

## OVERVIEW of the Daf

### 1) False and vain oaths (cont.)

Another interpretation is presented of the Beraisa's statement that a vain oath and a false oath are one.

R' Dimi's earlier interpretation is unsuccessfully challenged.

Ravin in the name of others, including R' Avahu, offers a different explanation of a vain and false oath.

R' Pappa asserts that this ruling was not explicitly made by R' Avahu, rather it was inferred from another ruling of his.

The statement from which R' Avahu's position was inferred is cited.

The ruling that one receives lashes for swearing is analyzed and from this analysis it emerges that R' Avahu holds that a false oath pertains to the past.

R' Avahu's ruling in the name of R' Yochanan that one receives lashes for swearing falsely is unsuccessfully challenged.

### 2) Clarifying R' Akiva's position

The Gemara questions whether in general R' Akiva holds like R' Shimon that one is liable for consuming even a small quantity of prohibited food or whether he follows the position of Rabanan that generally one is liable only when he eats an olive's volume of prohibited food.

On the second attempt the Gemara demonstrates that in general R' Akiva holds like Rabanan.

Numerous challenges are presented to R' Akiva's assertion that we do not find instances in which one is liable for consuming minimal quantities of prohibited food. ■

## REVIEW and Remember

1. What is the definition of a vain oath?  
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2. What is the reason one who took an oath to eat bread and did not fulfill that oath does not receive lashes?  
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3. According to R' Shimon, how much of a prohibited food must one eat to be liable?  
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4. What is the reason one is liable for eating an entire creature even if it is less than the volume of an olive?  
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## Distinctive INSIGHT

*Does an oath include a prohibition against eating a כל שהוא?*

שבועה שלא אוכל, ואכל כל שהוא חייב

In the Mishnah (19b), R' Akiva holds that if someone takes an oath that he will not eat, he is liable for violating his oath as soon as he eats even the smallest amount (כל שהוא), even less than the volume of an olive (כזית). The Chachamim question the opinion of R' Akiva and they note that we never find that a person is liable for eating a כל שהוא, so why is it that he should be liable for eating this miniscule amount here?

Tosafos notes that even Chachamim are aware that in a case of a person's original acceptance of an explicit oath that he would not eat even a כל שהוא, there is no question that the speaker is liable as soon as he eats that small amount about which he spoke. Nevertheless, Chachamim hold that if the person did not specify a כל שהוא, the amount the person intended is understood to be the amount necessary for any other legal situation of eating, which is the amount the volume of an olive.

Chasam Sofer notes that the Gemara itself seems to ask the question of Tosafos. On the last line of כא the Gemara asks against the Chachamim who say that we do not find anyone being liable for eating a כל שהוא that he should be liable in this case of an oath. The Gemara questions that we in fact do find liability for a כל שהוא in a case of מפרש, where a person specifies that he is prohibiting upon himself even a crumb. Why did the Chachamim not recognize this case as an example of a כל שהוא? The Gemara answers that when a person explicitly states that he is prohibiting upon himself even a כל שהוא, that amount takes on the status of a בריה, a item of self-contained significance, and it is therefore prohibited. However, in general, this small amount remains without legal significance.

Why did Tosafos deal with a question which the Gemara itself asks, and why did Tosafos give a different answer than the Gemara? Chasam Sofer explains the difference. The Gemara was dealing with the words of Chachamim when they said that we never find liability when the amount eaten is less than a כזית, and the Gemara was bothered, because the fact is that we do find such a case, where the person is מפרש. Tosafos, however, was dealing with a different issue. Realizing that Chachamim agree that a person is חייב for a כל שהוא in a case of מפרש, why do they not recognize that a שבועה in general should include prohibiting food to this extent, even without מפרש? Tosafos answers that it is only in

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# HALACHAH Highlight

## The punishment for a false or vain oath

ב"ד של מעלה אין מנקין אותו וכו'

The Heavenly Beis Din does not absolve him etc.

Rambam<sup>1</sup> writes that although one who takes a vain or false oath is subject to lashes he is not fully atoned for his sin since the verse states, 'לא ינקה ה' – Hashem will not absolve. In other words, a person cannot be fully absolved of his Heavenly liability until he is punished for the desecration of Hashem's name that he caused by his oath. Ra'avad<sup>2</sup> expresses surprise at this ruling. Our Gemara teaches that Beis Din administers lashes and the sinner is thereby absolved. Accordingly, just as any person who is liable to death in the hands of Beis Din, once he confesses and receives his punishment is absolved of his transgression, so too, the one who made the oath should be absolved once he received lashes from Beis Din.

Kesef Mishnah<sup>3</sup> cites Sefer Habatim who explains that the forgiveness that results from lashes only means that the person is again fit to give testimony but he is not absolved from his Heavenly liability until he is punished from Heaven. This is similar to the statement of Chazal recorded in the Gemara Yoma (86a) that even repentance does not atone for the sin of a false or vain oath. Along the same lines, Radvaz<sup>4</sup> writes that one who takes a false or vain oath deserves punishment for the oath as well as for the desecration of Hashem's name that re-

(Insight...continued from page 1)

a case of מפרש that a כל שהוא has any significance. Without an explicit specification, Chachamim continue to assume that a person who makes an oath is only prohibiting upon himself an amount which is legally valid in general, which is a כזית. ■

sults. The lashes administered by Beis Din atone only for the false oath but does not absolve him for the desecration of Hashem's name. Hashem is the one who exacts retribution for the sin of a desecration of His name.

Toras Chaim<sup>5</sup> points out that the sin of a false or vain oath is different from other prohibitions. Concerning other prohibitions one receives either lashes or in the event he was not properly warned he is punished by Heaven. Regarding oaths one receives two punishments, one in the hands of Beis Din and one from Heaven, as a matter of course. In the event one does not receive lashes from Beis Din his Heavenly punishment increases. For this reason the Torah uses the phrase, 'כי לא ינקה' – for Hashem will not absolve, in reference to oaths to teach that even if he receives lashes he is not fully absolved. He is still subject to punishment in the hands of Heaven but that punishment will be lessened since he received lashes by Beis Din. ■

1. רמב"ם פ"ב מהל' שבועות ה"א.
2. ראב"ד שם.
3. כסף משנה שם.
4. רדב"ז על הרמב"ם הנ"ל.
5. תורת חיים ד"ה ה' הוא. ■

# STORIES Off the Daf

## An Unfulfilled Oath

"שבועה שלא אוכל כבר זה..."

Today's daf continues to discuss shevuos, where one vows not to do something.

A certain man who often served as baal kri'ah and chazan once felt very insulted and vowed not to go up to the bimah anymore. After a while, the congregation felt stymied since he was by far the best chazan and baal kri'ah available, but what could they do? When someone recalled that shevuos do not take effect on mitzvos, they wondered if going up to the bimah is a mitzvah. Although going up to the teivah is a good thing, presumably it is not an obligation. If that is the

case, they assumed that his oath would have to take effect. Just to be certain, however, they referred the issue to the Tashbatz, zt"l.

When they asked him if the vow had taken effect he ruled that it certainly did not. "After all, when does this man go up to the teivah? When he either davens or reads to discharge the congregation of their obligation. Since doing this fulfills a Torah obligation, it seems obvious that his vow did not take effect.

"Although this sounds surprising, it is clear that both of these fulfill a Torah obligation. We learn that one is prohibited from saying kaddish or kedushah without a minyan from the verse, 'ונקדשתי בתוך בני ישראל' — And I will be sanctified among the Jewish people,' as we find in Berachos 21. That reading fulfills a Torah obligation requires no

proof since even the blessings recited before reading the Torah is a Torah obligation. Therefore this vow is the same as vowing not to go in a sukkah which cannot take effect."<sup>1</sup>

Rabbi Akiva Eiger, zt"l, objected to this reasoning, however. After explaining similarly that reading is not a Torah obligation, he also disputes the first point of the Tashbatz. "The verse 'ונקדשתי בתוך בני ישראל' discusses sanctifying God's Name. The Gemara in Berachos extrapolates from there that one must also recite kaddish and kedushah 'among a considerable group' which is a minyan. But this does not prove that kaddish and kedushah fulfill the Torah mitzvah of 'ונקדשתי'!<sup>2</sup> ■

1. שו"ת תשב"ץ, ח"ב, ס' קס"ג
2. גליון השי"ס, ברכות כ"ב ע"ב ■