



Volume 9. Issue 27

A Koy and a Nazir

The fifth *perek* raises a number of interesting debates. The fifth *Mishnah* discusses a number of people that make *nederim* hinging on the identity of the approaching person and various other related permutations of those *nedarim*. *Beit Shammai* holds that all of them are *nazirs* even if the condition is not fulfilled. The reason is that *Beit Shammai* maintains that *hekdesh* sanctified in error is nonetheless *hekdesh* and the same applies to *nezirut*. Consequently, even though each of them may have been mistaken in their assumption about the identity of the approaching person, they are nonetheless *nezirim*. *Beit Hillel* disagrees maintaining that only those whose conditions of their *neder* were met become *nezirim*. *R' Tarfon* in contrast maintains that no one becomes a *nazir* since the *neder nazir* has to be made with clarity and no one at the time knew for certain whether they were *nazir*.

A further debate is revealed as a result of a complication in the above case - if the subject of stipulation disappears. This is relevant for *Beit Hillel's* position as there is now a doubt regarding each of our potential *nezirim*. *R' Yehuda* maintains that we rule leniently in a case of doubt and none of them are *nazirs*. *R' Shimon* however rules stringently, and each one of them would need to stipulate that if they are obligated to be a *nazir* that they are fulfilling that obligation, otherwise they are becoming a *nazir* voluntarily.

Matters become complicated in the next *Mishnah* (5:7):

If they saw a *koi* and one said "I am a *nazir* if that is a *chaya*"; one said "I am a *nazir* if that is not a *chaya*"; one said, "I am a *nazir* if that is a *beheima*"; one said "I am a *nazir* if that is not a *beheima*"; one said "I am a *nazir* if that is *beheima* and a *chaya*"; one said "I am a *nazir* if that is neither a *beheima* nor a *chaya*"; one said "I am a *nazir* if one of you are a *nazir*"; one said "I am a *nazir* if none of you are *nazir*" and one said "I am a *nazir* if all of you are *nezirim*" – then they all are *nezirim*.

Despite the above-recorded debates, only one opinion is brought here – whose opinion is it?

The *Tosfot Yom Tov* collates the various opinions. The *Bartenura* explains that according to the opinion of *Beit Shammai* as this qualify as *nezirut be'ta'ut*, and the opinion of *Beit Hillel*. Since there is a doubt regarding whether a *koi* is a *chaya*, *beheima* or something unique this is a case of

safek nezirut. The *Tosfot* explain further that since according to *R' Shimon* we rule stringently in cases of doubt we rule stringently here. The *Tosfot Yom Tov* however finds this solution difficult as it means that his *Mishnah* is the position of *R' Shimon* whereas the *halacha* is like *R' Yehuda*.

The *Mefarsh* answers that in this case *Beit Hillel* would agree with *Beit Shammai*. Earlier the debate was regarding *ta'ut hekdesh* – where the person making the vow was in error. This case however involves *safek hekdesh*, as the classification of *koi* remains in doubt. Consequently *Beit Hillel* would agree that they are all certain *nezirim*. The *Tosfot Yom Tov* also has difficulty with this understanding as we ruled like *R' Yehuda* in the second *perek* and there is a *stam Mishnah* in *Taharot* that teaches we are lenient in *safek nezirut*. The *Rashash* however answer that *R' Yehuda* would agree in this case. Normally *R' Yehuda* maintains that one does not put themselves in to a situation of doubt regarding *nedarim*. This is only when at the time of the *neder* he thought the situation could be clarified. In this case however, the status of a *koi* could never be clarified so even *R' Yehuda* would agree.

The *Tosot Yom Tov* prefers the explanation of the *Rambam* who explains that since we have learnt that *koi* has qualities similar both, either or neither a *beheima* or *chaya*, then each of the *nedarim* that were made in our *Mishnah* is partially true and everyone is therefore *nezirim*. *R' Akiva Eiger* however raises an issue with this position: why then does the person who said "I am a *nazir*, if none of you are a *nazir*" become a *nazir*? The *R' Akiva Eiger* notes that the *Lechem Mishneh* addresses this question explaining that the last three *nedarim* listed in our *Mishnah* refer to a different case. The *Rambam* writes that it is where two people are approaching, one of which is a *nazir*. Since there is partial truth in each of the three's stipulation, they are all *nezirim* (much like the case involving the *koi*). The difficulty with this however is that *Gemara* rules that if one make a *neder* on the condition that the pile has a particular volume, and it was cleared away prior to be measure, we rule leniently (even though it may have been partially true). The *Lechem Mishneh* explains that there the *neder* was stipulated with the term "if", where as here it is termed "that" and partial truth would therefore satisfy.

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Revision Questions

נזיר ד' ו' ו' ה'

- Can a parent make their child a *nazir*? (ד' ו')
- In what case can a child use the money set a side for the *korbanot* for his parent's *nezirut* for his own *nezirut*? (Include both opinions) (ד' ו')
- Give three examples of *hekdesh ta'ut* and is it considered *hekdesh*? (ה' א' ב')
- If someone made a *nazir* declaration and thought perhaps it was not a genuine *nazir* declaration, then after sometime a *chacham* confirmed it indeed was, from when does he begin counting his *nezirut* time? (ג' ו')
- What did *Nachum HaMadi* rule regarding the *nezirim* that came from outside Israel and only then discovered that the *Beit Ha'Mikdash* was destroyed? (ה' ד')
- Explain the three opinions regarding who are indeed *nezirim* in the following case: A group of six people sees someone approaching from a distance. One says "I am a *nazir* if that is *Ploni*". The second says "I am a *nazir* if that is not *Ploni*". The third person says, "I am a *nazir* if one of you two are a *nazir*". The fourth says "I am a *nazir* if none of you are *nazirs*". The fifth says (to the first two) "I am a *nazir* if both of you are *nazirs*". The sixth says "I am a *nazir* if all of you are *nazirs*". (ה' ו')
- Regarding the previous case, what is the law if they were never able to clarify if the person approaching was *Ploni*? (ה' ו')
- Regarding the previous case, what if they were not arguing about the identity of a person, but rather arguing about whether a *koi* is a *chaya* or *behema*? (ה' ו')
- What are the prohibitions placed on a *nazir*? (א' ו')
- How many grapes must a *nazir* eat in order to be liable to lashes? (א' ו')
- What are *chartzanim*? (ב' ו')
- What are *zagim*? (ב' ו')
- If bandits forcibly shaved a *nazir*'s hair, must he restart his count? (ג' ו')
- Is a *nazir* allowed to wash his hair? (ג' ו')
- If a *nazir* drinks wine for the whole day, when is he liable to multiple sets of lashes? (ד' ו')
- Does the previous law apply to the other two prohibitions? (ד' ו')
- How is the prohibition of consuming grape products more strict than the other two prohibitions? And how is it more lenient? (ה' ו')
- Regarding the other two prohibitions, how are each more strict than the other? (ו' ו')

Local Shiurim

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
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Friday & Shabbat

10 minutes before *Mincha*
Beit Ha'Roeh
 Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
 9:00am
Kollel Magen Avraham
 Reemon Neighbourhood

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
Rabbi C. Brown
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SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
4 th November "ד' חשוון"	5 th November "ה' חשוון"	6 th November "ו' חשוון"	7 th October "ז' חשוון"	8 th November "ח' חשוון"	9 th November "ט' חשוון"	10 th November "י' חשוון"
Nazir 6:6-7	Nazir 6:8-9	Nazir 6:10-11	Nazir 7:1-2	Nazir 7:3-4	Nazir 8:1-2	Nazir 9:1-2

