

נדר של יפתח הרב צבי איינשטטר

The *Haftarah* for *Parshas Chukas* contains the famous story of Yiftach being *makdish* his daughter to be a *korban olah*. The *pesukim* for this shiur read as follows:

וַיְדַר יַפְתָּח נָדָר לְה' וַיֹּאמֶר אִם-נָתַן תִּתֶנּוּ אֶת-בְּנִי עִמּוֹן בְּנִדִי: וְהָיָה הַיּוֹצֵא אֶשֶׁר יֵצֵא מִדְּלַתִּי בֵּיתִי לְקִרְאָתִי בְּשׁוּבִי בְּשָׁלוֹם מִבְּנֵי עִמּוֹן וְהָיָה לְה' וְהִעֲלִיתֶהוּ עֹלָה: (שפטים יא:ל-לא)

We will focus on the mechanics of how Yiftach's *neder* functioned. Before we discuss that part of this story I would like to explain, by way of introduction, what was in Yiftach's mind when he committed his daughter to be an *olah*. It would seem to be obvious that a person cannot be a *korban*, yet Yiftach appeared to have taken his *neder* very seriously as if this was valid.

There are three basic *mehalchim* in the *Rishonim* to explain Yiftach's *kavana*.

1. *Ibn Ezra* learns that Yiftach had in mind that if he would see an actual animal exit the house he would then bring it as a *korban olah*. This is what he meant with the words וְהִעֲלִיתֶהוּ עֹלָה. On the other hand, it might be a human being and that is why he said וְהָיָה לְה'. This phrase meant that he would separate that person to be devoted solely to the service of Hashem. Therefore, when it turned out to be his daughter he separated her from everyone else, including never getting married, and she served Hashem in solitude. This is why Yiftach thought his actions were correct when he brought her to the mountains to live alone. The *Ramban* takes extreme exception to this *pshat*, and has two main objections. His first question is just because someone is set aside to serve Hashem, that doesn't mean they cannot marry. We see this by Chana dedicated her son Shmuel Hanavi for Hashem and he still married. Why, then, would Yiftach think that devoting his daughter to serve Hashem would preclude her from getting married? The *Ralbag* answers this question, and says that a man can serve Hashem even while married because his wife helps him execute this sacred service. A woman, however, cannot marry and still devote herself fully to Hashem because she must be a helpmate to her husband, and therefore cannot be devoted to Hashem alone. The *Ramban's* second question is as follows: Later in the Navi, the *posuk* says that the daughters of Klal Yisroel went out to lament over Yiftach's daughter four times a year. If she served Hashem *bikedusha v'tahara*, why are they lamenting this? In any case, this is the *mehalech* of the *Ibn Ezra*.
2. *Ramban* himself, in *Parshas Bechukosai* (ויקרא כז,כט), explains the following *posuk* in a very interesting way. The *posuk* reads וְאֶשֶׁר יִחְרַם מִרְהָאָדָם לֹא יִפְדֶּה מוֹת יוֹמָת and the *Ramban* explains it as introducing to us the concept called "*cherem*." This is the power vested in the *Melech Yisroel* or *Beis Din Hagadol* (*b'maamad kol Yisroel*) to either put a country fighting Bnai Yisroel in *cherem*, meaning that we will wipe them out; or to put any individual into *cherem* who breaks their *takana*, which can result in capital punishment. [An example of this *cherem* being used is the story of Yonasan breaking the *cherem* fast for the war.] *Ramban* explains that Yiftach erred in thinking that during wartime, a king has the right to put a person in *cherem* for the sake of *hatzlocha* in the war. Therefore, he thought that even a human being was included in his *neder* of whatever exited the house would become an *olah*. As such, the person would be put to death under the *cherem*. His mistake was thinking that the *cherem* extends past being an enemy of Klal Yisroel or breaking the law of Beis Din, which it does not. One cannot simply execute someone as a sacrifice to Hashem, because there is no such thing. Not realizing this, Yiftach actually killed his daughter via *cherem*.

3. *Medrash Tanchuma* in *Parshas Bechukosai* (*Rashi* in *Taanis 4a* seems to concur) says that Yiftach made the grave mistake of bringing his daughter as a human *korban olah*. The *Neizer Hakodesh* goes as far as the following to explain Yiftach's reasoning. The idea of a *korban* is to recognize that really the one who bringing it should really be slaughtered on the Altar to Hashem. Yiftach pledged to bring an *olah* if they would win the war, and when his daughter came out of the house he thought it was a *siman mishamayim* that Klal Yisroel was not on the *madrega* to have an animal be *shechted* instead. He thought that they had to sacrifice an actual human being to show how that they understood their current status. This is why he actually *shechted* her as an *olah*.

With that introduction of the story, we will now focus on the mechanics of Yiftach's *neder*, specifically the *tenai* that he stated. He said "אִם-נִתְּוֹן תִּתֵּן אֶת-בְּנִי עִמּוֹן בְּיָדַי" then "וְאִשְׁרָי יֵצֵא מִדֹּלְתַי" "בֵּיתִי לְקָרְאתִי בְּשׁוּבִי בְּשָׁלוֹם מִבְּנֵי עִמּוֹן וְהָיָה לְה' וְהַעֲלִיתָהּ עֹלָה"

I originally heard the following question many years ago from my *shver shlita*, HaRav Sholom Shapiro.

Rambam, in *Hilchos Ishus 6:1*, states that every *tenai* in the world, whether it pertain to marriage/divorce or monetary cases, must abide by the following four *halachos*:

- 1) *Tenai Kaful*- it must be stated both positively and negatively. (Example: "If it rains today you are *mekudash* to me, but if it doesn't rain then you are not.")
- 2) *Hein Kodem L'Lav*- The positive half must precede the negative.
- 3) *Tenay Kodem L'Maaseh*- The condition must precede the effect, or action of the *neder*.
- 4) *Efsher Likayemo*- The condition must be something achievable.

Later in the *perek*, the *Rambam* states that a *neder* with the word "v'im" is required to conform to the rule of *tenai kaful*, however the first three rules do not apply when the *lashon* of "mei'achshav" or "al menas" was employed.

How could Yiftach's *neder* have validity if he used the word "v'im" but did not make it *kaful*? There are many answers to this question, and the following are three of them.

The first answer is based on a famous question of *Tosafos* in *Nazir 11*. There, the *Mishna* reads "הריני נזיר על מנת שאהא שותה יין" and *Tosafos* asks that in *Kesubos 74*, the *gemara* states that a *tenai* can only work on a *neder* in which the action is *milsa d'isa b'shlichus*- something able to be accomplished through an agent. Anything that must be performed personally, such as *chalitzah*, cannot have a *tenai* attached to it. How then, could a *nazir* be accepted through a *tenai* like the *Mishnah* says? He must accept it and perform the *nezirus* himself, no one else can accomplish that for him. In the end, *Tosafos* answers that the *korbanos* that a *nazir* brings to end his *nezirus* could in fact be offered via *shelichus*. This is enough to consider it *milsa d'isa b'shlichus*.

The *Ramban* in *Bava Basra 126b* asks this same question as well. He offers a new *yesod*: The whole *sugya* of *tenoyim* is only relevant in cases *bein adam l'chavero*. All the examples in the *Rambam* we mentioned above are interpersonal situations. However, when the scenario is *bein adam laMakom* none of the rules of *tenai* affect it. *Ramban* goes as far as to say that even *milsa d'isa b'shlichus* will not apply. *Nazir* is between one and Hashem and therefore the question on the *Mishnah* is resolved. This answer also explains for us the legitimacy of Yiftach's *neder*. It was between him and Hashem and did not necessitate having *tenai kaful*.

The second answer is based off of Rav Akiva Eiger's *kashya* on this *Tosafos* in *Nazir*, which is printed in the *Gilyon HaShas* right beside it. He accepts *Tosafos'* answer for *nezirus* being *milsa d'isa b'shlichus*. However, in *Maseches Nedarim* we find many cases with different *tenoyim*. *Tosafos'* original question should return- how could those *nedarim* come with a *tenai* if they must be carried out personally? [Of course, the *Ramban's* answer would still be a solution.]

The Brisker Rov gives an answer from his father, Rav Chaim, which is printed in his sefer on *Rambam Hilchos Nezirus*. There is a rule in *hilchos nedarim*: (ויקרא ה, ד) בְּשִׁבְעָה הָאָדָם dictates that a person is only obligated to honor his *neder* if he was in full capacity as a human being when he made the *neder* (*birtzono gamur*). However, if he made it *bishegaga*, meaning he made it based on an error, the *neder* is null and void. This is the concept of *nidrei shegagos*. Rav Chaim was *mechadesh* that when the *neder* was made with a *tenai* which was not realized, it too constitutes *bishegaga*.

This yields the following: In *ishus* or *mekach umemkar*, the *neder* is dependent on completion of the *tenai* which must follow the four rules mentioned above. (This *halacha* is learned from the *tenai* which Moshe Rabbeinu made with Bnei Gad u' Bnei Reuven concerning their portion of land.) However, by personal *nedarim*, *tenai* operates on a different plane which we can call בְּשִׁבְעָה הָאָדָם. A person must want his *neder* with complete *ratzon* and there are no conditions to the *tenai* affixed to it.

Rav Hutner, in his sefer *Toras HaNazir* in *Nezirus perek beis*, brings proofs that the same בְּשִׁבְעָה הָאָדָם applies to *nidrei hekdesh*. There too, a mistake would nullify one's *neder*. Yiftach's *neder* was a type of *hekdesh* - "וַיְהִיגָה לָהּ וְהַעֲלִיתָהּ עוֹלָה". Therefore, with the *chiddush* of Rav Chaim we can say that the four rules of *tenai* did not apply to Yiftach's *neder*, rather it was in the realm of בְּשִׁבְעָה הָאָדָם.

The third and final answer in this shiur is the *yesod hagadol* of the *Raavad*. *Milchamos in Maseches Beitzah* quotes the *Raavad* as saying he unveiled a major hidden concept that no previous *Rishon* had yet revealed. There is a case in the *gemara* in which a man on his deathbed said, "Ploni should marry my daughter and give him 400 zuz." The *gemara* states that if he marries her he receives the money but if he doesn't, he won't. The *Rishonim* ask about the seeming lack of the four rules of *tenai* in this case (i.e. it is not a *tenai kaful*). How is it valid?

The *Raavad's* *yesod* is as follows. The whole sugya of *tenai* is always when the person is presently accomplishing an action. For example, a man giving a ring to the woman he wishes to marry as *kiddushin*. When doing so, he stipulates "You will be married to me if it rains." When the *tenai* is holding up the action from taking effect, then it must be strengthened by the four rules of *tenai* in order to have the strength necessary to delay the transaction from completion. However, if the man gives her the ring while stipulating "I want to marry you after the rain falls," the *tenai* is not holding anything back. The marriage is not meant to be consummated until after the rainfall. There is a subtle, yet immense, difference between the two stipulations. (The *Ramban* cites a *gemara Yerushalmi* which supports this *yesod* of the *Raavad*. It states that everyone agrees if the man were to tell the woman that they should be married "after the rain falls," the rules of *tenai* would not apply.)

This explains the *gemara Beitzah*. The *sh'chiv mei'ra* in that case only gave the money once Ploni married his daughter, not right then and there. Therefore, the rules of *tenay* are irrelevant because the *tenay* was not effectuating the action of the story.

This *yesod* also explains Yiftach's *neder*. When Yiftach declared his pledge, he could only have meant that the item (either animal or person) should become *hekdesh* after it exits the house. Because it would only achieve the status of *hekdesh* afterwards, it did not enter the jurisdiction of the four rules of *tenoyim*.