

OVERVIEW of the Daf

1) Identifying the author of the Mishnah

R Yehudah Nesiah is cited as identifying R' Yehudah in the name of R' Tarfon as the author of the Mishnah who includes cases that are conditional.

Rava explains how the Mishnah could also represent the opinion of Rabanan.

2) Motivational vows

Ravina inquired whether the vows taken by parties that are very specific in their vows concerning how much they are willing to spend/sell are categorized as motivational vows – נדרי זרוזין.

R' Ashi demonstrates that even in this case it is considered a motivational vow.

Ravina rejects this proof and the matter remains unresolved.

3) Clarifying the Mishnah

R' Yehudah reports a dispute between R' Assi and Shmuel whether the four vows mentioned in the Mishnah require a Rabbinic annulment.

4) Regrets and openings

R' Yosef maintains that R' Yehudah in the name of R' Assi taught that only vows that are similar to the vows in the Mishnah may be annulled. This indicates that a vow may not be annulled with regret – חרטה.

Two incidents are recorded that relate to the question of whether regret is sufficient to annul a vow or whether an opening – פתח – is required.

A Baraisa is cited that presents a dispute between Tannaim about this issue.

Three related incidents are recorded. ■

REVIEW and Remember

1. Explain לפי שלא ניתנה נזירות אלא להפלאה.
2. What is an effective way to refuse a friend's invitation?
3. What is the difference between a פתח and חרטה?
4. Are there grounds to annul the vow of someone who admits that he could have been appeased and would have thus avoided taking a vow?

Distinctive INSIGHT

Strategic vows as bargaining ploys

שניהם רוצים בשלשה דינרין

The Mishnah presents a case where a seller and buyer haggle about the price of an item. The seller vows that he will not take less than four dinar, and the buyer vows that he will never pay more than two dinar. The halacha is that they can settle on three dinar as a final price, and neither the seller nor the buyer is in violation of his neder. ר"ן and רש"י explain that we assume for a fact that although each took a vow to stand on his offer and not compromise, this really meant that each wished to take a position which would result in obtaining three as a final price, and not to obstinately remain uncompromising. The Shitta Mikubetzes writes that it is common for a buyer to low-ball his offer, and for the seller to overprice the item, all in order to arrive at the desired outcome.

The Rishonim cite the Yerushalmi (4:1) which elaborates and explains that we only dismiss the oaths of the buyer and seller as long as they do not insist on their positions (אין מעמידים דבריהם). If, however, they stubbornly stand on their words, we cannot nullify the significance of their oaths. ר"ן comments that the Yerushalmi does not seem to be saying anything more than the Mishnah itself. The Mishnah itself presents a scenario where the deal was a compromise, and each agreed to three dinar.

ר"ן explains that the Yerushalmi is coming to teach that the buyer and seller must tell us that they wanted three dinar in the first place, and even when they originally uttered their vows it was only a ploy.

ר"ן also suggests that מעמידים דבריהם could mean that each insists that he did not merely blurt out a vow as a bargaining strategy, but that he meant his words as a bona-fide vow. In this case, we cannot ignore the vow as mere words. The reason why this case would be worse is that each person tells us clearly that he meant his words literally. Therefore, we cannot interpret his vows as ploys.

Ritva, Shitta Mikubetzes, Rashba and Nimukei Yosef explain that the Yerushalmi distinguishes between a case where they immediately come to a compromise of three dinar, where we see that the vow was not meant literally, and a case where the deal was stubbornly fought until they later came to a middle ground. In this latter case, it seems that the vows were meant as stated, as each party stood behind his words, and a compromise only reached later.

■

HALACHAH Highlight

Openings and regrets

אמר ליה לבך עלך א"ל לא ושרייה

He [R' Nachman] said to him, "Was your mind with you?" and the vower responded, "No." and [R' Huna] released him [from the vow.]

Aruch Hashulchan¹ explains that there are two methods of releasing a person from a vow. The first method is to find an opening - פתח - and the second method is for the vower to express regret - חרטה. An opening is where the vower declares, "Had I known that as a result of my vow I would have to face this circumstance I never would have vowed." In other words, had the vower considered the matter at the time he took the vow he would not have taken the vow. This yields the equivalent of a mistaken vow. Regret, on the other hand, does not involve finding something that, had he known, he would not have made the vow, rather he claims that he took the vow out of anger or rushed into the vow. Consequently, he regrets that he ever made the vow without the requisite clarity of mind. Although the Gemara records a dispute whether an opening is necessary or even

regret is sufficient, the Gemara rules that regret is sufficient. However, the regret must be that the vow was made in the first place but if the vower declares that he now (meaning from this point forward) regrets taking the vow the vow cannot be annulled.

One interesting difference between openings and regrets is that there are certain vows that are not subject to regrets². For example, if a person made a vow to fast or perform another mitzvah, if he were to express regret for the vow he would lose the credit that he accrued for the fasts and mitzvos he performed until this point. However, it is acceptable to find an opening for the vower to release him from any further obligation to fulfill his vow. Therefore, if the fasts have weakened the vower's body or the mitzvos have generated dissent or hatred he could say, "Had I known that the fast would weaken my body I never would have taken the vow," or "Had I realized that the mitzvah would generate dissent and hatred I never would have taken the vow." These are not expressions of regret that would uproot the credit for the earlier fasts or mitzvos performed; rather he is stating that he did not wish to accept this practice with the force of a vow. ■

1. ערוה"ש יו"ד סי' רכ"ח סעי' י"ז

2. ערוה"ש שם סעי' י"ט ■

STORIES Off the Daf

A cascade of vows

אלו היה עשרה בני אדם

Acertain bochur had a difficult time refraining from a particular sin. His conscience bothered him to such an extent that he decided to make a neder that if he ever transgressed this sin again, all meat and wine would be prohibited to him. Unfortunately, he soon fell back into his old negative behavior. Even worse, the young man was so ashamed of his lapse that he couldn't bring himself to consult with a Rav. Not surprisingly, he slipped further and ate meat and wine until this too became a habit. Now he had another sin of continuously violating his vow on his conscience. Subsequently, the bochur felt terrible remorse, especially

since he never refrained from doing the sin that had inspired him to make a vow in the first place! Eventually, this disturbed him so much that he again made a neder, this time prohibiting all fruit to himself if he fell again.

Predictably, he slipped and was once again too embarrassed to go to a chacham to annul his vow. Eventually, his overwhelming guilt drove him to seek an annulment. Since he was known to be an otherwise good person besides this one failing, and since he truly regretted his sin and wished to do teshuvah, the chacham was inclined to take his appeal seriously.

During the Rav's examination of the circumstances, the young man stated, "But I really don't regret the vow, only the fact that I failed to stick to my commitment."

The Rav asked, "But if ten people had appealed to you to reconsider at

the time, would you have made it anyway?" asked the Rav.

"No," the young man answered.

The Rav did not know how to decide the case. So he consulted with the Ramban, ז"ל. "Even though the young man did say that he would have been deterred if ten had pleaded with him before the vow, perhaps his regretting the vow only because he failed to uphold it is like annulling a vow with nolad (a new, unanticipated development—see Mishnah, 64a)?"

The Ramban responded, "In my opinion you may annul such a vow since if you asked him if he had known ahead of time how hard it would be to overcome his yetzer, he would have reconsidered. This is not nolad...because it is natural for the yetzer to make things difficult!" ■

