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PEER PRESSURE AND DRINKING: A VERY DRY DVAR TORAH

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A confession: I have no firsthand experience of “drinking culture”, either as participant or as anthropologist. But “this too is Torah, and I need to learn it”. Torah relates to every aspect of human existence, which means that understanding any aspect of human existence sheds light on Torah.

My text this week is Mishnah Tractate Nazir Chapter 2 Section 3. The text in every edition currently available reads something like this:

מזגו לו את הכוס ואמר 'הריני נזיר ממנו' - הרי זה נזיר.
מעשה באשה אחת שהיתה שכורה ומזגו לה את הכוס ואמרה 'הריני
נזירה ממנו'.

אמרו חכמים: לא נתכונה אלא לומר הרי הוא עלי קרבן.
*They poured him a cup, and he said 'Behold I am a nazir from it' - he
is a nazir.*

*A story: A woman was drunk, and they poured her a cup, and she
said 'Behold I am a nazir from it' -
the Sages said: She intended only to say: "It is (forbidden) to me as if it
were a sacrifice".*

The legal statement and the story have very different bottom lines. In the statement, the man becomes a nazir; in the story, the woman is only forbidden to drink that particular glass of wine.

The early 18th century commentary הון עשיר reasonably notes that the statement makes no mention of drunkenness at all, and that there is no “and” linking the story to the statement. He therefore concludes that the story introduces a new case, in which the law is different than in the case of the statement.

However, the Babylonian Talmud is not satisfied with this approach. Instead, it pulls out what seems like a very outlandish interpretive technique: the חסורי מחסרה, which appears to be a claim that a line of the Mishnah was omitted. The statement should actually include the proviso: “But if he is drunk, he is only forbidden to drink the specific cup of wine”. The result is substantively identical to הון עשיר’s interpretation. (I find it interesting that, so far as I can tell, no traditional commentator even suggests that the statement and the story have different

legal outcomes because the former is about men and the latter about a woman.)

The Talmud also adds an explanation for why law changes in the case of someone already drunk:

סבר: מיייתין לי אחרינא ומצערין לי,
אימא להו הא מילתא דפסיקא להו.

*He reasoned: They'll bring me another cup and keep bothering me,
so I'll say something to them that makes them stop.*

The drunk wants the people who brought him this drink to believe that he will be equally forbidden to drink any subsequent cup, but he does not really intend to forbid more than the one cup now in front of him. The Sages understand this, even if (he hopes) his barmates do not.

Understanding a drunk’s intention need not imply that he is making sense. But Rashi explains that in this case she very much is:

סבירא להו שלא אסרתי עלי אלא כוס זה בלבד
ומיייתו לי כוס אחרינא ואמרי לי 'אשתי' וקא מצערין לי
דשתויי אנא ולא מצינא למשתי לי

*Otherwise they will think that I have only forbidden this cup,
and they will bring me another cup and say to me "Drink!", and they'll
harass me,
because I am drunk and I cannot drink it.*

Rashi’s portrait is of someone who knows that having more alcohol would be dangerous, and also that her companions will nonetheless pressure her to drink. She comes up with a clever scheme to relieve their pressure. The same people who would pressure her to drink irresponsibly will back away from pressuring her to break an oath.

Tosafot add a disquieting element that nonetheless rings true:

... שדרך בני אדם להפציר בשכור שישתה ועתה אינו רוצה לשתות...
אבל כשאינו שכור אין דרך להפצירו...

*It is the way of people to pressure someone drunk to keep drinking, even
if he does not want to . . .*

but it is not their way to pressure someone who is not drunk

The Sages therefore decided that using the same words, a sober person would intend to be a nazir, while a drunk

person would not. But why not ask the drunk what his intention was? Shitah Mekubetzet cites R. Azriel as giving an answer that seems somewhat ironic:

ולא בעי למימר דנשייליה
דהא לית ליה דעתא צילותא
*The Talmud doesn't suggest asking him,
since his mind is not clear*

But if his mind is not clear, how can the oath be binding? Rambam explains that the person is not “as drunk as Lot”. Peer pressure to keep drinking is most intense precisely at the borderline.

The Talmud Yerushalmi seems to offer a different explanation.

מתניתא בשאינו יכול
אבל אם יכול - הדא דתנינן מעשה
*The statement deals with one who is not able,
but if he is able - that's the case of the story*

What is the meaning of “able”?

רישא דמתניתין מיירי בשאינו רגיל לשתות ולהיות שיכור ואין דרך
להפציר לאדם כזה

*The statement deals with one who does not drink and get drunk
regularly, and it is not their way to pressure such a person.*

This claim does not ring quite as true as Tosafot's.

Perhaps for that reason, Korban HaEdah contends that the text should be reversed to read:

מתניתא ביכול
אבל אם אינו יכול - הדא דתנינן מעשה
*The statement deals with one who is able,
but if he is not able, that's the case of the story*

Korban HaEdah tries to make this text mean roughly the same thing as the Bavli by claiming that the story is about someone who “is not able” because they are drunk. I do not find the attempt convincing.

Rambam may have understood the Yerushalmi in an entirely different fashion. Here is Mishnah Torah Hilkhoh Nezirut 1:11-12:

מזגו לו כוס של יין ונתנו לו לשתות
ואמר 'הריני נזיר ממנו' -
הרי זה נזיר גמור;
ואם היה מר נפש או כעוס או מתאבל,
והיו מבקשין ממנו שישתה כדי לשכח עמלו,
ואמר 'הרי זה נזיר ממנו' -
הרי זה אסור באותו הכוס בלבד ואינו נזיר, שלא נתכונן זה אלא שלא
ישתה כוס זה.
וכן שכור . . .

*If they poured him a cup and gave it to him to drink,
and he said 'Behold I am a nazir from it' -
he is a complete nazir.*

But if he was bitter of spirit, or angry, or mournful,

*and they were asking him to drink so that he would forget his worries,
and he said 'Behold I am a nazir from it' -
he is only forbidden to drink that cup and is not a nazir, as his intent
was only to not drink that cup.*

The same is true regarding someone drunk . . .

Rambam may be claiming that in a drinking culture, it is common to believe that getting drunk is a healthy way to deal with emotional challenges. Someone who resists drinking will be pressured by friends who believe it is for their own good, to the point that a halakhic stratagem may be necessary to fend them off.

But what motivates or justifies Rambam in codifying this psychological/sociological insight into Halakhah? Neither Talmud made any mention of any factor other than drunkenness! (Note that he brings the same case in his Commentary on the Mishnah!)

The answer, I suggest, is found in an offhand note of the late 16th – early 17th century Mishnah commentary Melekheth Shlomoh (which my Bar Ilan says was not printed until 1924). He writes that a Rav Yehosef recorded an alternate text of the Mishnah, in which the woman was not a שיכורת but rather a שיכולת; not drunk, but rather mourning her losses. Rav Kapach states that the first edition of the Rambam's Commentary on the Mishnah discussed only someone drunk, while the second inserts a discussion of people facing emotional difficulties. He suggests that after producing the first edition, Rambam discovered the שיכולת text of the Mishnah, and decided that it was correct.

If Rav Kapach is correct, though, why does Rambam leave the discussion of drunkenness in? Also, the Bavli discusses the שכור, and we have no record of an alternate Bavli text?

I have a possibly wild suggestion. The Yerushalmi as we have it reads:

מתניתא בשאינו יכול אבל אם יכול הדא דתנינן מעשה

Perhaps Rambam, having found the text of the Mishnah, either found another text or emended the Yerushalmi to read:

מתניתא בשאינו [ש]יכול אבל אם [ש]יכול הדא דתנינן מעשה

The Yerushalmi and Bavli would then be making separate claims about drinking culture – that peer pressure to drink more than one really wants to is most dangerous when you are already somewhat drunk, and when you are emotionally vulnerable. Maimonides thought both claims were correct, and worthy of codification.