

This month's Daf Digest is dedicated in memory of
Rivka Yenta bas Asher Anshel & Yosef ben Chaim haCohen Weiss on 8 and 14th of Elul
By Mr. and Mrs. Manny Weiss

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah presents a dispute between Beis Shammai and Beis Hillel regarding unusual methods of taking what may be a vow of nezirus. R' Yehudah qualifies Beis Shammai's position.

2) Clarifying the Mishnah

Rami bar Chama clarifies the Mishnah's case of the talking cow and relates the dispute in our Mishnah with the dispute in the previous Mishnah.

The Gemara questions why it is necessary for the Mishnah to present two different examples of this dispute.

Rava explains that in reality three examples of this dispute are necessary to fully illustrate Beis Shammai and Beis Hillel's respective positions.

Rava challenges Rami bar Chama's interpretation of the Mishnah.

Rava offers an alternative explanation.

Following a successful challenge Rava suggests another explanation of the Mishnah and explains Beis Shammai and Beis Hillel's respective positions.

This explanation is successfully challenged and Rava revises his explanation of the dispute.

The Gemara challenges whether this explanation represents Beis Hillel's opinion.

It is explained that Beis Hillel is speaking to Beis Shammai's position rather than expressing their position.

Beis Shammai's response to this challenge is recorded. ■

REVIEW and Remember

1. How does Rami bar Chama explain the Mishnah's case of the talking cow?

2. Why is it necessary for Beis Shammai and Beis Hillel to have their dispute in three different cases?

3. According to Rava, what is the dispute between Beis Shammai and Beis Hillel?

4. According to Beis Hillel, is a vow to be a nazir from something unrelated to nezirus valid?

Distinctive INSIGHT

Explaining the dispute between Beis Hillel and Beis Shammai
אלא כגון דאמר הריני נזיר מבשרה אם לא עמדה, ועמדה מאליה

Tosafos explains that Beis Hillel and Beis Shammai argue about two details of this case. One aspect is the statement the person made about the animal getting up from its crouched position. Beis Shammai is of the opinion that the speaker intended that the animal not rise up on its own, but rather due to the assistance and efforts of the person who is speaking. Accordingly, if the animal gets up on its own, the nezirus takes place, as the condition of the animal's being lifted was not fulfilled. Beis Hillel holds that the animal's rising on its own also satisfies the condition set forth by the speaker.

The second issue about which they argue is when the person states that he will be a nazir in that he will abstain from the meat of the animal. Beis Shammai holds that he is a nazir, and Beis Hillel holds that he is not a nazir.

It is evident that the disagreement in the Mishnah is in both of these areas, as we will note. If the argument was only in regard to the first issue, which is how to understand the intent of the person in whether the animal's rising will be with assistance or even by itself, the case would have simply been where the person said, "I will be a nazir from wine if the animal does or does not rise." On the other hand, if the dispute was only in regard to whether the vow to be a nazir can be understood when the speaker is abstaining from meat, the entire comment about the animal rising up from crouching would be unnecessary. It must be, therefore, that the dispute in the Mishnah covers two issues.

Tosafos suggests that perhaps we might say that the dispute between Beis Hillel and Beis Shammai is only in regard to acceptance of nezirus when mentioning meat, but the Mishnah adds the statement of having the animal rise from its crouching position as a **חידוש** for Beis Shammai. The point would be that the speaker is a nazir notwithstanding the stipulation of the animal's getting up. Tosafos answers that we do not rule according to Beis Shammai, so we cannot say that the **חידוש** of the Mishnah was designed to show the extent to which the opinion of Beis Shammai is applied. ■

Today's Daf Digest is dedicated
in memory of the yahrzeit of our mother Chava Yetta Bracha bas
Harav Yechezkel, a'h.

HALACHAH Highlight

Partial nazir declarations

אלא אמר רבא כגון שהיתה פרה רבוצה לפניו ואמר הרי עלי קרבן
Rather Rava said that it refers to where the cow was crouching before him and he declared, "It is upon me for a korban."

The Mishnah earlier (3b) ruled that when a person takes a vow of nezirus and only mentions one of the nazir restrictions it is considered a full-fledged vow of nezirus and he becomes bound by all the restrictions of a nazir. This is in contrast with the position of R' Shimon who maintains that one who takes a vow of nezirus does not become bound by the nazir restrictions unless he mentions all the prohibitions. Rambam¹ rules in accordance with the opinion of Rabanan. Some authorities² suggest that the basis of the dispute is whether all the restrictions are components of one prohibition or whether there are three separate nazir prohibitions. If the different restrictions are one prohibition then the acceptance of one of those restrictions is equivalent to accepting a term of nezirus and one becomes bound by all the restrictions. If there are three separate prohibitions, the acceptance of one prohibition is nothing more than accepting one of the nazir restrictions and since there is no such

thing as a partial nazir it is as if he did not take a vow. The same explanation could be applied to one who annuls the nazir vow but only specifies one of the prohibitions. According to Rabanan once one annuls one of the restrictions it is considered as if the entire vow has been annulled whereas according to R' Shimon annulling one of the restrictions is not synonymous with annulling the entire nezirus.

Poskim disagree about the outcome of a declaration, "I am a nazir for the nazir korbanos - הריני נזיר לקרבנות נזיר" Tosafos³ and Rambam⁴ seem to maintain that it is a full-fledged vow of nezirus whereas others⁵ maintain that it does not constitute a vow of nezirus. If, however, he declared, "It is incumbent upon me a Korban of nezirus," he is not a nazir because his words only indicate that he is accepting upon himself the responsibility to pay for the korbanos of a nazir. If he worded the declaration in a way that could not be interpreted as a commitment to offer the korbanos of another, it is not clear whether the declaration would constitute a vow of nezirus⁶. ■

1. רמב"ם פ"א הל' נזירות ה"ט
2. ע' בפתח הביאור לספר פתחי נזיר שם ד"ה הרי זה נזיר גמור
3. תוס' י' ד"ה הרי עלי
4. רמב"ם בפיה"מ רפ"ב
5. פי' רבינו הלל בספרי
6. ע' בפתחי נזיר על הרמב"ם הנ"ל ס"ק ס"ט ■

STORIES Off the Daf

Posting bail

אמרה פרה זו

Who is not familiar with the word "bail" and what it signifies? But few know that certain Jewish communities during the time of the Rishonim also extracted a promissory note to secure the release of a person accused of a crime.

Once, there was pretty conclusive evidence that a member of such a community had perpetrated a serious offense. In order to prevent the man from running away, the community leaders wished to place him in jail. But when the man's friend came forward and offered to write a binding document subjecting himself to a fine of a

thousand gold pieces if the suspect ran away, the leaders were mollified.

Halachically, this is not so simple, however, because we hold that generally even a kinyan of אסמכתא is not binding. To put it simply, we all know that the man who agrees to pay a fine doesn't mean to pay. He is sure his friend will not jump bail. If the man does jump bail, why should the bail bond have to be paid? The Rosh's son asked this very question of his illustrious father.

The Rosh, zt"l, replied, "Since he obligated himself to pay the kahal which is an aspect of hekdesch, an asmachta is not relevant, as Rabeinu Meir of Rottenberg, zt"l, writes. A proof for this is in Nazir 10. There, the Gemara discusses a case of a cow that was crouching in front of someone. The man said, "I am a nazir from this

cow's flesh if the cow will not stand," and it stood on its own. Beis Shamai says he is a nazir since he meant that his vow should take effect unless he made the cow stand, not if it stood on its own. Although Beis Hillel says that he is not a nazir in that case, this is only because he meant to vow only if the cow didn't get up regardless of what caused it to rise. They agree he is a nazir if his intent was like Beis Shamai indicated. In nezirus, like in hekdesch, an אסמכתא does not release a person from his obligation.

A second question was then asked of the Rosh. "Who must pay the sofer's fee, then?"

The Rosh replied, "The man who has avoided incarceration must pay the scribe's fee. Let him pay to save his own skin!" ■

