

סכנת נפשות לעתיד

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After the *maaseh* of Korach, the *parsha* (במדבר יז, ו-טו) continues with what happened in its aftermath. Klal Yisroel approaches Moshe and Aharon with the complaint, "אתם המתם את עם ה'". At that moment, Hashem appears at the *Ohel Mo'ed* and Moshe and Aharon go there. Hashem tells them to separate themselves from the people because He is going to annihilate them in an instant, at which point they fell on their faces. Moshe immediately directs Aharon to take *ketores* from the *mizbe'ach* and bring it out to the people to give them *kapara*. After doing so, the plague ceased and the people stopped dying.

The Netziv points out that Aharon changed slightly from Moshe Rabbeinu's directions. Moshe told him to take fire from the *mizbe'ach* and light *ketores* to bring out to the people as a *kapara*, but Aharon actually went out to the people first and only when he saw that the plague had begun did he light the *ketores* and bring the *kapara* to end the plague.

The Netziv explains that there was a *machlokes* between Moshe and Aharon. Moshe wanted to minimize the *aveira* to be as small as possible. Taking *ketores* from the *mizbe'ach* fire and offering it not on the מזבח הזהב (or לפני ולפנים on Yom Kippur) is merely a לא תעשה, or according to the Chazon Ish a מיתה בידי שמים, transgression. There is a more severe *aveira* called "העלאת חוץ", which is when any *korban* is offered outside the *chatzer* of the Mishkan. The punishment for this *aveira* is כרת. It is a *mefursh* Mishna that offering *ketores* outside the Mishkan is חייב כרת. Therefore, Moshe told Aharon to light the *ketores* inside the חצר and only afterwards bring it outside in order to break only the smaller *aveira* and not the more serious one.

Aharon, on the other hand, was *mesupak* whether the plague had actually begun. When Hashem said He would destroy those who had complained, Moshe and Aharon immediately fell on their faces before Him and *davened* on the people's behalf. Aharon thought that maybe their *tefila* had worked and prevented the plague. Therefore, he went outside and only brought the *kapara* when he had established that the plague had indeed started. His *cheshbon* was that it was not *kedai* to do the *issur* when it was yet a *safek*. The *posuk* states, "וַיִּהְיֶה חַלְחַל הַגִּגַּף בְּעַם" which is a *lashon* of *chiddush*, on which the Netziv learns that it was only at that point when it was clearly necessary did Aharon know he could bring the *ketores* to be *mechaper*. This resulted in doing the worse *aveira* of העלאת חוץ.

In *Harchev Davar*, the Netziv offers a *psak* based on this *parsha*. He proposes the following *shayluh*: If Yom Tov is on Friday and a person knows that the next day, Shabbos, he will have a סכנת נפשות situation which will require him to perform a מלאכה - when should he do the מלאכה? If he does it on Friday he will only transgress a לאו; if he waits until Shabbos morning he will end up having to transgress an איסור סקילה. The Netziv says that from our *parsha* we see the answer. If the סכנה is already apparent on Friday that it will definitely happen on Shabbos, then we go like Moshe Rabbeinu and perform the מלאכה on Friday. If one is not sure that the סכנה will actually happen on Shabbos, because maybe something can be done to avert it, then we see from Aharon that we wait until the סכנה is actually happening and perform the bigger *aveira* on Shabbos.

It seems that the Chofetz Chaim disagrees with this *psak* from the Netziv. The Biur Halacha, in סי' שדמ, discusses the following *shayluh*: A soldier in the Russian Army knows that on Saturday morning there will be a command from the general to do חילול שבת. As an example, we will say that the orders are for all soldiers to launder their uniform. These orders are given every single Saturday morning. Presently, it is בין השמשות - after sunset Friday evening but before צאת הכוכבים. Should the soldier clean his uniform during בין השמשות, when it is only a ספק חילול שבת, or should he wait until then next morning when the command is given and perform it as a חילול שבת. The crucial difference is that were he to do it בין השמשות, it is an action done ברצון because there is no command yet, whereas waiting until Shabbos morning would put him בגדר אונס.

In the Biur Halacha the Chofetz Chaim does not offer a definitive answer, but in another *sefer* of his called *כתובות ג*: (דפוס *סיי לג* in the original *מחנה ישראל*), he quotes his son who brings a *rayuh* from Tosafos in order for a person to go to Beis Din the next day if he has a *taynas besulim*. There was a *tekufa* that there was a *gezeira* on Klal Yisroel that any *besula* getting married on Wednesday must be *נבעל להגמון תחילה*, as an *אשת איש*. Tosafos asks that maybe a solution to this would be to get married on Tuesday instead. This way, the *gezeira* doesn't apply and it avoids the *איסור אשת איש*. Tosafos rejects this because the *din* from the *Rabonon* is to get married on Wednesday and one cannot violate that *takana*.

The Chofetz Chaim's son explains that it is certainly worse for *איסור אשת איש* to happen than to be *עובר תקנה דרבנן*. Why does Tosafos say to preserve the *takana* in such circumstances? The answer must be that it is more *kedai* to transgress a more severe *aveira*, even *אשת איש*, when *באונס* than to violate even a *דרבנן* when *ברצון*. He then suggests this as the answer to the Biur Halacha's *shayluh* of the soldier laundering his uniform on Shabbos morning *באונס* instead of *בין בשמשות*.

Seemingly, this *cheshbon* would also *pasken* the Netziv's *shayluh* but contrary to what the Netziv said to do. Netziv said to do the *melacha* earlier when it is a smaller *aveira* but the Chofetz Chaim said to wait until one is actually an *אונס*. We are left to answer the *rayuh* from Tosafos for the Netziv.

In order to answer for the Netziv, we have to understand the fundamental *מחלוקת* taking place between them in how they view the case(s).

The Netziv seems to be looking at Friday as a *zman* of *פיקוח נפש*. Meaning to say, even though it is true that the command has not yet come out to perform the *melacha*, nevertheless it is still *פיקוח נפש* because he knows the command will come. Therefore, laundering the uniform on Friday is still *muttar* because of *פיקוח נפש* (defying these orders are punishable by death) and it is even saving one from performing a *שבת חילול*. Were we to tell the Netziv that doing the action of Friday is *ברצון* he would gladly agree. He would tell us that it should be *ברצון* because of the *drasha*, "וּחִי בָהֶם וְלֹא שִׁמּוֹת בָּהֶם". He would also tell us that the Tosafos isn't a *rayuh* because the cases are incomparable. Getting married on Tuesday is not *muttar* because of *פיקוח נפש* because it isn't saving his life. In fact, it would be safer for him not to get married. Therefore, Netziv agrees fully with Tosafos' *maskana* that one cannot violate the *takana*.

The Chofetz Chaim approaches the case in a totally different way. He learns that "וּחִי בָהֶם" is only activated when the command comes out. Therefore, on Friday the man does not yet have a status of *פיקוח נפש*. The *hetter* which the Chofetz Chaim is discussing is that of "מוטב". In *סיי שו* there is a *yesod* called, "מוטב" "לחלל שבת אחת מלחלל שבתות הרבה". If a person sees someone else in the terrible situation of being taken to be *meshumad* (that they will be lost from ever keeping Shabbos), he has an obligation to break Shabbos to save them. It is better for one Shabbos to be broken on account of saving many more Shabbosos.

The Chofetz Chaim wants to apply this *yesod* by our case. Even though the soldier does not have *וחי בהם* on Friday, maybe he still has the *hetter* of *מוטב* to break the smaller *aveira* instead of the bigger one on Shabbos. It is to this question that his son answers from Tosafos that we see doing a smaller *aveira* *ברצון* is not optimal to doing a bigger one *באונס*. We see this from Tosafos disallowing one to get married on Tuesday while violating the *takana* *ברצון*. It is still better to violate *איסור אשת איש* tomorrow when it has become *אונס*, because we don't say the *hetter* of *מוטב*.

At the end of the day, the Netziv and Chofetz Chaim have a *machlokes* of when *פיקוח נפש* starts- when it becomes clear versus when the command is given. *L'Halicho*, R. Moshe (סיי סט) *paskens* that one would have to wait until Shabbos itself, not like the Netziv, and only do the *מלאכה* when it is actually *פיקוח נפש*.