

OVERVIEW of the Daf

1) Clarifying the Mishnah

It is noted that the first ruling of the Mishnah seems to follow the position of R' Meir that the phrase הקרנן does not constitute a valid vow.

This conclusion is contradicted by R' Meir's ruling in an earlier Mishnah.

The contradiction is resolved by distinguishing between לא קרבן and לקרבן.

2) **MISHNAH:** The Mishnah presents additional declarations that constitute valid oaths.

3) Clarifying the Mishnah

A contradiction between the Mishnah and a Baraisa is noted.

Abaye maintains that both sources are correct and the distinction relates to the circumstance in which the declaration was made.

R' Ashi offers an alternative resolution.

R' Ashi's resolution is unsuccessfully challenged.

The Gemara explains why Abaye did not explain as R' Ashi and why R' Ashi did not explain as Abaye.

4) **MISHNAH:** The Mishnah points out the stringency that applies to שבועות but not to נדריים and stringencies that apply to נדריים but not to שבועות.

5) Clarifying the Mishnah

The Gemara clarifies which halacha is referred to when the Mishnah stated that שבועות are more stringent than נדריים.

6) Taking an oath to violate a mitzvah

A source is cited for the ruling that one cannot take an oath to violate a mitzvah.

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REVIEW and Remember

1. What are the two oaths that are four?

2. In what regard are נדריים stricter than שבועות?

3. What is the stringency that applies to שבועות that does not apply to נדריים?

4. What is the source that one cannot take an oath to violate a mitzvah?

Distinctive INSIGHT

An oath as a response to being put under pressure

אמר אביי שאוכל שתי לשונות משמע, היו מסרביו בו לאכול ואמר אכילנא אכילנא, ותו שבועה שאוכל, שאכילנא משמע וכו'

The Shitta Mikubetzes explains that the term דאכילנא can mean two different things, and its particular interpretation depends upon the context in which it is used. One case is where the person was being pressured to eat something, and he blurted out, "I will eat!" followed by an expression of an oath, "I take an oath that I will eat!" In this case, we interpret his initial reaction as a positive acceptance to eat. This is true even where he originally repeats and says, "I will eat, I will eat." Although this might seem to suggest that he is resisting and even questioning those pressuring him ("Do you think I am going to give in and eat?"), nevertheless, the person never indicated any clear negativity, and we understand his words to be a valid oath to eat.

If, however, the person first resisted by saying, "I will not eat," followed by an expression of an oath where he says, "I take an oath that I will eat!" we interpret any statement of "I will eat" as a question, especially if it is doubled. It is as if he said, "Do you think I will eat? Of course I will not!" Even the oath which follows is an affirmation of his resistance to the pressure, and he is then not liable to eat.

ר"א explains that the expression used by the person is interpreted according to what others were saying to him to elicit such a response. That he is pronouncing an oath could be understood classically as a statement of prohibiting himself from the food, or it could be a non-binding affirmation, as we find the word שבועה used in this sense in reference to sotah (Bemidbar 5:21), "You will be a curse and as an oath (לאלה ולשבועה) amidst your people."

The ר"ן notes that our Gemara and Abaye's understanding differs from how Abaye himself explains these expressions in Shevuos (19b). Here, Abaye explains that the person's intent is understood in terms of how others speak to him. However, in Shevuos, Abaye says that the words "שבועה שאוכל" is always interpreted to mean "I will eat," unless there is clear indication that he meant the opposite. ר"ן cites Rambam who rules according to the Gemara in Shevuos, but Ramban rules according to Rav Ashi, who argues against Abaye in our Gemara and holds that "I will eat" in our Mishnah should read אי אוכל, which in this context means "I will not eat." ■

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לרפואה שלמה
יעל תמר בת ח' רשע

HALACHAH Highlight

Is there a mitzvah to build a sukkah?

Konam is the sukkah that I will make

Commentators disagree about the meaning of the declaration **קונם סוכה שאני עושה**—konam is the sukkah that I will make. Sefer Shalmei Nedarim¹ writes that although the declaration literally means that there is a prohibition against making, i.e. building, a sukkah, clearly the intent is to prohibit sitting in the sukkah. The reason the Mishnah utilizes this language is to teach a novelty concerning this ruling. Although one could claim that the vow should be invalid since his mouth (i.e., he will not make a sukkah) and his intent (i.e. he will not sit in the sukkah) do not match, nevertheless the vow is binding because the direct consequence of not building a sukkah is that he will be incapable of sitting in the sukkah. Accordingly, it is considered as if his mouth and heart are consistent.

Avnei Nezer² disagrees with this explanation and maintains that this person intends to prohibit building the sukkah. This indicates that there is a mitzvah to build a sukkah. Proof to this assertion can be found in Rashi's comments to the Gemara Makos (8a, השתא, ד"ה). Teshuvos Minchas Elazar³ disagrees with Avnei Nezer and prefers the first explanation that the declaration addresses the mitzvah of sitting in the suk-

קונם סוכה שאני עושה

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The Gemara challenges why this source is limited to cases of **שבועות** when it seems to apply equally to **נדרימ**. Abaye explains the distinction. Rava rejects this distinction and offers an alternative distinction. The source cited earlier for not taking an oath to violate a mitzvah is challenged from what appears to be another source for this principle. ■

kah. Proof to this is found in the Gemara Kesubos (פ) that rules that if a person does not comply when instructed, **עשה סוכה** - "Make a sukkah" he should be struck until he complies. According to Avnei Nezer the Gemara would be referring to a person who refuses to build a sukkah and it seems unreasonable that a person should be struck for merely refusing to build a sukkah; rather the more logical interpretation is that it refers to someone who refuses to sit in the sukkah.

Chasam Sofer⁴ also notes that the language of the Torah is **תעשו סוכות** in Sukkos you should sit rather than **תשבו** make Sukkos. This clearly indicates that there is no mitzvah to build a sukkah, the mitzvah is to sit in the sukkah. Nevertheless, Poskim⁵ emphasize the importance of being personally involved in the construction of one's sukkah. ■

1. ספר שלמי נדרימ תוס' בא"ד וא"ת אפילו
2. שו"ת אבני נזר או"ח סי' תנ"ט
3. שו"ת מנחת אלעזר ח"סד סי' נ"ה
4. שו"ת חת"ס יו"ד סי' רע"א
5. ע' שו"ת חות יאיר סי' ר"ה וספר מועדים וזמנים ח"א סי' פ' ■

STORIES Off the Daf

Going up to the land

שאינ נשבעין לעבור על המצוה

Over the centuries, it was the dream of every Jew to make the trip to Eretz Yisrael. Often, this goal could be attained only with great self-sacrifice, and many risked their lives for this privilege.

There was a certain wealthy man who felt a lot of fear about making this trip. There was so much danger and so many had set out who were robbed, killed, or had never been heard from again. For various reasons there were several people who were pressuring him to make the trip regardless of the danger. The only way they tried to assuage his fears was to say, "Hashem will surely

help."

The man had no doubts about the truth of this statement. However, in the face of the great danger he felt that this platitude was not helpful. Besides he enjoyed things where he was and really did not wish to travel.

He thought long and hard of how to rid himself of this nuisance and finally decided that the best way to deal with this was to swear not to go up to Eretz Yisrael. However, someone mentioned to him that this may not be a binding shevuah at all since the Mishnah in Nedarim 16a states clearly that an oath meant to override a mitzvah does not take effect.

This question was brought before the Rashbash, zt"l, who ruled, "His oath took effect. He merely said that he would

not go up. The mitzvah itself is not going up on a pilgrimage to Israel, but actually living in the land. An oath not to live in Israel can't take effect, but an oath not to go up to Israel does!"

The Avnei Nezer, zt"l, argued. "That is true only regarding standard **מכשירי** מצוה, like building a Sukkah. Since one can fulfill this mitzvah by sitting in his friend's Sukkah, building a Sukkah is not actually a mitzvah, it just provides the means to fulfill the mitzvah. Therefore, an oath not to build a Sukkah can take effect. However, since the only way it is ever possible for someone outside of Israel to fulfill the mitzvah of yishuv Eretz Yisrael is by going up to Israel, going up is part of the mitzvah. Therefore, an oath not to go up does not take effect!" ■

