



## Failing to Sin

The *Mishnah* (*Nazir* 4:3) discusses a case where a woman makes a *neder* to become a *nazir* and then subsequently violates the prohibitions of a *nazir* with prior warning. The husband heard about the *neder* and was *meifer* her *neder*. The *Mishnah* explains that the timing of the *hafarah* and the violations is critical. If the *hafarah* was after the violations, she would be liable to lashes. While the *hafarah* puts a stop to the *neder*, she is still considered a *nazir* until that point. Consequently, she was a *nazir* when she drank wine and became *tameh met*. If however, the *hafarah* was prior to the violations, according to the *Chachamim*, since she is was not *nazir* at the time she drank wine, no prohibitions were transgressed and she is no liable to any punishment. *R' Yehuda* however argues that even though she has technically not violated any biblical prohibitions, she would still be liable to *makkot mardut* – a punishment delivered at a rabbinic level. We shall try to understand this *Mishnah*.

The *Gemara* cites the *pasuk*, "...Hashem will forgive her since her father restrained her" (*Bamidbar* 30:6) as referring to this case; implying that she requires forgiveness. *Rashi* explains that if the *pasuk* was discussing a simple case of *hafarah*, then forgiveness is unnecessary. Rather it must be referring to our case, where she thought she was sinning and was unaware of the *hafarah*. The *Meiri* explains that if someone fantasizes about committing a sin and then acts on it, even though no sin was committed, it requires atonement. It follows that *kapara* is required for that intention to sin.

The *Mishnah* appears to be recording a debate and that is indeed how the *Tosfot* (21b) understands the *Mishnah*. The *Rambam* (*Nedarim* 13:18) however explains as follows. Despite the fact that she intended to sin, since she was not a *nazir* as a result of the *hafarah*, she is exempt on a biblical level from lashes. The *Rambam* continues by citing the *pasuk* above. In this context, it seems that the *Rambam* understands that the *pasuk* is the basis to exempt her from the punishment of lashes. In other words, the *Torah* teaches in this case she "only" requires an atonement and is exempt from lashes. The *Rambam* then continues that nonetheless she would receive

*makkot mardut*. It appears that the *Rambam* is ruling like *R' Yehuda*. Nevertheless, the *Kesef Mishnah* explains that the *Rambam* understands that *R' Yehuda* is not arguing with the *Chachamim*, but instead explaining their position – there is no debate.

The way the *Rambam* understands what the *pasuk* teaches, explains why he maintains that *R' Yehuda* is explaining the position of the *Chachamim*. Recall that the *Rambam* appears to use the *pasuk* to exempt the woman in this context from lashes. The *Griz* (*Nazir* 23a) notes that it follows that were it not for the *pasuk*, one would think that she would be liable to lashes. In other words, there is a *maaseh issur*. What she did is a forbidden act. With this we can understand why *R' Yehuda* maintains that she should nonetheless receive *makot mardut*. Even though the *Torah* exempts here for *malkut*, she still did a *maaseh issur*. It is not that she requires a *kapara* because of her intention to do the wrong thing. It is that the act itself, which is a *maaseh issur*, requires a *kapara*. The *Griz* notes however that the *pasuk* applies to this specific case. One cannot assume that it in other cases where one attempted to do an *issur* unsuccessfully, that the *Beit Din* would give *makko mardut*. That is because it is only in this case that the *Torah* defines the act as an *maaseh issur*.

The *Griz* uses this to explain the difference between the *Tosfot* and *Rambam*. According to the *Tosfot* the fact that she is exempt is not a novelty; the *neder* was halted. Furthermore, this is like any other case where one intended to sin, but did not do so in practice. Consequently, the opinion of the *Chachamim* is only included in the *Mishnah* to contrast it with *R' Yehuda*, who would apply *makot mardut* in these cases. According to the *Rambam* however, the novelty in this case is the exemption from *malkut*, from which we derive that the act is nonetheless a *maaseh issur*. Since the *hafarah* is not affective to relieve the action from being defined as a *maaseh issur*, there is no reason to assume that the *Chachamim* would disagree with *R' Yehuda* that she would nonetheless be liable to *makot mardut*.<sup>1</sup>

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<sup>1</sup> The *Griz* uses this understanding of the *Rambam* to explain why the *Rosh* rules that, even though *makot mardut* is applied *ad she'teizteh nafsho*, in this case he rules that it is limited to the standard "forty" lashes. It is because in this case the *makot* is not for the intention to sin, but rather related to the

*issur nazir*, which while on a biblical level is exempt for lashes, is still defined as an *issur*.

## Revision Questions

נזיר ג: א' – ד': ז'

- hair on the thirtieth day is it (*bedi'eved*) acceptable, and when is it not? (ג: א')
- If someone accepts two *nezirut* on which days does he cut his hair? (ג: ב')
- What did *R' Pappas* testify about, regarding the previous question? (ג: ב')
- Explain the debate regarding a *nazir* that becomes *tameh* on the thirtieth day. (ג: ג')
- Explain the debate regarding a 100-day *nazir* that becomes *tameh* on the one-hundredth day. (ד: ג')
- Explain the debate regarding a 100-day *nazir* that becomes *tameh* on the one-hundred and first day. (ד: ג')
- What is the law regarding a person that declares he is a *nazir* while standing in a cemetery? (ה: ג')
- What is the law regarding a *nazir* that enters a cemetery? (ה: ג')
- What is the law regarding a person that was a *nazir* outside Israel, then moved to Israel? (ו: ג')
- For how many years was *Hilni Ha'Malka* a *nezira* and why? (ו: ג')
- Explain the debate regarding two conflicting sets of testimonies regarding the duration for which a person accepted being a *nazir*. (ז: ג')
- If *Reuven* declared that he is a *nazir* and *Shimon* said "me too" is *Shimon* also a *nazir*? (ז: א')
- Regarding the previous question, what is the law if *Reuven* (through *she'elat chacham*) had his *neder* undone? (ז: א')
- If a woman declared that she is a *nezira* and her husband said "me too", can he then be *meifer* her *neder*? (ז: ד')
- If the husband said "I am a *nazir* – and you?" and the wife responds "amen", can he then be *meifer* her *neder*? (ז: ב')
- If a woman became a *nezira* is she punishable if: (ז: ג: ד')
  - She drank wine and then her husband was *meifer* her *neder*?
  - Her husband was *meifer* her *neder* without her knowing about it and then she drank wine?
- If a woman became a *nezira* and separated animals for the purpose of the *korbanot* and her husband was then *meifer* her *neder* what is done with the animal? (Provide both cases). (ז: ד')
- Regarding the previous question, what if she separated money instead? (Provide both cases). (ז: ד')
- What are the four opinions regarding the point after which a husband cannot *meifer* his wife's *neder nezirut*? (ח: ד')
- Can a parent make their child a *nazir*? (ו: ד')
- In what case can a child use the money set aside for the *korbanot* for his parent's *nezirut* for his own *nezirut*? (Include both opinions) (ז: ד')

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Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
21 April י"ג ניסן	22 April י"ד ניסן	23 April ט"ו ניסן	24 April ט"ז ניסן	25 April י"ז ניסן	26 April י"ח ניסן	27 April י"ט ניסן
Nazir 5:1-2	Nazir 5:3-4	Nazir 5:5-6	Nazir 5:7-6:1	Nazir 6:2-3	Nazir 6:4-5	Nazir 6:6-7

