

OVERVIEW of the Daf

1) Inclusive prohibitions – איסור כולל (cont.)

A sixth and final resolution to the challenge to the principle of inclusive prohibition presented by Rava bar Rabbah is recorded.

2) **MISHNAH:** The Mishnah elaborates on the scope of the oath of utterance. Examples of oaths related to intangible or non-beneficial matters are presented. The Mishnah concludes with a presentation of a dispute between R' Yishmael and R' Akiva whether one is liable for oaths regarding the past.

3) Oaths and vows

A Baraisa is cited that contrasts the relative strengths of oaths and vows.

4) Clarifying the Mishnah

The case of an oath that pertains to others is explained.

The Mishnah's case of an oath that one will not sleep is unsuccessfully challenged.

Rav and Shmuel disagree whether one is liable for taking an oath that Ploni threw a stone or did not throw a stone.

Each opinion explains the rationale behind his position.

It is suggested that this dispute parallels the dispute in the Mishnah between R' Yishmael and R' Akiva.

This parallel is rejected.

Another unsuccessful attempt to draw a parallel between Rav and Shmuel's dispute and a dispute between R' Yehudah ben Besairah and Rabanan is recorded.

Shmuel's position that one is not liable since the oath cannot be worded in the future is unsuccessfully challenged twice.

Abaye elaborates on Rav's position.

A challenge to Rav's opinion is presented.

This challenge leads the Gemara to a dispute between Abaye and Rabanan why there is a separate mention of the prohibition of testimony.

Rava offers a rationale why one who testifies falsely is not liable to any more than one korban.

A contradiction between Abaye's explanation and another ruling of his is noted and resolved. ■

Distinctive INSIGHT

We have taken an oath at Sinai to observe the mitzvos

מושב ועומד מהר סיני

The Mishnah taught that an example of a שבועת ביטוי – an oath of utterance – would be if someone says that he will give or not give something to another person. If the speaker does not fulfill his words, he is in violation of that oath. The Gemara poses a question against this, because if the giving or not giving is to a poor person, the oath is actually in support of or in violation of a Torah command, and such vows are not binding because the person is מושבע ועומד – he is in a constant state of being under oath to perform the mitzvah of giving tzedakah. Therefore, his additional verbal acceptance of an oath in this regard has no legal meaning.

רש"י notes that Tosafos Yom Tov understands that the question in our Gemara is in regard to the oath where the person said, "I will give." This oath is in support of the mitzvah of giving tzedaka, and it should not be valid. This is also how Tosafos (23b, ד"ה דמוקי) understands the Gemara's question, that an oath to reinforce the fulfillment of a mitzvah is not binding.

Tosafos in Nedarim (8a, האומר, ד"ה) had a different reading of the text in our Gemara. Tosafos mentions that in our Gemara in Shevuos, when a person takes an oath not to give tzedaka to someone, this oath should be invalid, as it is in conflict with the negative command not to withhold money from the poor.

Obviously, the text Tosafos had in our Gemara was that an oath to violate a mitzvah is not valid, and not as we mentioned above, that the point is that an oath to fulfill a mitzvah is not valid.

The Rishonim discuss the underlying reason why an oath in reference to mitzvah observance is not valid. בעל

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REVIEW and Remember

1. Is an oath on intangible matters a valid oath?

2. Explain the dispute between Rav and Shmuel.

3. What is the point of dispute between R' Yehudah ben Beseirah and Rabanan?

4. Why is one obligated to bring only one korban for a false oath of testimony?

HALACHAH Highlight

Is there an obligation to wear tefillin all day long?

אלא "לא הנחתני" מי איתיה בלא אניח

When it comes to an oath that, "I did not don them" is it possible for an oath to be made that one will not don tefillin?

Shulchan Aruch¹ rules that there is a mitzvah for a man to wear his tefillin the entire day. Beior Halacha² wonders about the origin of this obligation. Is it a Biblical obligation or perhaps the Biblical obligation is to put on tefillin for a moment and Chazal enacted that a person should wear his tefillin a whole day long? Pri Megadim seems to conclude that the Biblical mitzvah is fulfilled when a person wears tefillin even for a moment but it is a better-quality mitzvah if a person were to wear his tefillin a whole day. Yeshuos Yaa-kov, however, maintains that the Biblical obligation is to wear tefillin for the entire day. Based on this position he wonders how the rabbis could decide that since people do not maintain a "clean body" tefillin should only be worn during davening. The need for a clean body is only a Rabbinic concern so there is no reason that it should override the Biblical command to wear tefillin the entire day.

The father of the Shoel U'Meishiv³ suggested that there is proof from our Gemara that there is a mitzvah to wear tefillin all day long. Shmuel maintains that an oath that cannot be made towards the future cannot be an oath even when it is relevant to the past. The Gemara challenges this from the Mishnah that discusses an oath made that a person did not wear tefillin that day. Seemingly this is an oath that

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אין איסור חל על **המאור** explains that the reason for this is **על** **איסור**, once something is forbidden, a second aspect of its being forbidden cannot be added. Here, too, once the Torah disallows withholding tzedakah from a fellow Jew, a person cannot declare an oath to add an additional level of this act's being restricted. **אבני מילואים** explains that this is not the classic application of this rule, but the **בעל המאור** is using it to demonstrate that we do not allow a new oath to apply to a situation where an oath from Har Sinai is already in place, and we all vowed at Sinai to keep all the mitzvos.

Ramban explains that the mitzvah to keep one's word only applies by elective actions, as the verse states "לא יחל לא יחל" – one shall not profane his words." With the verse using the term "דברו," we learn that it refers only to where the oath refers to his words, and not to a mitzvah, which is a commitment which is imposed upon him by the Torah. ■

cannot be made towards the future since one cannot take an oath to nullify a mitzvah. The father of the Shoel U'Meishiv observes that since the Mishnah is discussing one who takes a false oath related to his wearing tefillin already that day it must be that the Biblical command is to wear tefillin all day long. If it were so that the mitzvah of tefillin is fulfilled by wearing tefillin for a moment he should be able to make an oath towards the future since it would not be an oath to nullify a mitzvah. Shoel U'Meishiv rejects the proof from our Gemara but for reasons related to Shmuel's position rather than a weakness of the inference itself. ■

1. שו"ע או"ח סי' ל"ז סעי' ב'.
2. ביאור הלכה שם ד"ה מצותן וכו'.
3. מובא דבריו בשו"ת שואל ומשיב רביעאה סי' נ"ב. ■

STORIES Off the Daf

The Obligation to Give

"צדקה לעני מושבע ועומד מהר סיני הוא..."

On today's daf we find that one is already oath-bound to give tzedakah since receiving the Torah on Har Sinai.

Rav Meir Shapiro of Lublin, zt"l, was legendary for his brilliant tactics at helping wealthy people fulfill their obligation to give tzedakah. One very wealthy man offered Rav Meir a one hundred dollar bill as a donation. When handed the money, Rav Meir suggested, "Such an accomplished mer-

chant as yourself must surely know how to count to two..."

The man gave another hundred.

Rav Meir added, "But aren't you afraid of zugos? After all, the Gemara tells us to avoid doing things in pairs..."

This caused the wealthy man to hand over a third hundred.

On another occasion Rav Meir went to see a very wealthy man who was known to be quite stingy with tzedakah. When Rav Meir told him that he was soliciting funds for Yeshivas Chachmei Lublin, the wealthy man became very self-righteous. "It is a sin to ask me for money! People who say that I have mon-

ey lie. I simply cannot afford to take the bread from my mouth and give it to feed the yeshiva!"

Rav Meir looked around the man's plush home and decided to help this man overcome his greed with some gentle humor. "I don't understand. You want to violate all the sins and not leave even one sin for me? I also want to do a sin. The 'sin' of asking you to give money to the yeshiva..."

The wealthy man had a complete change of heart and removed a very full wallet from his pocket. "Rebbe, take as much as you want..."¹ ■

1. רבי מאיר אומר, ע"י 184 & 187. ■