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Nedarim Daf 85

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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

### ***The Benefit of Gratitude***

The *Mishna* had stated: If one said, “That which *Kohanim* and *Levi'im* derive pleasure from me (is konam to them),” they are permitted to take (*terumah* and *ma'aser* from him against his will).

The *Gemora* notes: This would indicate that the “benefit of gratitude” is not regarded as having a monetary value.

However, let us consider the last ruling of the *Mishna*: If, however, one said, “That which **these** *Kohanim* and **these** *Levi'im* derive pleasure from me (is konam to them),” other *Kohanim* and *Levi'im* are permitted to take (*terumah* and *ma'aser* from him against his will). We can infer from the *Mishna* that these *Kohanim* and *Levi'im* are prohibited from taking *terumah* and *ma'aser* from him. This would indicate that the “benefit of gratitude” is regarded as having a monetary value. [How can this be reconciled?]

Rav Hoshaya answers: This is not a difficulty. The last ruling is following the opinion of Rebbe, and the first ruling is in accordance with Rabbi Yosi the son of Rabbi Yehudah.

For it was taught in a *braisa*: If one steals the *tevel* (*untithed produce*) of his fellow, he is obligated to

pay him for the value of the entire *tevel* (*including the terumah and ma'aser that is mixed in, according to its value to him based upon his ability to choose who he wants to give them to*). Rabbi Yosi the son of Rabbi Yehudah says: He is obligated to pay him only for the value of the *chulin*. It must be that Rebbe holds that the benefit of gratitude has a monetary value, while Rabbi Yosi holds it does not.

The *Gemora* rejects this, and gives an alternate explanation to their argument. Everyone agrees that the benefit of gratitude does not have a monetary value. Their argument is whether we view the amount of grain that must be tithed as regular grain, or we subtract its value from the rest of the grain, as if it has already been given.

The *Gemora* asks: If the benefit of gratitude is not a true equity, how can there be an argument regarding the value of the grain? Its value is the same whether or not it was already tithed! [*This is because no one regards the grain that will be tithed as having any value, unless the benefit of gratitude has monetary value.*]

The *Gemora* answers: It must be that Rebbe says the thief must pay for the value of the grain that will be tithed as a fine, to teach him not to steal. Rabbi Yosi the son of Rabbi Yehudah held that a fine should be

given to the owner, in order that he should not allow his tavel to remain unrectified.

Rava says: Our *Mishna* (that says that Kohanim can take his *terumah* against his will) is different. The Kohanim can take the *terumah* against his will because *terumah* is fit only for Kohanim, and being that he is coming to prohibit his *terumah* to all the Kohanim, he has made it like mere dust (and it is regarded as hefker). [The Ra"n explains: According to the Mishna, the benefit of gratitude does have true equity, so the last ruling, where she said, "these Kohanim," others are permitted to take it, needs no further explanation. And in the first ruling, the reason that they take without her consent is that *terumah* is fit only for Kohanim, and therefore, it is impossible to give it to one who is not a Kohen; since her intention is to forbid it to them, she renders it like mere dust, because hse has renounced ownership of her "benefit of gratitude" that she has in it.](84b – 85a)

### **Mishna**

If a woman vowed (to her husband), "Konam that I will not do work for the mouth of (my) Father," or she said, "for the mouth of your father," or, "for the mouth of my brother," or, "for the mouth of your brother," he cannot revoke the vow (for it does not involve personal affliction, nor is it a matter that is between him and her). If she vows, "(Konam) that I will not do work for your mouth," he does not need to revoke the vow (as she is already bound to give him the proceeds of her work). Rabbi Akiva says: He should revoke the vow, as she might produce more than she must give to him (and he will not be able to benefit from it). Rabbi Yochanan ben Nuri says: He

should revoke the vow, as he might divorce her and then she will be forbidden to him. (85a)

### **The Position of Rabbi Yochanan**

Shmuel says: The law follows Rabbi Yochanan ben Nuri.

The *Gemora* asks: This implies that Shmuel holds that a person can consecrate something that has not yet come into existence. This position seemingly contradicts a different ruling of Shmuel, for it was taught in a Mishna: If one consecrates his wife's earnings, she may work and eat (*his consecration is not effective*). If he consecrates the surplus (*that which she earns voluntarily*), Rabbi Meir says: It is consecrated. Rabbi Yochanan HaSandlar says: It is *chulin*. And Shmuel there said: The halachah follows Rabbi Yochanan HaSandlar. Evidently, Shmuel holds that one cannot consecrate something that has not yet come into existence.

The *Gemora* demonstrates why the following possible resolution is incorrect: If you would say that Shmuel's ruling that the halachah follows Rabbi Yochanan ben Nuri was only said regarding the surplus from her work (*that it goes to the husband and not the wife, unlike Rabbi Akiva*), let him simply say that the law follows Rabbi Yochanan ben Nuri regarding the surplus! [The general remark that the law follows Rabbi Yochanan ben Nuri implies that the law is like him regarding everything he stated.] Alternatively, he should have said that the law is in accordance with the Tanna Kamma, or that it does not follow Rabbi Akiva!

Rather, Rav Yosef answers: Konamos are different (*in regards to something that is not yet in existence*).

Being that a person can forbid his friend's fruit upon himself, he can also forbid something that is not yet in existence. [However, in ordinary cases of consecration, Shmuel agrees that one cannot forbid something that is not yet in existence.]

Abaye said to him: It is understandable that one can forbid his friend's fruits upon himself, as he can forbid his fruits upon his friend's fruit as well. However, where is the logic dictating that he should be able to forbid things that have not yet come into existence upon his friend? It would seem he cannot, just as he cannot forbid the fruits of his friend upon his friend!

Rather, Rav Huna the son of Rabbi Yehoshua said: The case of our *Mishna* must be where she said, "Let my hands (*that perform my work*) be consecrated to the One Who made them," for her hands are in existence (and the vow is therefore effective upon her future earnings, and the husband must therefore revoke the vow).

The *Gemora* asks: If she says this, is the work consecrated? But her hands are obligated to work for her husband (therefore, the husband owns the right to her hands, and the vow cannot be effective at this time)!!?

The *Gemora* answers: She said that her hands shall be consecrated when she is divorced.

The *Gemora* asks: Now, however, she is not divorced! So from where do you know that if she says this it is effective? [According to the one who holds that one cannot consecrate something that is not yet

in existence, he cannot consecrate something that it should take effect when it comes into existence either!?!]

Rabbi Il'ai answers: Why not? If someone says to his friend, "The field I am now selling you should become consecrated when I buy it back from you," isn't it valid? [The consecration of the field is valid, for at the time of the vow he owns the field – even though he loses ownership in the interim. In the case of the woman, although she does not own the right to her earnings, she does own her actual hands, and that strength should allow the vow to be effective!?!] (85b – 86a)

## INSIGHTS TO THE DAF

### *Between Him and Her after Divorce*

The *Mishna* had stated: If she vows, "(Konam) that I will not do work for your mouth," he does not need to revoke the vow (*as she is already bound to give him the proceeds of her work*). Rabbi Akiva says: He should revoke the vow, as she might produce more than she must give to him (*and he will not be able to benefit from it*). Rabbi Yochanan ben Nuri says: He should revoke the vow, as he might divorce her and then she will be forbidden to him.

The Rishonim ask: According to Rabbi Yochanan ben Nuri, how could the husband revoke the vow because of what will be after they divorced? That is not a matter that is between him and her! How can the vow be revoked?

The Ritva writes that he means that the vow should be annulled by a sage, and he can annul all types of *nedarim*.

The Raavad answers: Any *neder* that she pronounces while she is under the jurisdiction of the husband, and it can lead to his loss of rights, he may revoke such a *neder*, even if the loss will only come about after he divorces her. Since she made the *neder* while under his authority, he may revoke the *neder*.

Tosfos writes that the husband may revoke the *neder*, for even after he divorces her, he can still remarry her. It is, therefore, regarded as a *neder* that involves a matter that is between him and her.

Aaron Ha'Kohen pursued peace to such a degree that if he was made aware of such a vow, he would have approached the man's wife and told her that she should spit in his eye, because the doctor said that it was the only way he could get cured from his eye ailment. This would have restored the marriage. We see from Aaron's conduct that he established that the Kohen has the characteristic of shalom and has relevance to shalom bayis.

Some commentators explain that we can now understand why the Kohen is the one who conducts the ritual of the sotah and not the Levi, for it is through him, that the possibility of shalom bayis can be achieved.

## DAILY MASHAL

### *Shalom Bayis*

Our Gemora discusses cases where a husband was forbidden to derive benefit from his wife based upon her vow.

The Gemora tells us that when Aaron Ha'Kohen passed away, everyone cried, because he was involved with shalom bayis- as it is stated in the verse: *Aaron loved peace and he pursued peace.*

The Gemora states that if a husband makes a vow that his wife cannot benefit from him in anyway, unless she spits in the Kohen Gadol's eye, the vow is effective and they must get divorced.