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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

**Intent and Vows**

The Gemora asks: Is it true that a person swears based on his own understanding (of his words)? But it was taught in a Baraisa: When the judges make a litigant swear, they tell him, “You should know that the oath is not based on your mindset, but rather by our mindset and that of *Beis Din*”? What does this exclude? It is because he might have given him wood chips and he calls these *zuzim* (coins), and therefore he can take this oath! This shows us that (without such a warning) people will swear based on their own understanding!?

The Gemora answers: No (for a person swears according to the simple meaning of his words). The warning (cited above) was to exclude (something similar to) the incident of the reed and Rava. There was a person who was owed money by his friend, and the two of them came before Rava. The lender said: Pay me! The borrower said: I already did! Rava said: Swear that you paid him. The borrower then filled his cane with the amount of money he borrowed and leaned on it while walking to Beis Din. Before he took the oath, the borrower said to the lender, “Hold this cane in your hand (so I can hold the Torah scroll).” The borrower then took a Torah scroll and swore that he had paid whatever was in his hand. When the lender heard this, he got upset and broke the cane, causing the money to fall out. It was apparent that he had sworn the truth (that he had “paid” him all of the money).

The Gemora asks: But still is it true that a person swears based on his own understanding (of his words)? But it was

taught in a Baraisa: Similarly, when Moshe, our teacher, had *Bnei Yisroel* swear in the plains of Moav, he told them: You should know that the oath that you are swearing will not be based on your understanding (of the words), but rather according to my understanding and the understanding of the Omnipresent, for it is stated: *and not with you alone*. Now what did Moshe say to Israel? Surely, he said the following: Perhaps you will do things (against the Torah), and you will then say. “We swore according to our understanding.” Therefore, he said to them: “You are swearing according to my understanding.” What does this exclude? Surely, this is excluding the naming of idols ‘god’ (and they would claim that they are fulfilling all of “God’s” commandments)? This proves that people will swear based on their own understanding!?

The Gemora answers: No. The problem was that an idol is also called a “god.” This is as the verse says: *and against all the gods of Egypt etc.*

The Gemora asks: Why didn’t he just tell them, “Fulfill all the mitzvos”?

The Gemora answers: Mitzvos could be interpreted as the commandments of an ordinary king.

The Gemora asks: Let him make them swear that they should fulfill all the commandments?

The Gemora answers: This could be interpreted to be the mitzvah of tzitzis, as the master stated: The mitzvah of



tzitzis is equivalent to all the commandments in the Torah.

The Gemora asks: So let him make them swear to fulfill the Torah?

The Gemora answers: This implies one Torah (and Moshe wanted them to fulfill the Written Torah and the Oral Torah).

The Gemora asks: Why didn't he make them swear that they should fulfill two Torahs?

The Gemora answers: They would think this refers to the Torah of the *minchah* (flour offerings), the Torah of the *chatas* and the Torah of the *asham*. [*The verse describes the laws of minchah, chatas and ashram sacrifices by saying: this is the Torah of the chatas.*]

The Gemora asks: Why didn't he make them swear that they should fulfill the Torahs and the commandments?

The Gemora answers: Torahs refers to the Torah of the *minchah* (the Torah of the *chatas* and the Torah of the *asham*), and mitzvos could be interpreted to mean the commandments of an ordinary king.

The Gemora asks: He should make them swear to keep the entire Torah!

The Gemora answers: One might say that this means idolatry. This is as was taught in a Baraisa: Idolatry is very stringent, as whoever renounces idolatry is as if he admits to the truth of the entire Torah.

The Gemora asks: Why didn't he make them swear to fulfill the laws against idolatry and the entire Torah! Alternatively, let him make them swear they must fulfill all six hundred and thirteen mitzvos!?

The Gemora answers: Rather, Moshe, our teacher, simply chose the least bothersome method. (25a1 – 25a3)

### **Snakes and Beams**

The Mishnah had stated (as an example of a vow of exaggeration): If I didn't see a snake like the beam of an olive press.

The Gemora asks: Was there not such a big snake? Wasn't there a snake in the years of King Shapur, who was thrown thirteen stablefuls of hay, and it swallowed them all?

Shmuel answers the snake in the Mishnah refers to a ridged snake (*like the beam of an olive press*).

The Gemora asks: Aren't they all ridged?

The Gemora answers: We are saying that it was ridged on its back (which is unusual for a snake).

The Gemora asks: Let the Mishnah simply state: a ridged snake (why mention the beam of an olive press at all)!?

The Gemora answers: The Mishnah is teaching us incidentally that the back of the beam of an olive press is ridged. What is the halachic difference (*that we now have this information*)? It teaches us a law regarding buying and selling - that if someone sells a beam of an olive press to his friend, the law is that if the back of the beam is ridged it is a valid sale, and if not, it is not. (25a3)

### **Mishnah**

The Mishnah discusses accidental vows: For example, if someone says that he forbids himself from something if he ate and drank that day and then he remembers that he in fact did eat or drink. Another case is if someone says that he forbids himself from something if he will eat or drink that day and then he forgets his vow and eats or



drinks. Similarly, if he forbids his wife from having benefit from him because she stole his wallet or hit his son, and then he found out that these allegations are untrue. Similarly, a person saw a group of people eating figs and said that they are all like a korban to him (*forbidden from deriving benefit from him*), and he later saw that his father and brothers were among the group. Beis Shammai says: His relatives are permitted, and the others are forbidden to him. Beis Hillel says: They are all permitted to him. (25b1)

### **Mistaken Oaths**

The Gemora cites a Baraisa: Just as mistaken vows (*as in the Mishnah*) are invalid, so too mistaken oaths are invalid.

The Gemora asks: What is a case of mistaken oaths?

The Gemora answers: This is like an argument between Rav Kahana and Rav Assi. This one said, "I swear that Rav said this," and this one said, "I swear that Rav said this," because each one of them was thinking that they were swearing correctly. (25b2)

### **INSIGHTS TO THE DAF**

#### ***Holding a Sacred Object***

There was a person who was owed money by his friend, and the two of them came before Rava. The lender said: Pay me! The borrower said: I already did! Rava said: Swear that you paid him. The borrower then filled his cane with the amount of money he borrowed and leaned on it while walking to Beis Din. Before he took the oath, the borrower asked the lender to hold his cane for him while he took the oath. The borrower then took a Sefer Torah and swore that he had given the lender whatever he had owed him. When the lender heard this he got upset and broke the

cane, causing the money to fall out. It was apparent that he had "paid" him all of the money.

Rabbeinu Tam understands this *Gemora* to mean that the borrower denied the entire claim and was liable only for a Rabbinic oath (*called a shevuas hesseis*). Nevertheless, he took the Sefer Torah in his hand prior to taking the oath. This would prove that one needs to hold a sacred object even by a Rabbinical oath.

He also presents proof to this from the *Gemora* in Shavuos (41a) which inquires as to the differences between a Biblical oath and a Rabbinical one. The *Gemora* does not offer this difference; namely, that a Biblical oath would necessitate the holding of a sacred object and a Rabbinical one would not. This proves that a Rabbinical oath also required the holding of a sacred object.

The Gaonim disagree and maintain that one is not required to hold a sacred object when taking a Rabbinical oath. The Meiri writes that our *Gemora* cannot serve as a proof against this, for we are discussing a case where the borrower decided himself to hold the Sefer Torah. He did this as a ruse in order to *get* the lender to hold his cane.

According to the Ran's explanation of our *Gemora*, there would be no proof at all. For our *Gemora* is discussing a case where the borrower admitted to part of the claim made against him. Since he wishes to avoid paying the rest of the claim, he is Biblically obligated to take an oath that he does not owe the remainder of the claim. This oath obviously requires him to hold a sacred object.

### **DAILY MASHAL**

#### ***Six Hundred and Thirteen Mitzvos***

It is evident from the *Gemora* that accepting an oath to fulfill the six hundred and thirteen *mitzvos* is exactly the same as accepting an oath to keep the entire Torah. Reb

Avi Lebowitz wonders if this is really true. Firstly, the Ramban at the beginning of *sefer hamitzvos* discusses the possibility that the six hundred and thirteen *mitzvos* is not an actual count and it is not necessarily accepted by all sources. Even if we are to assume that our *Gemora* holds of the six hundred and thirteen *mitzvos* idea (as the *Gemora in Makkos* seems to indicate) as do all the Rishonim who list the *mitzvos*, aren't there still other "mitzvos" in the Torah that are not counted in the six hundred and thirteen *mitzvos*? There are many *mitzvah* concepts that would qualify as "*ratzon ha'torah*", even if not an absolute obligation, and by only accepting the six hundred and thirteen *mitzvos*, we would seemingly not be accepting all the thousands of other points that the Torah wants us to accept! How can the six hundred and thirteen *mitzvos* be the same as an oath on the entire Torah?

Reb Yossie Schonkopf suggests that the six hundred and thirteen *mitzvos* is the root for all *mitzvos* and as such encompass all of Torah.

### ***The Ra"n Elucidated***

**Accidental Vows** - The Mishnah discusses accidental vows. For example, if someone says that he forbids himself from something if he ate and drank that day and then he remembers that he in fact did eat or drink. Another case is if someone says that he forbids himself from something if he will eat or drink that day and then he forgets his vow and eats or drinks. Similarly, if he forbids his wife from having benefit from him because she stole his wallet or hit his son, and then he found out that these allegations are untrue. Similarly, a person saw a group of people eating figs and said that they are all like a *korban* to him (*forbidden from having benefit from him*), and he later saw that his father and brothers were among the group. Beis Shamai says: His relatives are permitted, and the others are forbidden to him. Beis Hillel says: They are all permitted to him.

The Ra"n explains: Beis Hillel's reason is that a *neder* of which part of it has been released is released entirely. This means that they are permitted even without petitioning a sage. The reason is that since, had he known that his father or his brothers were with him, he would have excluded them, he was mistaken in the essence of the *neder*, because he never intended it to apply to his father. And whenever there is a mistake in the essence of the *neder*, his mouth and his heart are not equal, so it is automatically null. For this reason, in the case of "*Konam my wife to have benefit from me,*" it is required that he say explicitly "because she stole my wallet." For if not, even though his intention was because of that, since his intention was nonetheless to make a *neder* against his wife, there is no mistake in the essence of the *neder*. But here, where he never intended to make a *neder* against this person, the *neder* is automatically null.