



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Annulling in his Presence

The *Gemora* cites a *braisa*: If one made a *neder* forbidding himself from deriving pleasure from his fellow (*and he wishes to have the neder annulled*), we do not annul the *neder* except in that fellow’s presence.

The *Gemora* asks: From where do we derive this *halachah*?

Rav Nachman says: It is because it is written [Shmos 4:19]: *And Hashem said to Moshe in Midian, “Go, return to Egypt, for all the men who sought your life have died.”*

The *Gemora* explains: Hashem said to Moshe, “You made your *neder* in Midian. Go have your *neder* annulled there (*in front of Yisro*). The *Gemora* explains: It is written [ibid. 2:21]: *And Moshe swore (va’yoel) to stay with the man, and he gave him Tziporah*. The word “*alah*” means an oath, as it says [Yechezkel 17:13]: *And he (Nevuchadnezzar) brought him (Tzidkiyahu) under an “alah.”* And it is written [Divrei Hayamim II 36:13]: *And he (Tzidkiyahu) also rebelled against King Nevuchadnezzar, who had made him swear by God. (Since Moshe swore to remain in Midian with Yisro, he was required to have it annulled before him.)*

The *Gemora* asks: What was Tzidkiyahu’s rebellion?

The *Gemora* elaborates: Tzidkiyahu once found Nevuchadnezzar eating a live rabbit. Nevuchadnezzar said to him, “Swear to me that you will not reveal it and not let the public find out!” He swore to him. At the end,

Tzidkiyahu was suffering because of this (*for he wished to humiliate Nevuchadnezzar and ease the yoke of servitude which was on the Jewish people*). He asked Sanhedrin to release him from his oath. They did so and he said over what he had observed. Nevuchadnezzar heard that that people were disgracing him. He sent messengers and they brought the Sanhedrin and Tzidkiyahu before him. He said to them, “Do you see what Tzidkiyahu did? Is it not true that he swore by the Name of Heaven not to reveal it?” They responded, “We released him from his oath.” Nevuchadnezzar asked them, “Can one be released from an oath?” They said, “Yes.” He asked them, “Can this be done only in his presence (*of the one who the oath was regarding*) or even when he was not present?” They said to him, “He must be present.” So he asked them, “And what did you do? Why didn’t you inform Tzidkiyahu of this?” Immediately, he commanded them to sit on the ground and be quiet. Rabbi Yitzchak said: The cushions that the Sanhedrin were sitting on were removed.

The Ra”n Elucidated

[*Some say that this is only when the neder is for the benefit of the other person, like the neder that Moshe made to Yisro to stay with him for his benefit, and like the oath that Tzidkiyahu made to Nevuchadnezzar, which was for his purpose. But regarding a neder that was not made for the benefit of another person, it can be annulled even not in his presence.*

The Yerushalmi states two reasons for this halachah. There are some there who say that the reason is to cause

shame. That is, so that he will be embarrassed because of the other person, since the neder was for his benefit. Otherwise the implication is that he can be released even though it is not in his presence.

However, there are some there who say that the reason is because of suspicion. The concern is that the person from whom he is forbidden will not know about his being released, and when he has benefit from him, he will think he is violating his neder. For this reason, even a neder that is not for the benefit of the other person can only be released in his presence because there could be suspicion.

There is another difference between these two explanations. According to the opinion that it is because of suspicion, as long as they tell the other person, he can be released even if not in his presence, because there is no longer suspicion. And according to the opinion that it is to cause embarrassment, even if they told him, it can only be done in his presence, because as long as it is not in his presence, there is no embarrassment.

And if it is in his presence, but against the will of the other person, it is obvious that we release the neder if it is not for the benefit of the other person. But if it is for his benefit, we can only release it with his consent. So wrote Rabbeinu Tam zt"l.

However, if they release him without his consent, whether his neder is effectively released or not, requires investigation. The Gemora in Meseches Gittin implies that if it was already done, the neder is released. In discussing the decree of Rabban Gamliel that a widow must make a neder to the orphans, the Gemora says this only applies if she had not gotten married. The Gemora objects that we need to be concerned that she might go to a chacham and be released. And if, indeed, even if it has been done it is not effective, what difference does it make if she goes to a chacham, since the neder of the widow was for the benefit of the orphans? Rather, from this it can be inferred

that even if it was for the benefit of the other person, anything that has been released is released.

This is also implied by the release of Tzidkiyahu by the Sanhedrin. Were it ineffective if already done, how could they permit Tzidkiyahu to reveal the secret? That implies that if it was done, it is permitted. And if you'll say that it is still a problem, because even though if done, it is effective, to begin with, it is nonetheless forbidden. So why did the Sanhedrin release Tzidkiyahu? It can be answered that if a mitzvah is involved, it is permitted to release and Tzidkiyahu was suffering greatly when he wasn't able to reveal it and was unable to do mitzvos. It was also a mitzvah for them to obey the orders of the king who commanded them to release him. That is he answer given in the Tosfos. The implication is, nonetheless, that if it has been done, it is effective, for if not, what did it help Tzidkiyahu that they released him as the discussion in Meseches Gittin also proves?

Others say that these are not proofs, and even if it has been done, it is not effective. For behold, the verse in Divrei Hayamim rebukes Tzidkiyahu, and he is punished for it, as it says, "and also against King Nevuchadnezzar did he rebel, who had made him swear by God." So wrote the Raavad, zl. And go out and see what happened to him and to the Sanhedrin! And the discussion in Meseches Gittin is not a proof either, for even though the neder of the widow was made to the orphans, it is of no benefit to those children that her fruits be forbidden to her. It can also be explained that what the Gemora there means is that she might go to a chacham and he might release her, and she will think she had been released.] (65a1 – 65a2)

Mishna

The Mishna states: Rabbi Meir says: There are things which are like a new circumstance, and are not like a new circumstance; but the Chachamim do not agree with him. How so? If a person said, "That which I marry So-and-so

shall be konam, for her father is evil,” and later, they told him that he died or repented. (*Since he had said “for her father is evil,” the implication is that the neder should be in effect as long as the father is evil; however, if he dies or repents, the neder is null and void.*) Or, if he said, “This house for me to enter shall be konam, for there is a vicious dog in it,” or “there is a snake in it,” and later, they told him that the dog died, or that the snake was killed. These cases are like a new circumstance, and they are not like a new circumstance; but the *Chachamim* do not agree with him. (65a2 – 65a3)

New Circumstance

The *Gemora* asks: Why is he permitted when her father died? Isn't the death regarded as a new circumstance (*and we learned above that a neder cannot be annulled based upon an opening from a new development*)?

Rav Huna answers: It is regarded as if he explicitly made the *neder* dependent upon this (*and therefore, he would be permitted even without a release from a chacham*).

Rabbi Yochanan answers: The *Mishna* is referring to a case where the father had already died or already repented (*at the time the neder was made, and accordingly, the neder never even took effect*).

Rabbi Abba asks on Rabbi Yochanan from a *Mishna* below: If one said, “*Konam* that I will not marry the ugly So-and-so,” and she is good looking; “the dark one,” and she is fair; “the short one,” and she is tall, he is permitted to her. It is not because she was ugly and became good looking, dark and became fair, short and became tall, but rather, it is because the *neder* was made in error (*she was not ugly, dark or short at the time of the neder*).

The Ra”n Elucidated

[*The Ra”n asks: Even if the woman changed, the neder should still be nullified, because he mentioned this fact when he made the neder? This should be similar to the case above, where he mentioned that her father was evil in the neder, and when he repented, the neder is automatically annulled!*]

The Rashba answers: Since it is normal for a person to repent or to die, his neder is understood to mean that he will not marry her under that condition. If the circumstance changes, the neder is null and void. However, here, it is not normal for an ugly woman to become good looking; nor is it normal for her to change complexions or become tall, therefore, we assume that it was not his intention that she should become permitted to him if the circumstances change.

Rabbi Yehudah bar Chisdai answers: There, he said, “because her father is evil.” He has, therefore, made his neder contingent on that fact. Here, he said, “So-and-so is ugly.” He is merely stating the present fact, but he is not making the neder dependent on it.]

Why, according to Rabbi Yochanan, is there a necessity to teach two *Mishnayos* regarding the same *halachah* (*namely, if the neder was made based upon a mistaken premise, it is not effective*)?

The *Gemora* remains with this difficulty. (65a3 – 65b1)

Mishna

The *Mishna* states: And Rabbi Meir also said: They may open for him based on what is written in the Torah. They can say to him: “If you had known that you are transgressing ‘*You shall not take revenge,*’ or ‘*You shall not bear any grudge,*’ or ‘*You shall not hate your brother in your heart,*’ or ‘*You shall love your neighbor as yourself,*’ or ‘*that your brother shall live with you,*’ and perhaps he will become impoverished and you will not be able to

support him (*because of your neder*), would you still have made the *neder*?" If he would say, "If I had known that this is so, I would not have made the *neder*," then he is released. (65b1 – 65b2)

Obligation to Support the Poor

Rav Huna bar Rav Katina said to the Rabbis: How can the *Mishna* say that the obligation to support his brother rests upon him? Let him (*the one who made the neder*) say: The obligation to support this poor person does not rest solely on me! Whatever I am required to give together with the rest of the community, I will give to the charity collector (*he will then give it to the poor person; this will be permitted even if the poor person is the subject of the neder*)!

The *Gemora* answers: The obligation to support the poor does not immediately fall upon the community. (*Initially, it is the obligation of his relatives, and only afterwards, if they cannot provide for him, the community will get involved. Therefore, the one who made the neder and consequently, cannot give charity to this person, has violated the transgression of "that your brother shall live with you."*) (65b2)

Mishna

The *Mishna* states: They may open for a man (*who made a neder to divorce his wife*) with the *kesuvah* of his wife (*would he have made the neder if he would have known that he would be liable to pay her kesuvah*). And it once happened that one made a *neder* prohibiting himself from deriving benefit from his wife (*where the halachah is that he is required to divorce her*), and her *kesuvah* was four hundred *dinars*, and they came before Rabbi Akiva, and he obligated him to give her the *kesuvah*. He said to him, "Rebbe! My father left eight hundred *dinars*, and my brother took four hundred, and I four hundred; is it not sufficient for her that she take two hundred, and I two

hundred?" Rabbi Akiva said to him, "Even if you sell the hair of your head, you must give her the *kesuvah*." He said to him, "If I had known that this is so, I would not made the *neder*," and Rabbi Akiva permitted her. (65b2 – 65b3)

Kesuvah Payment

The *Gemora* asks: Are the movables (*the eight hundred dinars*) pledged for her *kesuvah*? (*Rabbi Meir and the Rabbis dispute this in the Gemora Kesuvos!*)

Abaye answered: The father left them land that was worth eight hundred *dinars*.

The *Gemora* asks: But he said, "Even if you sell the hair of your head, you must give her the *kesuvah*," and the hair on his head is a moveable item?

The *Gemora* answers: The *Mishna* means that even if the *kesuvah* payments will impoverish you to such an extent that you will be compelled to sell the hair on your head in order to eat, you are still required to pay her *kesuvah*.

The *Gemora* notes: It is evident from here that the debtor's means are not assessed (*to exempt him somewhat from paying his debt if, otherwise, he would not have enough for his basic needs*).

Rabbi Nachman the son of Rabbi Yitzchak says: (*In truth, we do assess his means*) The *Mishna* means that we do not tear up the *kesuvah* document (*the woman holds on to it until it is paid up*). (65b3 – 66a1)

DAILY MASHAL

Nevuchadnezzar and the Rabbit Hole

Our *Gemora* relates that King Tzidkiyahu once saw Nevuchadnezzar, the King of Babylon, eating a live rabbit.

Nevuchadnezzar feared he would be publicly humiliated for such crude behavior, so he made Tzidkiyahu swear to never reveal it. Sometime later, Tzidkiyahu felt a need to reveal the secret and asked the Sanhedrin (high court in Jerusalem) to annul the oath. The Sanhedrin found grounds to do so, and within a short time Nevuchadnezzar heard people ridiculing his crude behavior. Enraged, he summoned Tzidkiyahu and the Sanhedrin, and challenged their actions. The Sanhedrin had no response and sank in silence to the ground.

The Midrash tells us that, at that moment, the Sanhedrin beseeched Hashem for mercy in the merit of Yaakov who mourned for Yosef for so many years. Why did the Sanhedrin choose this particular merit of Yaakov? Weren't there other, more significant, merits of Yaakov to mention? What does Yaakov's mourning for Yosef have to do with the plight of Tzidkiyahu and the Sanhedrin?

To answer this question, Rabbi Wiggins cites the Beis HaLevi: We must first understand the long and bitter mourning of Yaakov for Yosef. Indeed, it is tragic to lose a child. But to intensely mourn for twenty-two years? To refuse to be comforted? Why?

The Beis HaLevi explains that Yaakov's grief was not only for the beloved son he had lost, but for the fact that one of the twelve tribes was now gone. Yaakov prophetically knew that the complete and holy nation of Israel could only come from twelve tribes, and he understood that it was his mission in life to establish these tribes. The apparent death of Yosef meant that Yaakov had failed in his mission and that the nation of Israel could not come to be. Furthermore, Yaakov had viewed every difficulty in his life as an opportunity to build the nation of Israel, and now his life's work was for naught.

But wasn't there a solution? Even if we assume Yaakov's wives were no longer able to bear children, couldn't

Yaakov marry a new wife and have another son to replace Yosef?

There was no solution because of an oath. Before Yaakov and Lavan parted ways, Lavan made Yaakov swear not to marry anybody else as long as Lavan's daughters were alive. As such, he could have no more children. But couldn't Yaakov have the oath annulled? Certainly Yaakov never would have sworn had he known that it would be necessary to marry again in order to establish the nation of Israel!

The ultimate answer is *chilul Hashem* - desecration of G-d's name. Surely there were grounds to annul the oath; but Yaakov would never do so, for in Lavan's eyes, Yaakov would be violating the oath and that would be a desecration of G-d's name. Incredibly enough, because of the mere possibility of *chilul Hashem*, Yaakov was willing to relinquish his mission in life - the establishment of the nation of Israel.

Now we can return to the incident of Tzidkiyahu and Nevuchadnezzar. Regardless of any justification the Sanhedrin had for annulling the oath, there was an element of *chilul Hashem*. Nevuchadnezzar could not comprehend how the Sanhedrin annulled an oath taken in the name of G-d. This incident was a painful disgrace to the Jewish people, the Sanhedrin, and Hashem.

As the members of the Sanhedrin fell to the ground, they realized the tremendous *chilul Hashem* they had caused. They pleaded with Hashem for mercy in the merit of Yaakov who mourned so bitterly and so long for Yosef; Yaakov who could have eased his pain by annulling the oath; Yaakov who refused to do so because of *chilul Hashem*.