי בתי בנות

A certain ba'al habayis once presented a Torah scroll to a local shul without specifying whether this was a gift for all time or only a loan. Several years later, the man was moving from the town and wished to repossess the sefer as is customary. The question came up: since he had not specified that he could take the Torah back whenever he wished, perhaps the kehillah had acquired it? Even a doubt regarding this issue would likely prohibit him from taking what might be shul property. For this reason, the gabaim of the shul refused to allow the previous owner to remove the sefer from its safe. The owner protested vehemently. They finally decided to consult with the Chelkas Ya'akov regarding this matter: did the gabaim have the right to withhold the sefer Torah or not?

The Chelkas Yaakov replied, "They have no right to prevent him from removing the sefer Torah. This emerges from the Gemara in Nedarim 61. We find there a machlokes regarding a man who has daughters from two wives who was mekadesh one daughter with language that was vague. The outcome of the discussion is that the most obvious choice of all the daughters to fit the criterion he stipulated is the mekudeshes since it is assumed that a person never places himself in a safek, in a questionable situation, willingly. The same is true in our instance. Surely the donor didn't want to lose out on his rights of ownership of the sefer Torah!

The Chelkas Yaakov continued, "Besides, the Magen Avraham and the Eliyahu Rabbah both state that the custom is that a sefer left in a shul remains the owner's property. In every community, on the first day of Sukkos, the custom is for many who don't have an esrog to take another's esrog and discharge their obligation. Even though the owner of the esrog doesn't say anything to transfer ownership of the esrog to each user, since the custom is to discharge their obligation in this manner, it is as if he made a declaration. The same holds true in this case; since the custom is to take the sefer Torah even without asking permission, it is as if he clearly stipulated that he can take it when he wishes!"

HALACHA HIGHLIGHT

Should kohanim be granted preference to serve as sh'liach tzibbur?

בין דהך סוגיא איתרמא בסוגיא דנדרים משמע דאיכא למסמך
עילויה טפי וכו' (דברי הר"ן ריש ע"ב)

Since this discussion appears in the context of nedarim it is more reliable etc. [From the commentary of Ran on the top of amud beis]

Rav Shalom Yechezkel Shraga Halberstam¹, the Tzeshinover Rebbe, inquired whether there is an obligation to honor a mourner who is a Kohen and allow him to serve as the sh'liach tzibbur. For example, if there are many mourners ל"ר in a shul and all have them have an equal claim to serve as sh'liach tzibbur, should the Kohen have precedence over the others because of the obligation to honor Kohanim?

The Chelkas Yaakov² responded that this practice does not qualify as the mitzvah of honoring kohanim. The first explanation he suggests is based on the fact that it is accepted practice for mourners to serve as sh'liach tzibbur to honor their parents and elevate their souls. Therefore, when there are many mourners in a shul they all have the same claim to lead the services for their parent; consequently, the mitzvah of honoring Kohanim will not apply. The basis for this is a comment of Tosafos in Gittin³ who writes that there is no obligation to give priority to a kohen when it comes to dividing property that is jointly owned (שותפות).

This conclusion, however, is not so simple since there is a conflicting Tosafos in Moed Katan⁴ that writes the opposite, meaning the only time there is a mitzvah to honor Kohanim is when people are dividing jointly-owned property. Chelkas Yaakov suggests two reasons why Tosafos' comments in Moed Katan will not change his conclusion. The first reason is mentioned by Yam Shel Shlomo⁵ who writes that when there is a conflict between Tosafos in a large massekhta and a Tosafos in a small massekhta preference should be given to the comment found in the larger massekhta since that is considered more authoritative. Secondly, Ran⁶ in our Gemara states that when a halacha is discussed in two places in the Gemara and there is a conflict between those two places preference should be given to the presentation made in the location where that halacha is the primary topic rather than the presentation made when that halacha is mentioned as part of a different discussion. Therefore, since the Gemara in Gittin is discussing the parameters of honoring kohanim and the Gemara in Moed Katan mentions it only as an aside, the version in Gittin is considered more authoritative. Therefore the other mourners do not have an obligation to honor a Kohen since the privilege to lead the services is jointly owned by the members of the shul.

1. מובא דבריו בשו"ת חלקת יעקב או"ח סי' כ"ה
2. שו"ת חלקת יעקב הנ"ל
3. תוס' גיטין נ"ט ד"ה וליטול מנה יפה ראשון
4. תוס' מ"ק כח ד"ה וליטול מנה יפה ראשון
5. ים של שלמה פ"ד דיבמות סי' ל"ד
6. ר"ן ס"א בראש העמוד

MUSSAR FROM THE DAF

Who truly sustains us

אמרו לו לרבי יהודה: הרי הוא אומר "שש שנים תזרע שדך",
ואין כאן אלא חמש!

Earlier, the Gemara discussed a machlokes between Rabbi Yehuda and the Rabbanan whether the Yovel year is included in the count of the six years leading up to the Shemittah year. R' Yehuda holds that Yovel is included, while the Rabbanan maintain that it is not. Here, the Rabbanan challenge R' Yehuda: how can the possuk speak of six years of agricultural work if one of those years—Yovel—is itself forbidden for planting? The Chasam Sofer comments on this sugya and notes that one cannot counter the Rabbanan by comparing Shemittah to Shabbos. Even though Yom Kippur may fall during the previous week, we still observe Shabbos, despite the verse stating, "Six days shall you do melachah" (Shemos 35:2). Why is this not a parallel case?

The Chasam Sofer explains that the difference is fundamental. Shemittah is a result of six years of labor. Its very meaning is that after six years of working the land, a person is commanded to stop and recognize that his livelihood is not the product of his own effort. Shabbos, by contrast, does not depend on the six days before it. Melachah is forbidden on Shabbos not because of the preceding days, but because on that day Hashem rested from Creation. Shabbos is fixed and absolute; it testifies to Hashem as Borei Olam regardless of what came before it. This distinction reflects the deeper lesson of each zman. The primary lesson of Shemittah is bitachon, not falling into the trap of "כחי ועצם ידי עשה לי את החיל הזה" Shemittah only becomes necessary after six years of human effort, when a person is most likely to believe that his hishtadlus alone produced his parnassah. At that moment, Hashem commands him to stop and recognize the true Source.

Shabbos, however, serves as constant testimony that Hashem created the world. It is specifically on "the day of Hashem," the day He rested, that we reaffirm that reality. That testimony is not dependent on the prior six days at all. While we are fortunate to have a weekly reminder of Hashem as Creator through Shabbos, many of us no longer experience a once-in-seven-years Shemittah that confronts our sense of control over parnassah. Therefore, we must actively seek other ways to detach ourselves from the illusion that we are fully in control, such as regularly learning and reviewing sifrei bitachon, and consciously reminding ourselves who truly sustains us.

POINT TO PONDER

The Gemara wants to bring a proof that according to Rabbi Meir a person would put themselves in a doubtful situation, from Kiddushin. How does Nedarim compare to Kiddushin? Maybe when it comes to Kiddushin a person would be extra careful because of the serious consequences, whereas in Nedarim he would be less cautious?

Response to last week's Point to Ponder:

The Gemara says that if someone made a נדר not to drink wine today, he needs a היתר חכם in the evening (after dark). Does he need to find a פתח like a usual לחכם?

The ר"ן writes that he doesn't need a פתח. Since this is only מדרבנן they didn't require a פתח.