

OVERVIEW of the Daf

1) An oath related to the past

A Baraisa is cited that elaborates on the dispute between R' Akiva and R' Yishmael regarding whether one is liable for an oath related to the past.

R' Yochanan further explains that the basis of this dispute relates to their respective styles of exposition.

An example of R' Akiva's style of expounding amplifications and limitations is presented.

An example of R' Yishmael's style of expounding generalizations and specifications is presented.

R' Yitzchok clarifies a point related to R' Yishmael's style.

R' Yitzchok bar Avin offers an alternative explanation of R' Yishmael's conclusion.

Another Baraisa further expounds the earlier-cited pasuk.

The Gemara elaborates on the teachings of this Baraisa.

R' Elazar clarifies a point in the Baraisa.

Two versions of a discussion between R' Yosef and Abaye about R' Elazar's clarification are presented.

Rava and R' Nachman discuss whether one is liable if there was concealment for the oath and the article.

R' Ashi and Ravina further clarify this topic.

Rava and R' Nachman begin a discussion related to how one could be liable for swearing falsely about something from the past.

Ravina and Rava discuss whether one is considered in violation of his oath if he felt compelled to eat the loaf he

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REVIEW and Remember

1. What is the point of dispute between R' Akiva and R' Yishmael?

2. What was the fundamental stylistic difference between R' Nechunya ben Hakanah and Nachum Ish Gam Zu?

3. What is an example of an inadvertent oath of utterance pertaining to the past?

4. What is it necessary for those making pledges to the Mishkan to articulate their pledge for it to become a binding obligation?

Distinctive INSIGHT

An oath must be verbalized

ולא שגמר בלבן להוציא בשפתיו ולא הוציא

Shmuel taught that an oath is only valid if it was actually verbalized. It is not binding, however, if a person thought about making an oath but never pronounced it with his lips.

A Baraisa is brought to challenge this ruling of Shmuel. The Baraisa states that an oath is certainly valid if it is pronounced, as the verse states (Vayikra 5:4), "uttering with his lips." Another phrase in that same verse extends the rules of oaths, when it says, "for anything which a person will utter with his lips." This teaches us, says the Baraisa, that a person is responsible for an oath which he thought about and decided that he would verbalize, even if he never actually uttered the words. As soon as a person has in mind that he would pronounce an oath, he is responsible for it.

Rav Sheishes explains how to resolve the statement of Shmuel and the ruling of the Baraisa. If a person decided to take an oath, and he thought in his mind that it would not be valid until such time as he actually verbalizes it, this oath is not yet valid. This is the case of Shmuel, and the Baraisa would also agree that the oath is meaningless until it is spoken. However, if a person thought about making an oath, and he did not clearly think about when it would or would not take affect (סתם), this unconditional and undefined oath is effective immediately. This is the case in the Baraisa, and as soon as the person decided that he would declare the oath, it is valid even before he verbalizes it.

Meiri writes that if a person pronounces an oath and he immediately retracts it within a moment (תוך כדי דיבור), the oath is nullified. The validity of the oath was dependent upon its being verbalized, and the statement that was made was reversed. If, after verbalizing an oath, a person thought in his heart that the oath is null, this reversal is meaningless. Just as an oath must be spoken in order to be valid, so too must a retraction be spoken with one's lips in order to be valid.

Rambam (Hilchos Nedarim 2:2) rules that a vow (נדר) shares this same halacha with oaths, and a vow is only valid if it is spoken, and not only when it is considered in one's mind. Sefer Shu"r Qרבנן (to Yerushlami, Gittin 40a) asks why this is true, because a vow should be in the realm of consecration (הקדש), which, according to the conclusion of the Gemara, is valid immediately when decided upon in one's mind. The verse from which Shmuel learns that an oath must be verbalized uses the phrase "לבטא בשפתים," but this phrase is written in reference to oaths, and not vows. He leaves this question unresolved. ■

HALACHAH Highlight

Making an error when accepting to fast

ולא שגמר בלבו להוציא פת חטין והוציא פת שעורין

But not where he intended to say, "wheat bread" and he said, "barley bread."

There was once a man who intended to fast for half a day. When it came time to formally accept the fast, during Mincha the day before the fast, he only mentioned that he was accepting upon himself to fast but neglected to qualify his commitment that it would only be for half a day. As a result he was uncertain whether he was obligated to fast for the entire day, consistent with his verbal commitment, or half a day, consistent with his intent, or not at all since his commitment was inconsistent with his intent. The author of Teshuvos K'nei Bosem¹ was consulted and his conclusion was as follows. K'nei Bosem ruled that the person was not obligated to fast at all since his verbal commitment was not consistent with his mindset. This is derived from the words לבטא שפתים – expressing with his lips – which teaches that one must enunciate with his mouth what he has in his heart. This is also codified in Shulchan Aruch². If a person intended to take an oath to not eat bread made from wheat but he verbalized an oath to not eat bread from barley he is permitted to eat bread from wheat and barley. So too, in our case, since the oath that was verbalized was not consistent with his intent he is not bound by either oath.

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prohibited due to distress over not eating it.

2) Making an oath

Shmuel rules that for an oath to be valid one must utter the oath with his lips.

Two unsuccessful challenges to Shmuel's ruling are presented. ■

Teshuvos K'nei Bosem then suggests that perhaps he should be obligated to fast for half the day. The Gemara teaches that one who intended to make an oath that he won't eat wheat bread but swore that he would not eat bread is prohibited from eating wheat bread. His generic statement is compatible with his intent so he is obligated to keep his oath. Similarly, when the person intended to accept a fast for half a day but he made a generic acceptance to fast for the day, we should say that his generic statement is compatible with his intent and he should be obligated to fast for half the day. He rejects this, however, because fasting the first half of a day is not really considered fasting³. As such it cannot be considered as though his intent to fast for half the day is included in the generic acceptance of a fast the following day. Therefore, it is considered as though he accepted the fast in error and is not obligated to observe the fast altogether. ■

1. שו"ת קנה בשם ח"א אר"ח סי' ל"ג.

2. שו"ע יו"ד סי' ר"י סעי' א'.

3. ע"י שו"ע אר"ח סי' תקס"ב סעי' י'.

STORIES Off the Daf

Under Duress

"פרט לאונס..."

On today's daf we find that one is not obligated to offer a sacrifice for swearing under duress.

A certain man made a שבועה על דעת רבים that he would live with his wife in his father-in-law's city for five years. But when his doctors warned him that living in this city could make him sick since the atmosphere of the city was unhealthy for him, he was at a loss of what to do. A שבועה על דעת רבים can never be annulled. Yet perhaps this constituted a שבועה באונס

which he was not obligated to obey?

When this man consulted with Ramban, zt"l, he ruled that he was required to adhere to his oath. "It is well known that living in the atmosphere one was born in is healthier for him and changing atmosphere is certainly detrimental. Nevertheless, you must adhere to your oath since this is not considered a big אונס, since this is not very detrimental and is in no way dangerous.

"This can be compared to one who ate healthy foods his whole life and suddenly made an oath to eat unhealthy foods. Clearly, he would be required to adhere to his vow. But if this man had a known illness and his doctors say that a hot atmosphere can

lead to danger as a result of this, then in this case he need not live there since this is a שבועה באונס. How is this different than listening to a doctor on Yom Kippur, who insists that a sick man must eat, even if the sick person protests?"

Ramban concluded with a clarification. "But if this is the case the husband requires two witnesses that the doctors really said this and that this is his true opinion—not a result of the husband's request or manipulation. If not we suspect that the husband merely regrets his vow and would prefer to live elsewhere."¹ ■

1. שו"ת מיוחסות לרמב"ן, סימן ער"ב