

שבת קודש פרשת אחרי מות-קדושים | מסכת נדרים דף ע"ח

INSIGHTS FROM OUR CHABUROS

The authority of the court to decide the matter of the new month

צועדי ה' צריכין מומחה ואין פרשת נדרים צריכין מומחה

The precise nature of the court which may decide the onset of the new month is a matter of dispute between the Rishonim. Rambam (Hilchos Kiddush Hachodesh 5:1-2, and Sefer Hamitzvos #153) rules that when the Sanhedrin is seated in its chambers in the Lishkas Hagazis, this matter is delegated to them, and only they or a committee of three qualified judges which they appoint may decide this matter. If the Sanhedrin is not in session in its location in Eretz Yisroel, the month may be set by astronomical calculations, and it is formally established as the community in Eretz Yisroel adopts this custom. Parenthetically, he adds that if there would ever be a time when no Jews were living in Eretz Yisroel, there would be no arrangement of Rosh Chodesh, and the festivals would not occur. However, this theoretical situation is absolutely impossible to transpire, as Hashem has already promised that there never will a condition where Jews are absent from our holy land.

Therefore, we are guaranteed that the community in Eretz Yisroel will always set the tone of adopting the calendar calculations. Ramban (in his comments to the Sefer Hamitzvos, ibid.) disagrees and contends that the matter of fixing the new month can be done by any competent panel of three judges, and that there is no need for Sanhedrin to deal with this matter directly. The truth of the matter was that during the period the Sanhedrin did convene, they did decide this matter, as every other court deferred to their authority. Nevertheless, the halacha was that any panel of three qualified judges could decide this matter, as long as they were ordained by the authority of other judges in line from Moshe Rabeinu.

Rebbe Hillel the Nasi, the son of Rebbe Yehuda the Nasi saw that the institution of semicha would soon no longer be viable, and the arrangements of the months and the declaration of Rosh Chodesh would be lost, he established a calendar system to determine the day of Rosh Chodesh. In effect, he sanctified the months from then and beyond, until Eliyahu will come and herald the arrival of Moshiach. Ramban contends that his opinion is correct based upon our Gemara which compares the law of sanctifying the month and the release of vows in that both need expert judges (referring to the release of vows when it is done by a single judge, who must be an expert).

PARSHA CONNECTION

This week's דף quotes a Possuk (ויקרא פרק יז פסוק ב) from this week's פרשה. The פסוק says: דבר אל בני ישראל ואמרת אליהם זה הדבר אשר-צוה ה' לאמר אל-אהרן ואל-בניו ואל כל-בני ישראל ואמרת אליהם זה הדבר אשר-צוה ה' לאמר "דבר אל בני ישראל", whereas here it includes אהרן and his sons and the obvious question is why? This מצוה is called שחוט חוץ and it prohibits a person from slaughtering hekedesh animals outside of the בית המקדש and directs us to bring them to בית המקדש as שלמים. The אלשיך הקדוש explains that הקב"ה wanted to eliminate the possible thought that בני ישראל would have, which is that this מצוה is intended to support the כהנים. Since when one brings a שלמים as קרבן the כהנים get their share, and if this animal would have been slaughtered outside of the בית המקדש the כהנים would not get anything; one might therefore think that this is purely to benefit the כהנים. This is why it says, דבר אל אהרן to emphasize that EVERYONE has to bring their animals to the בית המקדש including כהנים. Since כהנים also have to bring their own animals to the בית המקדש we understand that this מצוה is not intended to benefit the כהנים since if it was, why are they also required to bring it to the בית המקדש? They would have the same amount of food regardless of whether they bring it as שלמים or eat it outside of the בית המקדש.

STORIES OF THE DAF

Neglected duty

שיש שאלה להקדש

There was once a man who encountered hard times. He had been struck down financially and he didn't know what to do. One day, while thinking of Yaakov Avinu, he had a sudden inspiration. Why not vow to give away a significant portion of his income if things turned around? After all, how could this hurt? The man vowed to give twenty percent of his income to tzedakah if Hashem helped him out of his financial straits. Miraculously, in a relatively short time, his business dealings started to pick up. It was as if he suddenly was graced with the golden touch. He became a respected member of the community and all seemed well.

He forgot about the vow he had made in his distress, however, and he did not fulfill it at all. Maybe he gave two percent of his income to tzedakah. That was it. After a long period of success, he remembered his vow. Although things were beginning to go bad again, he started to fulfill his obligations. Business got worse and worse however, so he consulted with his Rav if he could annul the vow. The first reason he wished to annul was that he broke it for so long. The second more pressing reason was that giving so much of his now meager income was making things very tight indeed. Even without giving tzedakah at all, he couldn't really make ends meet. His Rav wasn't sure, so he consulted with the Tashbatz, zt"l. The Tashbatz discussed this at great length and concluded, "The Halacha is that one may annul hekdesch as we find in Nedarim 78. Pledging to give matanos for poor people is presumably not more stringent than pledging to give to hekdesch. So he may annul. The Tashbatz concluded, "Ask him if he had known that because of forgetfulness he would fail to fulfill his neder, would he have vowed? If his answer is no, you may annul his vow!"

HALACHA HIGHLIGHT

The annulment of an individual expert

אמר ר' חסדא ואיתימא ר' יוחנן ביחיד מומחה

R' Chisda, and some say R' Yochanan, explain that it refers to an individual expert

Tur1 cites the opinion of his father, the Rosh, who rules that nowadays we do not have experts who have the authority to annul vows by themselves and vows must be annulled by a group of three judges. Beis Yosef2 explains that according to those who explain that individual experts (יחיד מומחה) refer to those with semicha that is traced back to Moshe Rabbeinu it is obvious that we do not have scholars who meet that qualification who would be qualified to annul vows by themselves. Even those who do not require experts to possess semicha to be categorized as experts who can annul vows, nevertheless, nowadays there are not experts considered capable of annulling vows by themselves.

The reason is that since R' Nachman declared that a scholar must be someone who has learned and can contemplate matters of Torah (גמירנא וסבירנא), similar to himself, who can step forward and declare himself to be a scholar comparable to R' Nachman? Shach and Taz3 write that even if an individual expert were to annul a vow by himself it would not be considered annulled even בדיעבד. Ran and Rambam4 disagree and maintain that someone who is recognized as an expert in his generation has the authority to annul vows even nowadays.

Accordingly, Aruch Hashulchan5 questions the position taken by those authorities who maintain that even בדיעבד a renowned expert cannot annul a vow since there are authorities who maintain that we do have renowned experts even in our days. Furthermore, it seems that the Rishonim who write that we do not have experts qualified to annul vows by themselves intended to express a stringency (חומרא) rather than issue an absolute binding ruling. Therefore, it is difficult to accept that the annulment performed by an individual renowned expert should not be effective. Similarly, Sefer Shulchan Gav'oh expresses astonishment that Shulchan Aruch followed the ruling of Rosh cited by Tur and did not even mention the dissenting opinion of Rambam.

1. טור י"ד סי' רכ"ח

2. ב"י שם

3. ש"ך סק"ד וט"ז סק"ג

4. ר"ן נדרים ע"ח ובדעת הרמב"ם ע"ב"ש שם

5. ערוה"ש שם סע' ג'

REVIEW AND REMEMBER

1. What are the different lessons derived from the words זזה הדבר?
2. What are the different sources that teach that three laymen may annul vows?
3. What is derived from the words ראשי המטות.
4. Under what conditions may a husband revoke his wife's vow many days after he heard the vow?

MUSSAR FROM THE DAF

Listening to Silence

אמר רבי חנינא: השותק על מנת למיקט, מפר אפילו מפאן ועד עשרה ימים

Rabbi Chanina teaches a fascinating ruling regarding the laws of Nedarim. Typically, a husband only has until nightfall to nullify his wife's vow; however, Rabbi Chanina explains that if his silence was not an act of legal confirmation, but rather a psychological tactic used to provoke or distress her while he secretly intended to nullify it later, his window of opportunity remains open for 10 days. This Sugya reveals that in the eyes of Halacha, not all "silence is created equal" There is a concept of Shtika al minas likayem where silence signals consent, and a Shtika l'Meikat, where silence is used as a weapon of emotional distance. This halachic distinction offers a profound lesson for our everyday lives and relationships. Just as in the Gemara, one's silence in the real world is rarely "empty"; it is often heavy with hidden meaning. Sometimes, one employs Shtika l'Meikat—the "silent treatment"—using quietness as a tool to punish or cause pain to another (all while sometimes doing this subconsciously)

Other times, one's silence functions as Shtika al minas likayem, where remaining quiet is interpreted by those around us as an endorsement of their actions or statements. We must, therefore, develop a deep sensitivity to the "inner voices" of those we interact with. When we see someone withdraw, we must ask if they are burning up inside, requiring us to provide the opening for them to fulfill the words of Shlomo Hamelech in Mishlei 12:25: "De'agah b'lev ish yashchenah"—if there is worry in a man's heart, he should speak it out. Conversely, when we ourselves are quiet, we must be careful not to give off the impression that we are condoning inappropriate behavior. By recognizing the complexities of silence, we can ensure we aren't using it to harm others, nor allowing our own silence to be misconstrued as support for something wrongful.

POINT TO PONDER

פרשה ראשי המטות in the פרשה says that we learn from שחוטו חוץ, that there is שאלה בהקדש. Why would we need a special דרשה for הקדש? Isn't it a נדר?

Response to last week's Point to Ponder:

The גמרא says that התרת נדרים is not like דין because it could be done with relatives who are "פסול" for עדות or acting as a דיין. Would other "פסולין" be able to be מתיר נדר? For example a woman or a child under 13?

The רבי עקיבא איגר quotes פתחי תשובה יורה דעה סימן רכח who writes that only relatives who are inherently כשר to be a דיין in any other case, and happen to be related to the the person seeking התרה are able to be מתיר נדר but a lady or child under 13 who are disqualified for any דין can't participate in התרת נדרים.