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Nedarim Daf 31

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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

### ***Jews and Cutheans***

The *Mishna* states: If one vows prohibiting benefit from “those who rest on Shabbos,” he is prohibited to derive benefit from Jews and from the Cutheans (*converts to Judaism after an outbreak of wild animals in Eretz Yisroel and their conversion was debated as to its validity; they observed some commandments, but not others; our Mishna seems to be of the opinion that they are regarded as full-fledged converts*). If one vows prohibiting benefit from “those who eat garlic,” he is prohibited to derive benefit from Jews and from the Cutheans. If one vows prohibiting benefit from “those who make the pilgrimage to Yerushalayim,” he is prohibited to derive benefit from Jews, but permitted from Cutheans. (31a)

Abaye explains the *Mishna*: Only people who are commanded in and observe that commandment are included in the *neder*. Therefore, regarding the *mitzvos* of *Shabbos* and of eating garlic (*Ezra instituted that men should eat garlic Friday night, for it increases a man’s potency, and the designated time for a torah scholar to engage in conjugal relations was on Friday night*), since both Jews and Cutheans were commanded in and observed them, they are included in the *neder*. Idolaters, on the other hand, even if they do observe these commandments are not included in the *neder* because they are not obligated to perform these *mitzvos*. Regarding the *mitzvah* of making a pilgrimage to Yerushalayim during the Three Festivals, since Jews are commanded in and observe it, they are included in the *neder*. The Cutheans, although they are commanded to perform this *mitzvah*, they do not observe it (*rather, they went to Mt. Gerizim instead*), are not included in this *neder*. (31a)

### ***Children of Avraham***

The *Mishna* states: If a person vows “*Konam* that I do not derive any benefit from the children of Noach,” he is permitted to derive benefit from Jews and he is prohibited to derive benefit from idolaters. (31a)

The *Gemora* explains: Although Jews are also the descendants of Noach, they are not included in this *neder*. Once Avraham was given a special sanctity, the Jews are called by his name (*children of Avraham; not Noach*). (31a)

The *Mishna* states: If a person vows, “*Konam* that I do not derive any benefit from the children of Avraham,” he is prohibited to derive benefit from a Jew, and he is permitted to derive benefit from idolaters. (31a)

The *Gemora* asks: Why isn’t he forbidden to derive benefit from the children of Yishmael (*who are also descendants from Avraham*)?

The *Gemora* answers: Because it is written [Breishis 21:12]: *in Yitzchak will offspring be considered yours. (Only children from Yitzchak will be referred to as “children of Avraham.”)*

The *Gemora* asks: What about the children of Esav?

The *Gemora* answers: It is written: *in Yitzchak*. This teaches us that not all of Yitzchak’s descendants will be considered “children of Avraham.” (31a)

The *Mishna* states: If a person vows “*Konam* that I do not derive any benefit from Jews,” he may buy (*from them*) for

more (*than the standard price*) and sell (*to them*) for less (*than the standard price; in this way, he is not deriving benefit from a Jew*). If he vows, “Konam that a Jew should not derive benefit from me,” he may buy for less and sell for more, but they might not listen to him (*for they will be losing*). If he vows, “Konam that I do not derive any benefit from them and they from me,” he may (*only*) derive benefit from idolaters. (31a)

### **Supply and Demand**

Shmuel said: If one takes a utensil from a tradesman to approve it (*by inspecting it*) and while it is still in his possession it is accidentally damaged, he is liable for it (*he is regarded as a custodian on it*). It emerges that in his view, the benefit is on the side of the buyer. (*Custodians are divided into various categories, according to their degrees of responsibility, depending upon the benefit they derive from their trust. A paid custodian has a higher degree of responsibility (than one who is unpaid) since he is being paid for his services. Only one who borrows an article is liable for unavoidable damages, because all the benefit is on his side; he may use it and the lender receiving nothing in return. Since Shmuel rules that the prospective purchaser is liable for unavoidable damages, it is evident that he puts him in the same category as a borrower, who is the only one to derive benefit.*)

The *Gemora* asks on Shmuel from our *Mishna*: If a person vows “Konam that I do not derive any benefit from Jews,” he may sell (*to them*) for less (*than the standard price; in this way, he is not deriving benefit from a Jew*). Evidently, he may not sell at its actual worth. But if it is only the purchaser who benefits, why can’t he sell it at its actual worth?

The *Gemora* answers: The *Mishna* is referring to a case where he is selling something for which there are few buyers. (*The buyer can buy this item anywhere; only the seller benefits from the transaction, unless he sells it below its market price.*)

The *Gemora* asks: If so, let us consider the earlier ruling of the *Mishna*: If a person vows “Konam that I do not derive any benefit from Jews,” he may buy (*from them*) for more (*than the standard price; in this way, he is not deriving benefit from a Jew*). (*Why don’t we allow him to buy it at its actual worth, since it is only the seller who is benefiting?*)

And furthermore, let us consider the latter ruling of the *Mishna*: If he vows, “Konam that a Jew should not derive benefit from me,” he may buy for less and sell for more. But if this refers to merchandise that has few buyers, even selling it at its actual worth should be permitted (*since the buyer is not deriving benefit*)?

The *Gemora* answers (*the second question*): This part of the *Mishna* refers to merchandise that people are eager to buy.

The *Gemora* asks: If so, why must he purchase it at a lower price; he should even be permitted to pay the full value (*for the seller is not benefiting, for he can easily sell it to someone else*)?

Rather, the *Gemora* answers: Our *Mishna* refers to medium merchandise (see Ra”n Elucidated # 1) and Shmuel is discussing desirable merchandise.

The *Gemora* cites a *braisa* which supports Shmuel’s ruling: If one takes a utensil from a tradesman to approve it (*by inspecting it*) to send them as a gift to his father-in-law’s house, and he stipulates the following with the seller: “If they are accepted (*by the woman who is betrothed to him*), I will pay you their value, but if not, I will pay you for the amount that I benefited from them (*that he is appreciated for sending the gift*), the following is the *halacha*: If they were accidentally damaged on the way there, he is liable (*which supports Shmuel*). If it gets damaged on the way back, he is not liable, because he is regarded as a paid trustee. (See Ra”n Elucidated # 2)

The *Gemora* cites a related incident: A middleman once took a donkey to sell, but could not sell it. On his way back, it was

accidentally injured. Rav Nachman ruled that he is liable to pay.

Rava challenged this ruling from the *braisa*: If it gets damaged on the way back, he is not liable, because he is regarded as a paid trustee.

Rav Nachman replied: The return journey of a middleman is regarded as if he is still on the way there, for if he would find a purchaser, even at his doorstep, will he not sell it to him? (31a - 31b)

### **Great is Circumcision**

The *Mishna* states: If one vows, “*Konam* that I do not derive benefit from the uncircumcised,” he is permitted to derive benefit from the uncircumcised Jews, and prohibited to derive benefit from the circumcised idolaters. If he said, “*Konam* that I do not derive any benefit from the circumcised,” he is prohibited to derive benefit from the uncircumcised Jews, and permitted to derive benefit from the circumcised idolaters, since the word “*orlah*” refers only to the non-Jews, as it is written [Yirmiyah 9:25]: *For all the nations are uncircumcised and the whole house of Israel are uncircumcised in the heart.* And it is written [Shmuel I, 17:36]: *And this uncircumcised Philistine shall be like them.* And it is written [Shmuel II, 1:20]: *Lest the daughters of the Philistines rejoice, lest the daughters of the uncircumcised be jubilant.* Rabbi Elozar ben Azaryah says: Detestable is the foreskin whereby the wicked are disparaged, as it is written [Yirmiyah 9:25]: *For all the nations are uncircumcised.*

Rabbi Yishmael says: Great is circumcision, concerning which thirteen covenants were made. Rabbi Yosi says: Great is circumcision, which overrides the stringency of the Shabbos. Rabbi Yehoshua ben Korchah says: Great is circumcision, concerning which even Moshe the righteous was not spared for an hour. Rabbi Nechemia says: Great is circumcision, which overrides *negaim*. Rebbe says: Great is circumcision, since for all the *mitzvos* which Avraham our father performed, he was not regarded as being complete until he

was circumcised, as it is written [Breishis 17:1]: *Walk before Me, and be complete.* Another explanation: Great is circumcision; were it not for it, the Holy One, blessed be He, would not have created His world, as it is written [Yirmiyah 33:25]: *Thus said the Lord: If not for My covenant day and night, the laws of Heaven and earth I would not have set forth.* (31b)

The *Gemora* cites a *braisa*: Rabbi Yehoshua ben Korchah said: Great is circumcision, for all the meritorious deeds performed by Moshe our teacher did not protect him when he tarried in fulfilling the commandment of circumcision (*regarding his son Eliezer*), as it is written [Shmos 4:24]: *And Hashem met him, and sought to kill him.* Rabbi Yosi said: Heaven forbid that Moshe delayed circumcising his son, but rather, this is what Moshe said, “If I circumcise my son and immediately leave Midian to return to Pharaoh, I will endanger his life. I cannot circumcise him and wait three days, for the Holy One, blessed be He, has commanded me to go and return to Egypt! Why then was Moshe punished? It was because he occupied himself with arranging a place of lodging first prior to circumcising his son. (31b – 32a)

### **DAILY MASHAL**

#### **What was Moshe’s Sin?**

Rabbi Yehoshua ben Korchah says: Great is circumcision, concerning which even Moshe the righteous was not spared for an hour.

The Ran comments: As soon as Moshe was lax, the angel wanted to kill him.

The Maharsha asks: Just because Moshe negated the *mitzvah* of circumcising his son on the eight day, is that a justification for him to be liable for death?

He answers: It is either because Hashem judges the righteous strictly or it is because a “ben Noach” is liable for death when he commits any type of transgression, and since

it was prior to the Giving of the Torah, Moshe was being judged as a “ben Noach.”

Reb Meir Bergman asks: According to this explanation, how could the *Mishna* bring a proof from here that circumcision is great; perhaps it is different because of the special circumstances?

The *Gemora* states further: Rabbi Yehoshua ben Korchah said: Great is circumcision, for all the meritorious deeds performed by Moshe our teacher did not protect him when he tarried in fulfilling the commandment of circumcision (*regarding his son Eliezer*), as it is written [Shmos 4:24]: *And Hashem met him, and sought to kill him*. Rabbi Yosi said: Heaven forbid that Moshe delayed circumcising his son, but rather, this is what Moshe said, “If I circumcise my son and immediately leave Midian to return to Pharaoh, I will endanger his life. I cannot circumcise him and wait three days, for the Holy One, blessed be He, has commanded me to go and return to Egypt! Why then was Moshe punished? It was because he occupied himself with arranging a place of lodging first prior to circumcising his son.

The Mefarsh explains: Since he was close to Egypt, he should have performed the circumcision when he stopped for lodging, for the small journey that remained would not have posed a danger to the child. He concludes that the child was only eight days old on that day.

Accordingly, the question is strengthened: Why would Moshe deserve such a strict punishment if he anyway performed the circumcision on the eighth day? He was only guilty of not fulfilling the concept of *zerizin makdimin l'mitzvos* – a *mitzvah* should be fulfilled at the first moment possible. Why should he deserve to die?

Perhaps we may suggest the following answer (*Rabbi Bergman answers in a very similar manner*): The primary purpose of Moshe Rabbeinu’s life was to take the Jews out of Egypt and to give them the Torah. It is written regarding the birth of Moshe [Shmos 2:2]: *The woman conceived and*

*bore a son, and [when] she saw him that he was good, she hid him for three months*. The *Gemora* in *Sotah* (12a) states that when he was born, the entire house was filled with light. This can be in reference to the light of Torah.

The *Gemora* in *Megillah* (16b) expounds on the verse that states [Esther 8:16]: *Layehudim haysa orah visimcha visasson vikar*. The Jews had light, gladness, joy and honor. Light is referring to Torah; Gladness is referring to the festivals; Joy is referring to circumcision; Glory is referring to tefillin.

The question is asked: If the *Megillah* wished to say that the Jews were saved because they fulfilled the Torah, festivals, *milah* and *tefillin*, why didn’t the *Megillah* write that explicitly? Why was it mentioned only in code form?

Rabbi Eliezer Ginzburg in his sefer, *The King’s Treasures* states the following: It is well known that evil decrees instituted against the Jewish people are always in correspondence with their sins. Each transgression draws a particular type of negative force in its wake. Hence, in order to determine what sin the Jewish people are being held accountable for at any given time, one need only consider the dominant characteristic of the nation threatening them, for their enemies are nothing more than a reflection of their transgressions.

Amalek was able to strike the Jewish people when their enthusiasm for Torah observance waned. The *Mechilta* says in reference to the verse [Shmos 17:8]: Amalek came and battled Israel in Rephidim. Amalek came because Israel loosened their grip on the Torah. This is why Rabbi Elozar introduced his lecture on the scriptural portion of the Book of Esther with the following verse: Through laziness the ceiling collapses, and through idleness of the hands the house leaks – because of the laziness of the Jews, who did not engage in Torah study, the enemies were capable of attacking.

Perhaps, Rabbi Ginzburg continues, this is what the Megillah is teaching us by saying that “the Jews had light,” and not simply saying that “the Jews had Torah.” The Jews were not guilty of completely neglecting Torah study, or for that matter, any other *mitzvah*. Their shortcoming was their lack of enthusiasm for *mitzvos*. It was the inner light of the *mitzvah* which they lacked, the spark of excitement and fervor for doing Hashem’s will. The miracles which Hashem performed for Israel stoked the smoldering embers within each Jew and evoked a new fervor for the performance of *mitzvos*, reawakening the “light” of Torah study, the “gladness” of the *Yom Tov* holidays, the “joy” of circumcision and the “glory” of *tefillin*.

Using this principle, perhaps we can suggest why the angel wished to kill Moshe for procrastinating in the fulfillment of a *mitzvah*. It was not that he was deserving to die for this relatively minor transgression. Rather, when Moshe displayed a slight lack of enthusiasm for the *mitzvos*, he could not be the one to deliver the Torah to the Jewish people, and this was the purpose of his life. Thereupon, Tziporah immediately went and took a sharp stone and performed the circumcision of her son. Rabbi Bergman concludes that Moshe repented for this and merited to accept the Torah from Hashem and to deliver it to the Jewish people.

### ***The Ra”n Elucidated***

**# 1 – Different types of merchandise** - Rather, the *Gemora* answers: Our *Mishna* refers to medium merchandise and Shmuel is discussing desirable merchandise.

The Ran explains: In a medium merchandise, there is benefit for both the seller and the buyer, and for this reason, when he prohibits himself from deriving benefit from Jews, he must buy for more and sell for less, so that he will not have any benefit from them. When he prohibited other Jews from deriving benefit from him, he must buy for less and sell for more, so that they will not be benefiting from him. For in a

medium sale, in which he sells at a fair price, they both benefit.

The Ran comments that when the *Gemora* explained the *Mishna* to be referring to a case of undesirable merchandise or a case of desirable merchandise, it certainly knew that these were not the real meaning of the *Mishna*. But it wanted to reveal the *halacha* and teach us that undesirable merchandise is a benefit for the seller and not the buyer. Desirable merchandise, on the other hand, is a benefit for the buyer and not the seller. Medium merchandise is a benefit for both of them. And this is all when it was sold for a fair price, but if it was sold for more, even desirable merchandise is a benefit for the seller and not for the buyer. If it was sold for less, even undesirable merchandise is a benefit for the buyer and not for the seller.

**# 2 – Paid custodian** - The *Gemora* cites a *braisa* which supports Shmuel’s ruling: If one takes a utensil from a tradesman to approve it (*by inspecting it*) to send them as a gift to his father-in-law’s house, and he stipulates the following with the seller: “If they are accepted (*by the woman who is betrothed to him*), I will pay you their value, but if not, I will pay you for the amount that I benefited from them (*that he is appreciated for sending the gift*), the following is the *halacha*: If they were accidentally damaged on the way there, he is liable (*which supports Shmuel*). If it gets damaged on the way back, he is not liable, because he is regarded as a paid trustee.

The Ran explains that on the way back, he is free from responsibility because he is like a paid watchman, and a paid watchman is free from responsibility for accidents. However, he is responsible if they are stolen or lost, because the *Gemora* in Bava Metzia concludes that a borrower, after the term of his borrowing is over, becomes a paid watchman, because he both benefits and provides benefit. And there it is proven from this *braisa* that since on the way there he is a borrower, on the way back, even though he is not a borrower, he is regarded as a paid watchman.