

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah presents a dispute between Rabanan and R' Yehudah ben Besaira whether an oath to nullify or fulfill a mitzvah is effective.

2) Oaths to violate a mitzvah

A Baraisa presents the expositions related to the Mishnah's ruling regarding oaths to nullify or fulfill a mitzvah. The Baraisa also discusses one who takes an oath to harm or do good for himself or to others.

The assumption that the pesukim discuss optional matters is analyzed at length.

3) The exchange between Rabanan and R' Yehudah ben Besaira

The Gemara records the exchange between Rabanan and R' Yehudah ben Besaira that picks up where their exchange in the Mishnah leaves off.

4) **MISHNAH:** The Mishnah begins with the halacha of one who makes multiple oaths for the same thing. The end of the Mishnah introduces the prohibition of making a vain oath.

5) Clarifying the Mishnah

The Gemara clarifies the wording of the Mishnah that addresses the different oaths to prohibit the same item.

The necessity to mention that a third oath is not effective is explained.

Part of the Gemara's explanation included Rava's teaching that if one is released from one oath a subsequent oath will replace it.

Support for Rava's ruling is presented but rejected.

6) Release from an oath

(Continued on page 2)

REVIEW and Remember

1. What is the point of dispute between Rabanan and R' Yehudah ben Besair?

2. What is the point of dispute between R' Yoshiya and R' Yonasan?

3. What is the punishment for making a vain oath?

4. According to Rava, when is the latest time one could ask to be released from an oath not to eat a loaf of bread?

Distinctive INSIGHT

An oath taken to cancel fulfillment of a mitzvah

נשבע לבטל את המצוה ולא ביטל פטור

The Mishnah discusses the case of an oath which is taken to violate a mitzvah. This oath is not valid, and if the speaker actually violates his oath and fulfills that mitzvah, he is not required to bring an offering, which is the normal consequence of non-compliance with one's oath. Yet רש"י notes that the wording of the Mishnah should have been that an oath to cancel a mitzvah is meaningless, and to do the mitzvah is completely permitted (מותר), rather than saying פטור, that the speaker is exempt from penalty and does not have to bring an offering if he does the mitzvah. By using the word "פטור," the Mishnah seems to suggest that the speaker should preferably keep his oath and not do the mitzvah, but if he does the mitzvah instead, he is not liable for failure to keep his oath. How are we to understand the Mishnah's lesson?

In his Commentary to the Mishnah, Rambam writes that the ruling of the Mishnah is specifically in reference to the offering for violating an oath. One who takes an oath against fulfilling a mitzvah is exempt from bringing an offering in regard to this oath of utterance (שבועת ביטוי), but he would be liable for מלקות for his having pronounced a שבועת שוא.

רש"י also presents a different approach to explain the wording of the Mishnah. An oath against fulfilling a mitzvah can take effect if it is done as a שבועה כוללת, where the oath was pronounced together with a reference to other items for which the oath can be binding. The Yerushalmi (Halacha 4) clearly notes that since (מינו) the oath takes hold in regard to the elective activity, it also takes effect regarding the declaration not to do the mitzvah. Nevertheless, the Mishnah rules that if the speaker does do the mitzvah, he does not bring an offering for not having kept his word. The reason is that the verse describes that this halacha only applies "להרע או להטיב"—when the oath relates to elective actions," and not to mitzvah activities.

The Rishonim discuss whether the halacha in the Mishnah applies when an oath is taken against fulfilling a mitzvah that is not obligatory. In other words, if a person takes an oath not to sit in a sukkah on the first night of the festival, this oath is null and void. What if a person took an oath not to sit in a sukkah for the other days of the festival of Sukkos, when residing in a sukkah is not required (unless a person eats a substantial food, or he goes to sleep)? Rambam (Hil. Shvu'os 1:6) and Tashbetz (1:#100) rule that this oath

(Continued on page 2)

HALACHAH Highlight

Is a person permitted to wound himself?

יכול נשבע להרע לעצמו וכו'

I might think that one who took an oath to harm himself etc.

The Gemara teaches that one who takes an oath to harm himself is obligated to observe that oath since it falls into the category of elective activities. Tosafos¹ explains that our Gemara follows the opinion that maintains that one is permitted to wound himself. The debate of whether a person may wound himself is recorded in the Gemara Bava Kamma (91b). Rambam² rules in accordance with the position of R' Elazar Hakapar who disagrees with our Gemara and maintains that one is not permitted to inflict harm upon himself. Furthermore, even one who, out of piety, refrains from meat and wine is behaving improperly and is called a sinner. Rashba³ explains that since the Gemara Taanis (11a) relates that Shmuel, an Amora, followed the opinion that inflicting harm upon one's self is prohibited it must be that this opinion represents the halachically accepted opinion.

Tur⁴ cites the opinion of Ramah who holds that a person is permitted to wound himself. Shitah Mekubetzes⁵ explains that the source for this ruling is the practice of R' Chisda recorded in the Gemara Bava Kamma who would lift his garment so that it should not rip even though it meant that thorns would scratch his skin. Yam Shel Shlomo⁶, however, adds

(Overview...continued from page 1)

Rava rules that if an olive's volume of a loaf remains one can be released from an oath not to eat that loaf, but if less than that volume remains he cannot be released from his oath.

The Gemara begins to analyze this ruling. ■

that even according to Ramah one is only permitted to wound himself if there is a need, similar to R' Chisda's practice, but when there is no necessity for a person to wound himself it is prohibited.

Shulchan Aruch⁷ also rules that it is prohibited for one to harm himself. Shulchan Aruch Harav⁸ sets the guidelines of the prohibition as follows. One does not have authority over his own body, not to strike himself, not to embarrass himself, nor to cause himself pain. Even pain that is the result of a person denying himself food and drink is prohibited. The only exception to this rule is a person who, as an act of penitence, refrains from eating or drinking something since in such a circumstance it is considered a positive act to save himself from punishment. ■

1. תוס' ד"ה אביא.
2. רמב"ם פי"ג מהל' דעות ה"א.
3. שו"ת הרשב"א ח"א סי' תל"א.
4. טור חו"מ סי' תי"ב.
5. שיטה מקובצת לבי"ק צ"א:.
6. ים של שלמה שם פי"ח סי' נ"ט.
7. שו"ע חו"מ סי' תי"ב סעי' ל"א.
8. שו"ע הרב חו"מ הל' נזקי גוף ונפש סעי' ד'. ■

STORIES Off the Daf

A Hasty Decision

"נשבע על ככר ואכלה..."

A certain man was eating an elaborate Shabbos meal at the home of a wealthy family. Although he was very friendly with those present, he was known to have something of a temper which made him do rash things that he would later regret. One resplendent course followed the others, until a desert of succulent grapes was served.

At that exact moment the host said something that his guest misunderstood as an insult. The statement immediately ignited the man's ire. In his anger the guest declared, "I swear that I will not eat even one of these grapes!"

After a short time, the host explained what he had meant and the guest apologized for his outburst. In the same short time the grapes were almost completely consumed, yet the host offered the last four or five to the guest, if he was permitted to annul his oath. Of course it is permitted to annul an oath on Shabbos for the sake of Shabbos, but in this instance they wondered if this was permitted. After all, less than a k'zayis of the grapes remained. Perhaps they were not important enough to annul a vow regarding them.

When this question was brought before the Ben Ish Chai, zt"l, he replied that the guest could definitely annul his oath. "In Shevuos 27 we find that if one vowed not to eat a particular loaf of bread, and less than a k'zayis remained, his oath cannot be annulled since what

remains is not important enough for annulment. Tosafos comments there that this is only if his oath was not to eat an entire loaf. Since people often leave over some bread from a loaf, if less than a k'zayis remained it is not significant. But if one swore not to eat even a little, he can annul this vow if it was explicitly regarding less than a k'zayis. It is therefore clear that this man may annul his vow."¹ ■

1. שו"ת תורה לשמה, סמין קי"ב ■

(Insight...continued from page 1)

is also not valid. Rashba writes that because this mitzvah is elective, the oath is valid. If a poor person is not asking for money, although giving him money would be a mitzvah, taking an oath not to give tzedaka to him would be a valid oath. ■