

Called the ninth tenth – קרא לתשיעי עשירי – If one was tithing his flock by releasing them from their pen one by one and erred in his counting, if he called the eighth in line or any lower number, or the twelfth in line or any higher number: Tenth, they are not consecrated. This is the *halakha* regardless if he did so unwittingly or intentionally. However, if he called the ninth or the eleventh: Tenth, they are consecrated. This is a *halakha* learned by tradition (Rambam *Sefer Korbanot, Hilkhhot Bekhorot* 8:1).

אָמרוּ בֵּית הַלֵּל לְבֵית שַׁמַּאי: אִי אַתֶּם מוֹדִים בּוֹהָה שֶׁהוּא הַקֹּדֶשׁ טְעוּת, שֶׁתִּצְאָה וְתִרְעָה בְּעֶדְרָה? אָמַר לָהֶן בֵּית שַׁמַּאי: אִי אַתֶּם מוֹדִים בְּמִי שֶׁטָּעָה, וְקָרָא לְתִשְׁעֵי "עֶשְׂרִי", וְלַעֲשִׂירִי "תִּשְׁעִי", וְלֹא אֶחָד עֶשֶׂר "עֶשְׂרִי" – שֶׁהוּא מְקוּדָּשׁ?

On the basis of this *halakha*, and continuing their discussion in the previous mishna, **Beit Hillel said to Beit Shammai: Don't you concede with regard to this case that it is an erroneous act of consecration, and yet the *halakha* is that it shall go out and graze among the flock?** This shows that you too accept the principle that an erroneous act of consecration does not take effect. **Beit Shammai said to Beit Hillel: Don't you concede with regard to one who was separating the animal tithe from his herd, i.e., passing his animals before him single file and consecrating every tenth one as a tithe, that if he erred and called the ninth animal: Tenth;<sup>h</sup> and the tenth: Ninth; and the eleventh: Tenth, that each of them is consecrated?** This proves that an erroneous act of consecration does take effect.

אָמרוּ לָהֶם בֵּית הַלֵּל: לֹא הַשֶּׁבֶט קוֹדֵשׁ. וּמָה אֵילוֹ טְעָה וְהִנִּיחַ אֶת הַשֶּׁבֶט עַל שְׂמִינִי וְעַל שְׁנַיִם עֶשֶׂר, שֶׁמָּא עָשָׂה כְּלוּם? אֲלָא כְּתוּב שֶׁקוֹדֵשׁ הָעֶשְׂרִי – הוּא קוֹדֵשׁ הַתִּשְׁעִי

**Beit Hillel said to them: It is not the rod that consecrates it.** The touch of the rod does not consecrate the animal, nor does the fact that he said: Tenth, by mistake. Not all errors cause the tithe to be consecrated, and the proof is as follows: **And what would be the *halakha* if he had erred and placed the rod on the eighth or on the twelfth, and labeled them: Tenth? Can it be suggested that perhaps he performed anything of consequence? The *halakha* is that the eighth or twelfth animal cannot be consecrated as tithe. Rather, why is the ninth or eleventh animal consecrated? There is a specific reason for this *halakha*, as the same verse that consecrated the tenth also consecrated the ninth**

One who took a vow and later transgressed his naziriteship – מִי שֶׁנָּדַר וְעָבַר עַל נְזִירוּתוֹ – If one took a vow of naziriteship, and for whatever reason thought the vow was not in effect, and as a result failed to observe the prohibitions of naziriteship, if he later requested of a halakhic authority to dissolve the vow and his vow was not dissolved, he counts the duration of his naziriteship from the time he took the vow. However, he must add days corresponding to the days he failed to observe naziriteship. For example, if he took a standard vow of naziriteship of thirty days, and then failed to observe the *halakhot* of a nazirite for ten of those days, he must keep an extra ten days. If he transgresses his vow of naziriteship during that ten-day period he is liable to receive lashes for rebelliousness from the Sages. This applies only to a short term of naziriteship.

If his naziriteship was lengthy, he is required to add only thirty days, as the *halakha* is in accordance with the opinion of Rabbi Yosei. The Rambam holds in accordance with Rabbi Yosei, as does the *Shulhan Arukh* with regard to all other vows, with the exception of cases where this stringency might cause one to sin. By contrast, most early commentaries maintain that the *halakha* is in accordance with the opinion of Rabbi Yehuda, the *tanna* who disagrees with Rabbi Yosei (*Shakh*; *Ra'avad*; *Rosh*; *Rabbeinu Yeruham*). Consequently, this nazirite must make up the entire period he failed to observe, even if it amounts to more than thirty days. If he transgressed his vow and did not add to his term the number of days during which he violated his naziriteship, even if his naziriteship was lengthy the Sages penalize him by refusing to dissolve his vow until he completes the number of days of his initial vow (Rambam *Sefer Hafla'a, Hilkhhot Arakhin VaHaramim* 4:13–15; *Shulhan Arukh, Yoreh De'a* 208:2–3).

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and the eleventh. It is a Torah edict that the consecration takes effect with regard to those two animals. Therefore, one cannot infer from this case that an erroneous act of consecration takes effect.

גַּמ' מִנִּי מִתְנַתִּין? לָא רַבִּי יוֹסֵי וְלֹא רַבְנָן.

**GEMARA** The Gemara asks: **Whose opinion is expressed in the mishna, when it rules that one whose request to dissolve his vow was rejected by a halakhic authority counts the duration of his naziriteship from the moment he took the vow, including the days on which he did not observe the *halakhot* of naziriteship in practice? The Gemara responds: It is neither the opinion of Rabbi Yosei, nor that of the Rabbis.**

דִּתְנֵינָא: מִי שֶׁנָּדַר וְעָבַר עַל נְזִירוּתוֹ – אִין נִזְקֵקִין לוֹ אֲלָא אִם כֵּן מוֹנֵה בְּהֵן אִיסוּר כִּימִים שְׁנַהֵג בְּהֵם הִיתֵר. רַבִּי יוֹסֵי אוֹמֵר: דִּין שְׁלֹשִׁים יוֹם.

As it is taught in a *baraita* (*Tosefta Nedarim* 1:6): With regard to one who took a vow of naziriteship and later transgressed his vow of naziriteship<sup>h</sup> by drinking wine, the halakhic authorities do not attend to his request to dissolve his vow, nor do they let him complete his term as a nazirite by sacrificing offerings, unless he counted, i.e., observed, days of the prohibitions of naziriteship for the same number of days in which he behaved with permissiveness concerning the restrictions of a nazirite. Only after he observes the prohibitions of naziriteship for the number of days that his observance lapsed will a halakhic authority hear his request for dissolution, or allow him to bring his offerings. **Rabbi Yosei says: Thirty days is enough for him.**<sup>N</sup> He is required to observe additional days of naziriteship only if he transgressed his vow of naziriteship for thirty days or more.

NOTES

Thirty days is enough for him – דִּין שְׁלֹשִׁים יוֹם: According to Rabbeinu Tam, cited by Rabbeinu Peretz, the decisive factor is whether he transgressed his vow for at least thirty days. If he transgressed his vow for less than this period, the Sages do not obligate him to observe the missing days; rather, it is enough for him to complete his term of naziriteship. This explanation fits in well with the discussion in the Gemara that follows Rabbi Yosei's statement.

By contrast, most commentaries explain that Rabbi Yosei is referring to the number of days the individual must add to

his naziriteship. According to some commentaries, Rabbi Yosei maintains that he is always required to observe extra days of naziriteship to compensate for the period he failed to observe, but this amounts to no more than thirty days (*Tosafot*). Others contend that Rabbi Yosei merely requires him to observe thirty days of naziriteship in accordance with *halakha*. For example, if he vowed to be a nazirite for a period of eighty days and for fifty days acted as though the vow were dissolved, he does not have to add anything, as he still has thirty days of naziriteship remaining (Rabbeinu Azriel, cited in *Shita Mekubbetzet*).

NOTES

The initial consecration has been uprooted – דְּמִיתֵיקָר עִיקָר הַקֹּדֶשׁ: Most commentaries explain this as follows: Although substitution does apply in error, if the sanctity of the first animal was uprooted so that it became a non-sacred animal, the substitution is nullified. One does not say that the sanctity of a substitution took effect with regard to the second animal; rather, the dissolution of the vow pertaining to the first animal negates the sanctity of its substitute as well. This is exactly parallel to the case of a nazirite vow that was completely uprooted: Once the vow of naziriteship itself is dissolved, the sanctity of the animals separated for his naziriteship is also no longer in effect.

The Master said – אָמַר מָר: The commentaries point out that this is an example of the unusual language of *Nazir*, as the phrase: The Master said, generally introduces an external citation quoting *amora'im* or *tanna'im* from a source external to the Gemara's discussion, rather than a quote from the current mishna (Commentary on *Nazir*).

BACKGROUND

Animal tithe – מַעֲשֵׂר בְהֵמָה: On three occasions each year, the owner of a herd of kosher animals was required to gather all the animals born during the preceding period into an enclosure, and to let them out one by one. These animals were passed “under the rod” of the shepherd (Leviticus 27:32), and every tenth animal was marked with red paint, to indicate that it was consecrated. These animals were consecrated as animal tithe. If the animal was fit to be sacrificed, it was brought to the Temple and sacrificed in a manner similar to that of a peace-offering. Its blood was sprinkled on the altar, and its meat was eaten by its owner, but not by the priests. The details of the *halakhot* of animal tithe are elucidated in tractate *Bekhorot*.

HALAKHA

His error and all the more so his intentional declaration – טְעוּתוֹ וְכָל שָׁבֵן כְּוֹנֵנְתּוֹ: If one was separating animal tithes and called the ninth or the eleventh animal: Tenth, the animal in question is consecrated whether he did so unwittingly or on purpose. This *halakha* is in accordance with the majority opinion of Rav Ḥisda and Rabba bar Rav Huna (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:1).

אי רבנן – קְשִׁיָא נְזִירוּת מוּעָטָה, אִי רַבִּי יוֹסִי – קְשִׁיָא נְזִירוּת מְרוּבָה!

אִיבְעִית תִּימָא רַבִּי יוֹסִי, וְאִיבְעִית תִּימָא רַבְנָן. אִיבְעִית תִּימָא רַבִּי יוֹסִי: כָּאֵן – בְּנִירוּת מְרוּבָה, כָּאֵן – בְּנִירוּת מוּעָטָה.

וְאִיבְעִית תִּימָא רַבְנָן: לֹא תִימָא מְשַׁעָה שְׁנֹר, אִלָּא אִימָא כְּמִשְׁעָה שְׁנֹר.

”נִשְׂאֵל לְחַכְמִים וְהִתְירוּהוּ” וכו'. אָמַר רַבִּי יִרְמְיָה: מִדְּבִית שְׂמַאי נִשְׂמַע לְדְבִית הֵלֵל, לֹא אָמְרֵי בֵּית שְׂמַאי הַקֹּדֶשׁ בְּטָעוּת הוּי הַקֹּדֶשׁ, כִּינּוֹן דְּאִיגְלָאֵי מִיִּלְתָּא דְלֹא שְׁפִיר נֹר – תִּצְא וְתִרְעָה בְּעֵדֵר.

לְבֵית הֵלֵל נִמְוִי, אֶף עַל גַּב דְּאָמְרֵי תְמוּרָה בְּטָעוּת הוּיָא תְמוּרָה – הֵינִי מִיִּלִּי הֵיכָא דְאִיתִיָּה לְעִיקָר הַקֹּדֶשׁ, אֲבָל הֵיכָא דְמִיתֵיקָר עִיקָר הַקֹּדֶשׁ – אִיתֵיקָר נִמְוִי תְמוּרָה.

אָמַר מָר: אִי אַתָּם מוֹדִים שְׂאִילוֹ קְרָא לְתַשְׁיַעֵי עֲשִׂירֵי כו'. אִיתְמַר: מַעֲשֵׂר, רַב נַחְמָן אָמַר: טְעוּתוֹ וְלֹא כְּוֹנֵנְתּוֹ, רַב חֲסָדָא וְרַבָּה בְּרַב הוּנָא אָמְרֵי: טְעוּתוֹ, וְכָל שָׁבֵן כְּוֹנֵנְתּוֹ.

אָמַר לֵיהּ רַבָּא לְרַב נַחְמָן: לְדִידְךָ, דְאָמַרְתָּ טְעוּתוֹ וְלֹא כְּוֹנֵנְתּוֹ, דְקָאָמְרֵי בֵּית שְׂמַאי לְבֵית הֵלֵל: אִי אַתָּם מוֹדִים שְׂאִילוֹ קְרָא לְתַשְׁיַעֵי עֲשִׂירֵי וְלְעֲשִׂירֵי תַשְׁיַעֵי וְלֹא חָדַד עֶשֶׂר עֲשִׂירֵי שְׁשָׁלְשִׁתָּן מְקוּדָשִׁין, וְאִישְׁתִּיקוּ בֵּית הֵלֵל.

The Gemara elaborates: Which of these opinions might correspond to that of the mishna? If it is that of the Rabbis, it is difficult with respect to a short naziriteship, i.e., a standard term of naziriteship, which lasts for thirty days. The Rabbis maintain that he cannot include all the days from the time he took the vow even if his naziriteship was short. They hold that he must add days corresponding to the days that he failed to observe the *halakhot* required of a nazirite. If it is that of Rabbi Yosei, although he agrees that one who transgresses his vow of naziriteship for a short period of less than thirty days need not add to his term, it is nevertheless difficult with regard to a lengthy naziriteship, as even Rabbi Yosei rules that in such a case the individual must observe naziriteship for additional days.

The Gemara answers: If you wish, you can say that the mishna is in accordance with the opinion of Rabbi Yosei, and if you wish, you can say it is in accordance with the opinion of the Rabbis. The Gemara explains: If you wish, you can say that the mishna is in accordance with Rabbi Yosei: Here, the *baraita* is speaking of a lengthy naziriteship; there, the mishna is referring to a short naziriteship. In other words, the mishna refers only to one who transgresses his vow of naziriteship for less than thirty days.

And if you wish, you can say that the mishna follows the opinion of the Rabbis, by emending its wording: Do not say that he must observe naziriteship from the time that he vowed; rather, say: Like from the time that he vowed. That is, he must count his naziriteship corresponding to the time that has elapsed since he took his vow, exactly as stated by the Rabbis.

The mishna taught that with regard to one who requested of the halakhic authorities and they dissolved the vow for him, and he had already separated an animal for a nazirite offering, it shall go out and graze among the flock. Rabbi Yirmeya said: From the ruling of Beit Shammai one can learn a *halakha* with regard to the opinion of Beit Hillel. Is it not the case that Beit Shammai say that an erroneous act of consecration is considered consecration, and yet once the matter is revealed that his vow of naziriteship was not right, i.e., it has been dissolved, the animal is considered non-sacred and shall go out and graze among the flock.

Rabbi Yirmeya continues: According to the opinion of Beit Hillel as well, even though they say that a substitution of a consecrated animal for another performed in error is a valid substitute, this applies only when the initial consecration, i.e., the consecration of the first animal, is in effect, in which case a substitution can take place. However, in a situation where the initial consecration has been uprooted, i.e., a halakhic authority dissolved the vow pertaining to the first consecration, the first animal is no longer consecrated, and therefore the substitute is also uprooted, i.e., the animal remains non-sacred.

The Master said<sup>N</sup> in the mishna: Don't you concede with regard to one who called the ninth animal: Tenth, that it is consecrated? It was stated that *amora'im* engaged in a dispute concerning this point. With regard to the animal tithe,<sup>B</sup> Rav Nahman said: It is consecrated in the above manner only if it resulted from his error, but not from his intentional declaration. If the owner was aware that it was the ninth animal and called it: Tenth, on purpose, his consecration is ineffective. Rav Ḥisda and Rabba bar Rav Huna say: His error consecrates the animal, and all the more so his intentional declaration,<sup>H</sup> i.e., if he called the ninth or eleventh animals: Tenth, in full knowledge that they were not the tenth.

Rava said to Rav Nahman: According to your opinion, that you say it is only his error that consecrates the ninth animal and not his intentional declaration, consider that Beit Shammai said the following to Beit Hillel in the mishna as proof that erroneous consecration is valid: Don't you concede that if he called the ninth: Tenth; the tenth: Ninth; and the eleventh: Tenth, that all three are consecrated? And Beit Hillel were silent in face of this question.

As consecration depends on the intention of the owner – דְּהַקְדֵּשׁ בְּדַעְתָּא דְּמַרְיָה תְּלִי – According to the explanation of Rav Shimi bar Ashi, the question posed to the opinion of Rav Nahman from the answer of Beit Hillel stands (Commentary on *Nazir*). Other commentaries claim that this question does not disprove the opinion of Rav Nahman, as one can explain that although Beit Hillel could have provided the answer suggested by Rava, they preferred an alternative response, as stated in the Jerusalem Talmud.

## HALAKHA

If he took a vow of naziriteship before his animal was stolen – אִם עַד שְׁלָא נִגְנְבָה בְּהִמְתּוּ נֹזֵר – With regard to one who took a vow of naziriteship and went to get the offerings he had set aside only to find they were lost or stolen, if he took his vow before the animal was stolen, he is a nazirite. If he took his vow after the animals were stolen he is not a nazirite, as it is considered an erroneous vow (Rambam *Sefer Hafla'a, Hilkhot Nazirut* 2:2).

לִימְרוּ לְהוֹן: מַה לְּמַעֲשֵׂר – שֶׁבֶן אֵינוּ קָדוֹשׁ בְּכוּוֹנָה!

However, according to your opinion, let Beit Hillel say to Beit Shammai: While it is correct that an erroneous act of consecration takes effect with regard to animal tithe, one cannot learn the *halakha* of other types of consecration from there, as what is unique about tithe is that it is not consecrated if his declaration concerning the wrong animal was intentional, whereas other types of consecration are typically the result of a purposeful act. Since other types of consecration take effect with intent, an erroneous act of consecration is not considered consecration.

אָמַר רַב שִׁימִי בַר אֲשִׁי: הֵינּוּ טַעְמָא דְּלֹא אָמְרִי לְהוֹן, דְּקָל וְחוֹמֵר הוּא: מַה מַּעֲשֵׂר שְׂאִינוּ קָדוֹשׁ בְּכוּוֹנָה – קָדוֹשׁ בְּטָעוּת, הַקְדֵּשׁ שֶׁקָּדוֹשׁ בְּכוּוֹנָה – לֹא כָּל שֶׁבֶן?

Rav Shimi bar Ashi said: This is the reason that Beit Hillel did not say that answer to Beit Shammai, as one can argue in the opposite manner, by saying that it is an *a fortiori* inference: If tithe, which is not consecrated when he acts intentionally, is nevertheless consecrated if he acted erroneously; with regard to other types of consecration, which are consecrated intentionally, is it not all the more so that an act of erroneous consecration should render an item consecrated?

וְלֹא הִיא, דְּהַקְדֵּשׁ בְּדַעְתָּא דְּמַרְיָה תְּלִי.

The Gemara rejects this argument: And this is not so, as this *a fortiori* inference is flawed, as consecration depends on the intention of the owner,<sup>N</sup> and therefore it cannot apply when done in error. By contrast, the animal tithe is not consecrated through the intention of its owner but merely by counting, as every tenth animal is consecrated.

מִתַּנִּי' מִי שֶׁנָּזַר בְּנֹזֵר, וְהִלֵּךְ לְהַבִּיא אֶת בְּהֵמָתוֹ וּמָצָא שֶׁנִּגְנְבָה. אִם עַד שְׁלָא נִגְנְבָה בְּהִמְתּוּ נֹזֵר – הָרִי זֶה נֹזֵר.

**MISHNA** With regard to one who took a vow of naziriteship and went to bring his animal which he set aside for his nazirite offering and discovered that it was stolen, and due to the need to separate an additional animal now regrets having taken his vow, if he took a vow of naziriteship before his animal was stolen,<sup>H</sup> he is a nazirite, as a vow cannot be dissolved as the result of a later event.

## Perek V

## Daf 32 Amud b

וְאִם מִשְׁנִגְנְבָה בְּהִמְתּוּ נֹזֵר – אֵינוּ נֹזֵר. וְזוֹ טְעוּת טְעָה נְחוּם הַמְדִי, בְּשִׁעְלוֹ נֹזֵרִים מִן הַגּוֹלָה וּמָצְאוּ בֵּית הַמִּקְדָּשׁ חָרָב, אָמַר לָהֶם נְחוּם הַמְדִי: אֵילּוּ הָיִיתִם יוֹדְעִין שְׁבִית הַמִּקְדָּשׁ חָרָב הָיִיתֶם נֹזְרִים? אָמְרוּ לוֹ: לֹא. וְהִתְרִין נְחוּם הַמְדִי.

But if he took a vow of naziriteship after his animal was stolen, he is not a nazirite,<sup>N</sup> as it is retroactively established that his vow was taken in error from the outset, as he relied on an animal he did not possess. And this was the error that Nahum the Mede<sup>P</sup> erred when he failed to distinguish between an event that occurred before the vow was taken and an event that occurred afterward. The incident in question was as follows: When nazirites were ascending from the exile to sacrifice their offerings, and they found the Temple destroyed, Nahum the Mede said to them: If you had known that the Temple would be destroyed, would you have taken a vow of naziriteship? They said to him: Certainly not, as there is no remedy for a naziriteship in this case. And Nahum the Mede dissolved the vow for them.

וּכְשֶׁבָא הַדְּבָר אֶצְל חֲכָמִים אָמְרוּ: כָּל שֶׁנָּזַר עַד שְׁלָא חָרָב בֵּית הַמִּקְדָּשׁ – נֹזֵר, וּמִשְׁחָרַב בֵּית הַמִּקְדָּשׁ – אֵינוּ נֹזֵר.

And when the matter came before the Rabbis, they said: His ruling is incorrect. Rather, whoever took a vow of naziriteship before the Temple was destroyed, like these nazirites from the exile, he is a nazirite, as he committed no error at the time of his vow, and one cannot dissolve vows based a new situation. However, one who stated his vow after the Temple was destroyed is not a nazirite, as he vowed based on an erroneous assumption.

## PERSONALITIES

Nahum the Mede – נְחוּם הַמְדִי: Nahum the Mede was a prominent Sage at the time of the destruction of the Second Temple. Based on his nickname (see *Avoda Zara* 7b) he apparently came from Media, although he likely immigrated to Eretz Yisrael at

a young age in order to study Torah. He was among the so-called *Dayanei Gezeirot*, the Chief Judges in Jerusalem who were authorized to issue community-wide enactments. Several of his halakhic rulings are mentioned in the Mishna and in *baraitot*.

## NOTES

He is not a nazirite – אֵינוּ נֹזֵר: The commentaries state that in this case it is evident that the vow was erroneous from the outset, as he took the vow based on the assumption that he had an animal ready to bring as an offering. Therefore, a halakhic authority can dissolve his vow (*Tosafot*). Others claim that the statement: He is not a nazirite, indicates that his vow does not require dissolution at all, as the vow is automatically void. Consequently, the earlier ruling: If the animal was stolen afterward he is a nazirite, does not mean that he cannot have the vow dissolved. Rather, it means that this vow requires dissolution by means of a halakhic authority (Rambam's Commentary on the Mishna; Rabbi Avraham min HaHar, citing Commentary on *Nedarim*).

They may not broach dissolution by asking about a new situation – אין פותחין בגולד – A halakhic authority may not broach the dissolution of a vow by means of a new situation. For example, if someone vowed not to derive benefit from another, and that person became a great scholar who served the entire community, a halakhic authority may not say to the one who vowed: Would you have uttered your vow had you known that he would become a scholar? One may mention only an event that is very likely to occur. Some authorities (Rema; see *Shakh*) state that if he entirely regrets having taken the vow, as nothing positive for him resulted from his vow, it can be dissolved based on this regret, even a new situation contributed to his regret (Rambam *Sefer Hafla'a*, *Hilkhot Shevuot* 6:12; *Shulhan Arukh*, *Yoreh De'a* 228:7, 12, and the comment of Rema on 228:13).

However, they may broach dissolution by asking about the conditions of a new situation – אבל פותחין בתנאי גולד: Although dissolution is not broached by raising a new situation, a halakhic authority may reference the conditions of a new situation. In other words, a halakhic authority may ask the one who vowed whether he still would have vowed if someone had told him at the time that an event had occurred, despite the fact that the event actually happened later (*Shulhan Arukh*, *Yoreh De'a* 228:13).

גמ' אמר רבא: שטפוהו רבנן לרבי אליעזר ואוקמיה בשיתתיהו. דתנן: פותחין בגולד, דברי רבי אליעזר, והכמים אוסרין.

ואמר רבא: אף על גב דאמור רבנן אין פותחין בגולד, אבל פותחין בתנאי גולד. היכי דמי? אמרי להון: אילו אתא איניש ואמר לבון דחרב בית המקדש, מי הוה נדריתון?

אמר רב יוסף: אי הואי התם הוה אמניא להון: הקתיב "היכל ה' היכל ה' היכל ה' המה" – זה מקדש ראשון ומקדש שני!

נהי דידעין להון דיקרוב, מי יודעין לאימתי? אמר אביי: ולא ידעין לאימת? והקתיב "שבעים שבעים נחתך על עמך ועל עיר קדשך". ואפתי, מי ידעין בהי יומא?

**GEMARA** In relation to the mishna's statement with regard to the dissolution of a vow of naziriteship due to a new situation, the Gemara cites a statement that **Rabba said: The Rabbis overwhelmed Rabbi Eliezer until he retracted his ruling and established the halakha in accordance with their opinion.** To what does this refer? **As we learned in a mishna in Nedarim (64a): They may broach dissolution by asking about a new situation, i.e., a halakhic authority can dissolve a vow due to a new situation that the one who took the vow did not anticipate at the time he took his vow. This is the statement of Rabbi Eliezer; but the Rabbis prohibit this.** Since Rabbi Eliezer does not disagree in the case of naziriteship in this mishna, he must have accepted the opinion of the Rabbis.

**And Rava said, with regard to the same issue: Even though the Rabbis said that they may not broach dissolution by asking about a new situation,<sup>h</sup> however, they may broach dissolution by asking about the conditions of a new situation,<sup>h</sup> i.e., with situations similar to a new situation. What are the circumstances of this type of broaching dissolution?** The halakhic authorities say to the nazirites who took their vows before the destruction of the Temple: **If a person had come and said to you before you took your vow that the Temple will be destroyed, would you have vowed?** Although the destruction of the Temple itself is a new situation, its potential occurrence existed when they vowed, and therefore if they answered that they would not have vowed had they known this, their vows are dissolved.

**Rav Yosef said: If I had been there, when those nazirites arrived, I would have said the following to them, in order to dissolve their vows: Isn't it written: "The Sanctuary of the Lord, the Sanctuary of the Lord, the Sanctuary of the Lord,<sup>n</sup> are these"** (Jeremiah 7:4). **This** thrice repetition of "Sanctuary of the Lord" is referring to the **First Temple and the Second Temple** which are destined to be destroyed, leading to a **Third Temple**. These nazirites should have considered the possibility of the Temple's destruction, and this can serve as a means of broaching the dissolution of their vows.

The Gemara responds: **Although they might have known that the Second Temple would be destroyed, as the verse speaks of three Temples, did they know when it would be destroyed? Would they have considered that it might occur in their lifetimes, preventing them from sacrificing their offerings? Abaye said: And did they not know when? But isn't it written: "Seventy sevens are decreed upon your people and upon your sacred city"** (Daniel 9:24), which indicates that the Second Temple would be destroyed seventy Sabbatical cycles of seven years after the destruction of the First Temple, which is 490 years. The Gemara answers: **And still, did we know on which day it would be destroyed? It was therefore impossible to use this factor as a means to broach the dissolution of their vows.**

NOTES

היכל – The Sanctuary of the Lord, the Sanctuary of the Lord – יי היכל יי: Most commentaries explain that the repetition of "the Sanctuary of the Lord, the Sanctuary of the Lord, the Sanctuary of the Lord are these" indicates that two Temples would be destroyed before the completion of the everlasting Third Temple. Consequently, these nazirites must have known that the Second Temple was slated for destruction (see Rosh).

Others maintain that the future destruction of the Temple is not derived from this repetition; rather, the very fact that the prophet states that one cannot rely on the Sanctuary of the Lord, as it is liable to be destroyed, indicates that the fate of the First Temple can befall the second one as well (Rabbi Avraham min HaHar; see Commentary on *Nazir*, *Tosafot*, *Shita Mekubbetzet*, and *Meromei Sadeh*).

I am hereby a nazirite if this is so-and-so – הרני נזיר שזה – פלוני: With regard to two people who were walking together and disagreed with regard to the identity of the individual approaching them, and one said: I am hereby a nazirite if that person is Shimon, as you claim, and the other replied: I am hereby a nazirite if he is Reuven, as you claim, if he was in fact Reuven the second person is a nazirite. This interpretation (*Mishne LaMelekh*; see *Tosefot Yom Tov*) is in accordance with Abaye's explanation of the anonymous opinion in the mishna (Rambam *Sefer Hafla'a*, *Hilkhot Nezirut* 2:8).

Turned back – הרתיע לאחוריו: If the person whose identity was subject to the above debate turned around, so that they never discovered his identity, neither of them is a nazirite (Rambam *Sefer Hafla'a*, *Hilkhot Nezirut* 2:8).

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I am hereby a nazirite if one of you is a nazirite – הרני נזיר – שאין אחד מכם נזיר: Most commentaries understand this as a continuation of the aforementioned statement in the mishna, i.e., the third one says to the first two people: If one of you is a nazirite, etc. The Meiri maintains that the mishna is now dealing with a different case, in which someone who sees a group of people approaching declares: I am hereby a nazirite if one of you is a nazirite. The following case would likewise be where someone states to an approaching group of people: I am hereby a nazirite if none of you are nazirites. *Keren Ora* claims that Rambam understands likewise.

If neither of you is a nazirite – שאין אחד מכם נזיר: This translation follows the Rosh and the Meiri. Others explain that this means: I am hereby a nazirite if one of you is not a nazirite (*Tosafot*). According to this interpretation, this individual says the exact same thing as the previous person, only in negative form.

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Where he said, etc. – כגון דאמר וכו' – Some commentaries explain that he first said: I am hereby a nazirite if it is so-and-so. Then he added: Even if it is not him, I will be a nazirite (Commentary on *Nazir*). Later authorities are puzzled by this interpretation, as no novel *halakha* is taught by this case (see *Mishne LaMelekh*). Therefore, some suggest that he said: If it is the individual you think it is, I am hereby a nazirite. Then he continued: Even if it is someone other than the person I think it is, I will be a nazirite (*Birkat Rosh*). Others similarly state that it refers to one who says: I am hereby a nazirite if this is Reuven and not Shimon, and the person in question was someone else entirely (Meiri). In this case, although the first part of his initial statement remained unfulfilled, his last clause was correct. Alternatively, Abaye means that he retracted his earlier statement, and is now saying that he is a nazirite if it is not that individual (*Tosafot*).

**MISHNA** If there were people walking along the way, and one other person was approaching them, and one of those walking said: I am hereby a nazirite if this person approaching us is so-and-so.<sup>11</sup> And another one of them said: I am hereby a nazirite if this is not so-and-so, while a third member of the group said: I am hereby a nazirite if one of you two is a nazirite,<sup>12</sup> and a fourth said: I am hereby a nazirite if neither of you is a nazirite,<sup>13</sup> and another added: I am hereby a nazirite if both of you are nazirites. Finally, the last person said: I am hereby a nazirite if all you who spoke before me are nazirites.

Beit Shammai say that they are all nazirites, as by saying: I am hereby a nazirite, they have accepted naziriteship upon themselves even if their statements turn out to be incorrect. Beit Shammai maintain that a vow of naziriteship taken in error is considered a valid vow of naziriteship. And Beit Hillel say: Only he whose statement was not fulfilled is a nazirite. And Rabbi Tarfon says: Not a single one of them is a nazirite, including those whose statements were correct. Rabbi Tarfon maintains that a vow of naziriteship must be pronounced in an explicit manner, without any hint of uncertainty. In this case, none of them knew for sure the identity of the person coming toward them, and therefore they could not be certain they were nazirites at the time of their vows.

If the person approaching them turned back<sup>14</sup> so that his identity was never discovered, not one of them is a nazirite. The matter was never clarified, and the *halakha* is lenient in cases of uncertain naziriteship. Rabbi Shimon says that the *halakha* is stringent with regard to an uncertainty of this kind, and therefore they should proceed as follows in order to avoid any uncertainty: Each of those who took a vow should say: If it was in accordance with my statement, I am hereby an obligatory nazirite, as my condition was fulfilled, and if not, I am hereby a voluntary nazirite, and in this manner they are all nazirites either way.

**GEMARA** The Gemara questions the opinion of Beit Hillel: Why is he whose statement was not fulfilled a nazirite? Rav Yehuda said: One must emend the wording of the mishna so that it says: Only he whose statement was fulfilled becomes a nazirite.

מתני' היו מהלכין בדרך, ואחד בא כנגדן. אמר אחד מהן "הרני נזיר שזה פלוני" ואחד אמר "הרני נזיר שאין זה פלוני", "הרני נזיר שאחד מכם נזיר", "שאין אחד מכם נזיר", "ששניכם נזירים", "שכולכם נזירים".

בית שמאי אומרים: כולן נזירין, ובית הלל אומרים: אינו נזיר אלא מי שלא נתקיימו דבריו, ורבי טרפון אומר: אין אחד מהם נזיר.

הרתיע לאחוריו – אינו נזיר. רבי שמעון אומר: לאמר "אם היה כדברי – הרני נזיר חובה, ואם לאו – הרני נזיר נדבה".

גמ' מי שלא נתקיימו דבריו אמאי הוי נזיר? אמר רב יהודה: אימא: מי שנתקיימו דבריו.

Perek V  
Daf 33 Amud a

אביי אמר: כגון דאמר "אי נמי לאו פלוני הוא אי הוי נזיר". ומאי "לא נתקיימו דבריו" – לא נתקיימו דבריו הראשונים, אלא דבריו אחרונים.

"הרתיע לאחוריו אינו נזיר" כו'. טעמא – משום דהרתיע לאחוריו, הא אתי לקמן – הוי נזיר. מני?

Abaye said: One must correct his understanding of the mishna, so that it deals with a situation where in addition to his first statement he said:<sup>15</sup> Even if it is not so-and-so, I shall be a nazirite. And what is the meaning of the phrase: Whose statement was not fulfilled? It means: His first statement was not fulfilled, as it was not that person; rather, he is a nazirite because his last statement was fulfilled.

The mishna taught that if the individual walking toward them turned back, so that his identity remained unknown, not one of them is a nazirite. The Gemara clarifies: The reason is only because he turned back, from which it may be inferred that if that person comes before us and is identified, the one who said he would be a nazirite if it is so-and-so is considered to be a nazirite. The Gemara inquires: In accordance with whose opinion is this *halakha*?