



OVERVIEW of the Daf

1) Identifying the author of the Mishnah

It is noted that the Mishnah that indicates that a person who violated his nezirus is not required to make up the days he violated his nezirus is not consistent with R' Yosi and Rabanan who maintain that some days have to be made up.

The Gemara explains how the Mishnah could be explained like R' Yosi or like Rabanan.

2) Clarifying the Mishnah

R' Yirmiyah notes that we can make an inference from Beis Shammai's opinion to draw a conclusion about Beis Hillel's position. That ruling is that although an exchange (תמורה) done in error is binding, nevertheless, if the sanctity of the first animal is retroactively revoked the second animal will also lose its sanctity.

3) Animal ma'aser

R' Nachman asserts that only a mistake can render the ninth animal sacred but not if it is intentionally declared sacred, whereas R' Chisda and Rabbah bar R' Huna maintain that even if the ninth was intentionally declared sacred it becomes sacred.

R' Nachman's position is unsuccessfully challenged.

4) MISHNAH: The Mishnah presents the halachos for one who declares that he is a nazir assuming that the animals he would need were in his possession only to discover that they were no longer in his possession. A related incident is presented.

5) Clarifying the Mishnah

Rabbah notes that our Mishnah indicates that Rabanan succeeded at convincing R' Eliezer that a person cannot be released from a vow on the basis of an unexpected development.

Rava asserts that even Rabanan would agree that a person could be released from a vow with a conditional unexpected development.

An example of a conditional unexpected development is presented.

R' Yosef unsuccessfully questions whether the destruction of the Beis Hamikdash was considered something unexpected.

6) MISHNAH: The Mishnah presents a dispute among Beis Shamai, Beis Hillel, R' Tarfon and R' Shimon regarding a case where six people made conditional vows of nezirus.

7) Clarifying Beis Hillel's position

The literal statement of Beis Hillel that the one whose words were not fulfilled is a nazir is challenged.

R' Yehudah suggests that the words should be changed to, "Those whose words were fulfilled..." ■

Distinctive INSIGHT

The rebuke of Yirmiyahu to the people

הכתיב היכל ה' היכל ה', המה זה מקדש ראשון ומקדש שני

In the Mishnah, Nachum Hamadi was willing to release the nazir commitment of the nezirim who had come to Eretz Yisroel from the Diaspora, only to find the Beis Hamikdash in ruins. Now that they were unable to finish their nazir terms, Nachum Hamadi used this as a source of regret to allow them to cancel their original vows. The Sages, however, pointed out that Nachum was mistaken in his willingness to release them based upon the destruction of the Beis Hamikdash being נולד—a new and unforeseen circumstance.

In the Gemara, Rav Yosef states that had he been present when this discussion took place, he would have pointed out that the destruction of the Beis Hamikdash was not an unforeseen circumstance at all, as it is clearly predicted and foretold by Yirmiyahu the Prophet. In Sefer Yirmiyahu (7:4), the prophet addressed the evildoers and confronted them about the eventuality of the destruction. We see, therefore, that the people knew that the Beis Hamikdash would be destroyed.

Rosh explains that Yirmiyahu was addressing the evil ones who did not think that the destruction would be too devastating, as they knew that Hashem would always rebuild it a second, and even a third time.

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REVIEW and Remember

1. What is the dispute between R' Yosi and Rabanan concerning one who violated his nezirus?

2. Why is ma'aser fundamentally different from standard cases of consecration?

3. What was the mistake made by Nachum HaMadai?

4. Explain R' Tarfon's position.

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HALACHAH Highlight

Interpreting verses differently than Chazal

ובית הלל אומרים אינו נזיר אלא מי שלא נתקיימו דבריו

And Beis Hillel say that no one is a nazir except the one whose words are not fulfilled

The Gemara questions the meaning of Beis Hillel's statement that if his words are not fulfilled he will be a nazir, and two explanations are presented. Rambam¹ offers an alternative explanation of the Mishnah that is more loyal to the wording. Tosafos Yom Tov² takes note of the fact that Rambam deviated from the explanations given in the Gemara and explains that since Rambam's explanation will not lead to an incorrect halachic ruling it is permissible to explain the Mishnah differently than the way Chazal explained the Mishnah. This is similar to the right a person has to interpret Scripture differently than Chazal as long as one does not offer an explanation that leads to a different halachic outcome than dictated by Chazal.

Rav Menashe Klein³ elaborates on this topic and points to the fact that we find many examples in the Gemara where rabbis will interpret verses differently than the simple meaning in order to draw out or highlight a particular message. As an example of a non-literal interpretation he cites the first Mishnah in Berachos that reads, "מאימתי קורין את שמע בערבין" - "From when do we read Shema at night," and explains that the term מאימתי could also be understood as "אימה - awe," and it would be teaching that one should recite Krias Shema with awe. Although this is clearly not the simple intent of the Mishnah, nonetheless, it is permitted to interpret mishnayos in such a fashion.

STORIES Off the Daf

A Mistake in Judgment

"... אבל היכא דמיתעקר עיקר הקדש איתעקר נמי תמורה "

Once there were two friends who often did business together. As often happens in such instances, one friend felt the other owed him money and the other claimed nothing was owed. They went to a certain dayan to mediate and bound themselves to accept his decision.

The dayan wrote his entire reasoning up and pushed them to compromise based on his understanding of the halacha. Unfortunately, his understanding was completely flawed. Although he clear-

ly bungled the complicated case, the partner whom it turned out really owed the money claimed that he need not pay a penny more than the terms of the original compromise since the two parties had agreed to accept the dayan's decision. His friend argued that the transaction was not binding if the dayan erred.

A local scholar declared that the ruling was meaningless since it was based on a mistake. "Not only in this case where he completely confused the halacha is the ruling not binding. Even if he had only made a mistake in שיקול הדעת it would have been nullified. We see this from Nazir 32. Although Beis Hillel admits that a mistaken תמורה takes effect, that is only if the first animal was really הקדש. If

the sanctity of the first animal was uprooted, the תמורה is also uprooted. The same is true here. The compromise was only agreed upon because of a mistake, be it in halacha or שיקול הדעת."

Since this person wasn't absolutely sure himself, he consulted with the Maharsham, zt"l. The Maharsham decided, "Although a compromise reached because of a mistake in halacha is void, I know of no indication whatsoever that a compromise based on a mistake in שיקול הדעת doesn't stand. The Gemara in Nazir 32 is no proof. There, the entire holiness of the תמורה is drawn from the first animal. But if they agreed to compromise based on the שיקול הדעת of the dayan, why shouldn't it stand?" ■

(Insight. Continued from page 1)

Shitta Mikubetzes writes that Yirmiyahu was addressing the people who denied the threat that the Beis Hamikdash was vulnerable, and he was telling them that the destruction was possible and imminent.

Rashi (to Yirmiyahu) explains that Yirmiyahu was telling the people not to rely on their merit of coming to the Beis Hamikdash three times each year to avoid the destruction.

Radak (ibid.) explains that there were false prophets who were claiming that Yirmiyahu was issuing empty threats and that Hashem would never destroy the Beis Hamikdash. Yirmiyahu, on the other hand, said not to listen to those who repudiated his prophecy, as he insisted that unless the people repented, the Beis Hamikdash was vulnerable. The three indicated by the repeated phrase "היכל ה'" allude to the antechamber of the Beis Hamikdash (אולם), the hall (היכל), and the דביר, the Holy of Holies. ■

Sdei Chemed⁴ cites authorities who observe that many of the classic Torah commentators, e.g. Ibn Ezra, Ramban, Radak, will interpret verses according to their simple meaning even though that results in interpreting the verses differently than Chazal. Sefer Yafeh LaLev, however, is uncomfortable with the notion that commentators will deviate from the interpretation of Chazal and quotes the assertion of Gaon Chida⁵ that all the comments in the Ibn Ezra's commentary that deviate from Chazal did not originate from Ibn Ezra; rather a student inserted them into the commentary following Ibn Ezra's death. ■

1. רמב"ם בפירוש למשנה פ"ה מ"ה.
2. תוס' יו"ט שם ד"ה ובית הלל אומרים.
3. שו"ת משנה הלכות ח"ה סי' ק"ע.
4. שדי חמד כללי הפוסקים סי' י"א אות י'.
5. שם הגדולים צערכת גדולים ערך הראב"ע. ■