



OVERVIEW of the Daf

1) **MISHNAH:** Beis Shamai and Beis Hillel disagree whether erroneous sanctification is binding. Two examples of the dispute are presented.

2) Clarifying the dispute

The rationale for Beis Shamai's position is presented together with the reason for Beis Hillel's dissent.

The explanation for Beis Shamai's opinion is rejected and R' Pappa offers an alternative explanation.

This explanation is unsuccessfully challenged.

The rationale for Beis Hillel's dissent is explained in light of this new explanation.

Rava of Barneish unsuccessfully challenges R' Pappa's explanation.

Another unsuccessful challenge to R' Pappa's explanation (i.e. that Beis Shamai maintain that erroneous consecration is binding) is presented.

The Gemara makes another attempt to prove that Beis Shamai does not hold that erroneous consecration is binding.

Abaye offers an alternative explanation for Beis Shamai's position.

Two unsuccessful challenges to this explanation are presented.

3) Black oxen

R' Chisda makes a statement that indicates that a black ox is less valuable than a white ox. Additionally he states that a white spot on black is an indication of an affliction.

R' Chisda's assertion that a black ox is less valuable is challenged from the Mishnah.

A possible resolution is suggested and rejected.

R' Chisda resolves the challenge against his statement.

The Gemara notes two contradictory statements from R' Chisda pertaining to black oxen.

The contradiction is resolved.

4) **MISHNAH:** The Mishnah discusses a case of one who took a vow of nezirus and after violating the nezirus approached a Torah scholar to release him from his vow. The halacha of what occurs if he is not released from the vow is presented and there is a dispute between Beis Shamai and Beis Hillel regarding what occurs to the animals set aside for an offering in the event the Torah scholar does release him from his vow. ■

Distinctive INSIGHT

The view of Beis Shamai regarding "The first black ox"
ואחד אמר הריני נזיר שאין זה פלוני... בית שמאי אומרים כולם נזירים

The Mishnah taught a case where a person declared, "The black ox which comes out from my house first will be consecrated for an offering." Surprisingly, a white ox walked out first. The opinion of Beis Shamai is that it is **הקדש**. In the Gemara, Rav Pappa explains the opinion of Beis Shamai in the Mishnah. Actually, Beis Shamai holds that a declaration of **הקדש** which is in error has no validity. The white ox is, therefore, not **הקדש**. What Beis Shamai meant was that the first black ox which comes from the house is **הקדש**, whether it is the first animal to come out or if even if a white one comes out before it. True to his word, the black one is consecrated.

The Gemara (עמוד ב') challenges the explanation of Rav Pappa from a Mishnah (32b). Six people were walking when they saw a person approaching. They each make a commitment for nezirus based upon an assumption which turns out to be mistaken, but Beis Shamai rules that they are all nezirim. We see, therefore, that Beis Shamai holds that mistaken **הקדש** is valid. According to Tosafos, Rav Pappa responds by saying that, indeed, the view of Beis Shamai can be proven from the Mishnah (32b), but it was not conclusive from the case of the black ox. In fact, Rav Pappa agrees that in that case, the white ox, the one which came out first, is the one which is consecrated.

Meiri adds that if a black ox walks out from the house after the white ox, and it is the first black one to leave, even Beis Hillel agree that the black ox is consecrated. ■

REVIEW and Remember

1. According to the Gemara's first understanding, what is the dispute between Beis Shamai and Beis Hillel?

2. How does R' Pappa explain the dispute between Beis Shamai and Beis Hillel?

3. What is the effect a black ox has on a herd of white oxen?

4. How do Beis Shamai attempt to prove that erroneous consecration is not binding?

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in loving memory of their son and brother
David Ben Mendel HaKohen

HALACHAH Highlight

Mistaken declarations of nezirus

מי שנדר בנזיר וכי נשאל לחכם והתירו היתה לו בהמה מופרשת תצא ותרעה בעדר

Someone who took a vow of nezirus etc. and he petitioned a Torah scholar who released from his vow, if there were animals that were set aside they may go out and graze with the flock

Rambam¹ rules that a person who imagined that he was obligated to observe a period of nezirus, whether a nezirus for a specific number of days or whether a permanent nazir², and set aside animals to be used for his offerings only to approach a Torah scholar who ruled that his initial vow was not binding, may return his animals to the pen and they do not retain any residual sanctity whatsoever. Consequently, if the nazir had designated an exchange animal (תמורה) that animal would also lose its sanctity since it was based on the erroneous assumption that the first animal was sacred³. Similarly, at whatever point it is discovered that the animal is not sacred it reverts back to its non-sacred status, even if the animal was slaughtered and the blood was applied to the altar⁴. The rationale for this ruling is that the original sanctifica-

tion of these animals was made under the erroneous impression that he was indeed a nazir and halacha follows the principle that an item that was mistakenly sanctified does not become sacred.

It would seem that this ruling only applies in a case where it turns out that the original vow was not binding, thus retroactively he was not a nazir and obviously then the animals he sanctified for his offerings would have no sanctity. This leaves one with the impression that if the nazir approached the Torah scholar about a vow of nezirus and the Torah scholar released him with an opening (פתח) or regret (חרטה) the animals would retain some degree of sanctity. The reason is that at the time he sanctified the animals he was in fact a nazir, therefore, it cannot be said that the sanctity was made in error. Although there are authorities who may support this distinction the accepted opinion is that even if the Torah scholar releases the nazir from his nezirus with an opening or regret the animals would revert back to their non-sacred status⁵. ■

1. רמב"ם פ"ט מהל' נזירות ה"ח.

2. פתחי נזיר שם ס"ק נ"ג.

3. פתחי נזיר שם ס"ק נ"ד.

4. פתחי נזיר שם ס"ק נ"ה.

5. פתחי נזיר שם ס"ק נ"ג. ■

STORIES Off the Daf

The Donor's Decision

"שור שחור שיצא מביתי ראשון הקדש..."

A certain person donated a handsome sum of money to tzedaka. When he gave over the sum, he said: "I am giving this money so it can be invested and the principal will remain. At the same time, the interest will go to pay the salary of a Rav whom the kahal finds worthy in their eyes."

Shortly after giving this donation, the donor died. The Roshei Hakahal had a family member who was a qualified Rav. They sent for him and he assumed the position. The donor's family was a little upset, since there was a qualified Rav married to the donor's daughter. Wasn't it fair that the job should go to him? After all, why is this different than the Gemara in Bava Bas-

ra 132a? There the Gemara discusses an only child who went overseas and supposedly died. Although the father bequeathed all of his property to others, the halacha is that if the son returns we give the property to him since we all know that if the father had known the son was alive he would not have given the property away. In addition, some of the donor's children were having a hard time making a living. Perhaps this at least is similar to the case in Bava Basra?"

Since no one consulted had a clear answer, these questions were presented to Rav Meir of Rottenburg, zt"l, for adjudication. He answered, "Even if we know that he wouldn't have done it if he had found out the truth, this doesn't help with regards to nedarim or tzedakos. The only exception is the Gemara in Nazir 31 that discusses the case of a person who said, 'I declare the

black ox that leaves my house first will be hekdesh.' If a white ox left first, it is not hekdesh. We do hold like Beis Hillel, that mistaken hekdesh is not hekdesh. But if there was no mistake when he made the neder or donation, it stands even though we are sure it is not what he would have wanted.

The Maharam M'Rottenberg continued, "We see this from Rabbi Akiva's father-in-law Kalba Savuah. Even though he made his neder thinking that his son in law was an ignoramus, he needed hataras nedarim. Without hataras nedarim, the neder would have stood despite the fact that he would never have made it had he realized his son-in-law would know one halacha.

He concluded, "The same is true regarding the neder of tzedakah. As long as there was no mistake to begin with, what he says stands!" ■