



A Condition Against Torah Law

The *Mishnah* (2:4) teaches that if someone attempts to become a *nazir* on condition that they may drink wine or become *tameh met*, then the condition is disregarded; they are a *nazir* with all the prohibitions of *nazir*. The *Gemara* explains that the reason is that the person made a condition that contradicts the *Torah* law. In such a case the condition is ignored. We shall try to understand this law.

The *Tosfot* (*Ketubot* 56a) discusses the case in the *Gemara* where a man is *mekadesh* a woman on condition that he will not provide her with the things that a husband is obligated to provide his wife by *Torah* law. Much like our case, *R' Meir* maintains that the *kiddushin* works and all obligations still apply. The *Gemara* explains that *R' Meir* disregards the stipulation since it goes against the *Torah* law.

The *Tosfot* comments that for a condition to work, *R' Meir* maintains that it must resemble the *tenai bnei Gad u'bnei Reuven*. In other words, *R' Meir* looks at the agreement made between *Moshe* and the tribes of *Gad* and *Reuven* that enabled them to receive their portion in the Transjordan, as a model for all stipulations. In other words, for a stipulation to be effective it must include what happens if the condition is fulfilled and what will happen if it is not fulfilled. This is known as a *tenai kaful*. The *Tosfot* explains that the case in *kiddushin* must be a *tenai kaful*, since a different reason is brought why the *tenai* falls away. That being the case, the *Tosfot* ask why the *kiddushin* should work at all. The man stipulated that he only wanted the *kiddushin* to work if he is relieved of those obligations.

The *Tosfot* cites the *Ri* who explains that were it not for the *tenai bnei Gad u'bnei Reuven*, one might understand that after an action that has a legal affect has taken place, a condition does not have the ability to undo its effect, even if it is not fulfilled. Once the *tenai bnei Gad u'bnei*

Reuven was taught, we learn that a stipulation can counter the effect of a physical action. A condition that goes against a *Torah* law however does not fit the model of *tenai bnei Gad u'bnei Reuven*. Consequently, such conditions do not have the power to neutralise the affect of an action. The *kiddushin* is therefore intact despite the stipulation. Similarly in our case, the person is a *nazir* with all the obligations of a *nazir*.

The *Tosfot* however raise another question. We learn in *Menachot* (13:10) that if someone accepted to become a *nazir* on condition that he can shave and bring his *korbanot* at the end of the term in *beit chonyo*, if he does so then he has satisfied his *neder*. We learnt in *Menachot* (see volume 5 issue 14) that *beit chonyo* was different centre of worship that was setup in Alexandria under unfortunate circumstances. Whilst it is debated whether it was built with noble intent or for idol worship, it is clear that a *nazir* is not meant to bring his *korbanot* there. The *Gemara* explains that the person's intent was simply to cause himself discomfort that resembled a *nazir*. *Beit Chonyo* was closer for him, and it was only under those circumstances that he was willing to make the *neder*. It would appear then that this is another case where there is a stipulation that goes against the *Torah*. One would expect in this case that the condition to bring the *korbanot* at *Beit Chonya* falls away. The person would then become a regular *nazir* and be obligated to bring the *korbanot* to the *Beit HaMikdash*.

The *Tosfot* cite the *Ri* who explains that the issue of making a condition against the *Torah* is only when that is his intention – to go against a *Torah* law. In the case in *Menachot* the person simply assumed that it was a *mitzvah* to complete the *nezirut* in *Beit Chonyo* as it would be in the *Beit HaMikdash*. Since the intent was not to break a *Torah* law, then it can indeed be learnt from the *tenai bnei Gad u'bnei Reuven*.

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Revision Questions

נזיר א': ד' – ב': י'

- How long is the duration of a person's *nezirut* if he says:
 - "I am one and half *nazir*"
 - "I am a *nazir* and one hour"
 - "I am a *nazir* for thirty days and one hour." (ג': א')
 - "I am a *nazir* like the number of hairs on my head" (ד': א')
 - "I am a *nazir* like a full house" (ה': א')
 - "I am a *nazir* from here to Elsternwick" (ו': א')
 - "I am a *nazir* like the days of the year" (ז': א')
- Explain the debate regarding someone who said "I am a *nazir* from dried figs"? (ח': ב')
- How does *R' Yehuda* understand the above debate? (ט': ב')
- What case is raised in the next *Mishnah* that is debated in a similar manner to the previous questions? (י': ב')
- What is law regarding a person that is presented with a cup of a wine, and proclaims "I am a *nazir* from this"? (יא': ב')
- Is this law different if the person was already inebriated? (יב': ב')
- What is the law regarding a person that accepts upon himself *nezirut*:
 - On the condition that he can drink wine? (יג': ב')
 - But at the time did not know that a *nazir* was not allowed to drink wine? (יד': ב')
 - And knew that a *nazir* is not allowed to come into contact with dead bodies, but that in this instance, since he is an undertaker, the *Chachamim* would allow him to come into contact with dead bodies. (טו': ב')
- If a person says "I am a *nazir* and I accept also to bring the *korbanot* for another *nazir* at the completion of his term", and his friend hears, and says "Me too!" – what should they do? (טז': ב')
- Explain the debate regarding a case similar to the one in the previous question, but where the first person said, "I am a *nazir* and I accept also to bring the *korbanot* for 'half' another *nazir*". (יז': ב')
- Does the term "*vlad*" also include a *tumtum*? (יח': ב')
- Explain the debate regarding a person that makes a *neder* if his wife has a "*vlad*" and then the wife miscarries. (יט': ב')
- Regarding the previous question, what if they then have a child? (כ': ב')
- Provide a practical difference between a person that says "I am a *nazir*, and also a *nazir* when I have a child", and a person that says, "I am a *nazir* when I have a child, and also a *nazir*". (כא': ב')
- If someone said "I am a *nazir* when I have a child, and also a *nazir* for 100 days", when would the duration of his *nezirut* be greater than 130 days? (כב': ב')

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
14 April ו' ניסן	15 April ז' ניסן	16 April ח' ניסן	17 April ט' ניסן	18 April י' ניסן	19 April יא' ניסן	20 April י"ב ניסן
Nazir 3:1-2	Nazir 3:3-4	Nazir 3:5-6	Nazir 3:7-4:1	Nazir 4:2-3	Nazir 4:4-5	Nazir 4:6-7

