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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

### **Mishna**

The *Mishna* states: One may vow to murderers, to robbers (*who will not kill if their demands are not met*) and to tax collectors that it (their produce that is in danger of being seized) is *terumah*, even though it is not *terumah* (*they will not take it if it is terumah*). One may vow that they belong to the royal household, even though they do not belong to the royal household.

Beis Shammai says: One may make any (*type of*) vow, except an oath (*which is stricter*). Beis Hillel says: Even an oath is permitted.

Beis Shammai says: He may not initiate the vow. Beis Hillel says: He may even initiate it.

Beis Shammai says: He is only permitted to vow in regards to the items that the robbers demand. Beis Hillel says: Even that which they do not demand. What is the case? If they said to him, “Say, ‘*Konam* my wife benefiting from me (*if the produce is not terumah*)’,” and he said, “*Konam* my wife and my sons benefiting from me,” Beis Shammai says: His wife is permitted, but his sons are prohibited. Beis Hillel says: Both are permitted. (27b3 – 28a1)

### **Law of the Kingdom**

The *Gemora* asks: How can the *Mishna* permit one to vow in order to avoid paying the king’s taxes; didn’t Shmuel teach us that the law of the kingdom is the law?

Rav Chinana answers in the name of Rav Kahana in the name of Shmuel: We are discussing a case where the tax collector has no limits to the amount that he collects (*therefore, he may vow to avoid paying this tax*).

They answered in the academy of Rabbi Yannai that we are referring to a case where the tax collector is self-appointed (*and one is not required by law to pay him*). (28a1)

### **Vow under Duress**

The *Mishna* had stated: One may vow that they belong to the royal household, even though they do not belong to the royal household.

The *Gemora* asks: How did he vow?

Rav Amram answers in the name of Rav: He declares, “All the fruits of the world should be forbidden to me if these objects (*that the robbers are demanding*) do not belong to the royal household.”

The *Gemora* asks: If so, the fruits should be forbidden (*for he was not forced to invoke such a vow*) to him forever?

The *Gemora* answers: He said that they should be forbidden to him “today.”

The *Gemora* asks: If the *neder* was only for one day, the tax collector will not accept the *neder* (*as proof that the produce is indeed terumah*)?

The *Gemora* answers: In his heart, he meant that the *neder* should be effective for only one day, but his words did not specify an amount. Even though the principle usually is that “words that are only in the heart are not regarded as words” (*they are not legally binding*), with respect to a *neder* of coercion, it is different (*and we may assume that he meant to forbid the fruits for one day only*). (28a1 – 28a2)

### **Vow and Oath to the Robber**

The *Mishna* had stated: Beis Shammai says: He is only permitted to vow in regards to the items that the robbers demand. Beis Hillel says: Even that which they do not demand. What is the case? If they said to him, “Say, ‘*Konam* my wife benefiting from me (*if the produce is not terumah*)’,” and he said, “*Konam* my wife and my sons benefiting from me,” Beis Shammai says: His wife is permitted, but his sons are prohibited. Beis Hillel says: Both are permitted.

Rav Huna cites the following *braisa*: Beis Shammai says: He may not initiate an oath. Beis Hillel says: He may even initiate it. It can be inferred from the *braisa* according to Beis Shammai that one should not initiate the offer with an oath; however, he may initiate it with a vow.

The *Gemora* asks: But we learned in our *Mishna*: He may not initiate the vow!? And furthermore, it may be inferred from the *braisa* according to Beis Shammai that one should not initiate the offer with an oath; however, he may take an oath if the robber demands it. But we learned in our *Mishna*: Beis Shammai says: One may make any (*type of*) vow, except an oath (*which is stricter*)!?

The *Gemora* answers that there is no contradiction between the *Mishna* and the *braisa*. The *Mishna* wishes to teach us the full strength of Beis Shammai’s stringent opinion that he may not even initiate a vow. The *braisa* wishes to teach us the full strength of Beis Hillel’s lenient

opinion that he may even initiate an offer to the robber with an oath.

Rav Ashi offers an alternative answer: (*The braisa is not referring to the case of the Mishna at all.*) Beis Shammai maintains that an oath may not be annulled by a sage (*only vows are annulled*). Beis Hillel holds that a sage may annul an oath. (28a2 – 28a3)

### **Mishna**

The *Mishna* states: If one says, “May these plants be a *korban* if they are not knocked down”, “This *tallis* should be a *korban* if it is not burned,” they must be redeemed (*if the conditions are met, the value of these items becomes consecrated; the money from the redemption is use to purchase korbanos*).

If he declares, “May these plants be a *korban* until they are knocked down”; “This *tallis* should be a *korban* until it is burned,” they cannot be redeemed. (28a3 – 28b1)

The *Gemora* asks: But let the *Mishna* teach: [If the condition is fulfilled] they are consecrated, and [if they are not fulfilled] they are not consecrated?

The *Gemora* answers: Since the latter part of the *Mishna* taught that they are not redeemed, the former part taught that they are redeemed.

The *Gemora* asks: How did he vow? (*All trees eventually fall down! Since the neder was dependent on the condition that they will not fall down, how can the neder take effect?*)

Ameimar answers: The *Mishna* is referring to a case where he said that they should be consecrated if they would not be knocked down today. The day passed and they were still standing. This is the reason why they are consecrated.



The *Gemora* asks: If so, what is the novelty of this case?

The *Gemora* answers: There was a strong wind blowing at the time of his vow (*he was assuming that the tree would fall and perhaps he did not intend to consecrate it if it did not fall*).

The *Gemora* proves this from the case of tallis, where the Mishna taught (a case where he vowed, “This *tallis* should be consecrated if it is not burned”); now, is a tallis standing to be burned? [Generally, it is not.] Yes (in this case, it must be)! The *Gemora* explains the case of the *tallis* where there is a fire raging (*and he vows to consecrate the tallis if it gets saved from the fire*). So too, here as well, it is a case where there is a strong wind.

You might have thought that he assumed that these things would not be saved, and that is the reason why he made such a vow. The Mishna teaches us that the vow is valid (and if they do somehow survive, they are indeed consecrated). (28b1)

#### DAILY MASHAL

##### ***The Law of the Kingdom is the Law***

The *Gemora* in Shabbos 88a teaches that when *Bnei Yisroel* stood at Mount Sinai and heard the word of Hashem, He held the mountain over our heads. Hashem declared, “If you’ll accept the Torah, all will be well. If not, this will be your burial place!” Rav Acha bar Yaakov said: This can now be used as an excuse for *Klal Yisroel* when they do not perform the *mitzvos*. For when they are summoned for judgment, they can claim that they were coerced into accepting the Torah; it was not done willingly.

The Perashas Derachim asks from our *Gemora* which states that the law of the kingdom is the law and we do not allow a person to vow deceptively. If so, this should certainly apply by The Holy One blessed is He, Who is the

King of all Kings. How could *Klal Yisroel* use the coercion as an excuse? The law of the kingdom is the law, and they took an oath obligating themselves to perform His *mitzvos*!

He answers that Rabbeinu *Tam* holds that the principle of the law of the kingdom is the law is only applicable if the king decrees on all his subjects. However, if the decree is issued only on part of his kingdom, this principle does not apply. Since Hashem is the King over all the nations of the world and He only forced *Bnei Yisroel* to accept His *mitzvos*, this principle would not apply and hence, a claim of coercion can be effective.

It emerges that regarding the seven *mitzvos* that were given to all *Bnei Noach*, the principle of the law of the kingdom is the law would apply, and a claim of coercion would not be valid.

According to this, we can explain the argument between Pharaoh and the midwives. Pharaoh asked them, “Why didn’t you listen to my commandment? The law of the kingdom is the law and since I the king decreed that all the Jewish children should be killed, you are obligated to listen to me!” They responded to him, “Your decree is not a universal one; it was only issued regarding the Jewish children and not to any others. Accordingly, the principle does not apply and we are not obligated to adhere to the laws of the kingdom. Thereupon, Pharaoh immediately decreed that all children born must be thrown into the sea.

Reb Shlomo Kluger uses this principle to explain Adam HaRishon’s response to Hashem. He answered, “The woman that you gave to me gave me from the tree and I ate.” What kind of answer was this? Adam HaRishon was saying that since his wife was here as well and she was not commanded not to eat from the tree. Therefore, the law of the kingdom does not apply and that is why he ate.