

Daf Notes

Insights into the Daily Daf

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Daily Daf

To eat, or not to eat?

The *Mishna* says that one is liable if he promises *she'ochal* – *that I will eat*, and then does not eat, indicating that *she'ochal* **obligates** eating. The *Gemora* objects to this from a *braisa*, which lists *she'ochal* as a case of a promise which **prohibits** eating. The *Gemora* gives two answers:

1. The *braisa* is a case where someone was trying to convince him to eat, and he was refusing. In that context, if he said *she'ochal* he means that he is **prohibiting** whatever he will eat. (Abaye)
2. The *braisa* is a case where he said *she'ee ochal* – *that I will not eat*, and is teaching that we do not assume that the person meant to say the more common *she'ochal*, but simply misspoke. (Ravina)

Forms of Shevuah

The *braisa* discusses the various languages that mean a *shevuah* – *a promise*. The *braisa* says:

1. *mivta* – *expression* means a *shevuah*
2. *isar* – *prohibition* means a *shevuah*
3. The prohibition of *isar* depends: if *isar* means a *shevuah*, it is effective, and one is liable for violating it. Otherwise, one is not liable

The last two statements of the *braisa* seem to be inconsistent, since once the *braisa* seems to say that *isar* is an expression of *shevuah*, there is no room to debate what its effectiveness is.

Abaye says the *braisa* is saying that the word *mivta* itself expresses a *shevuah*, while the word *isar* is a form of attaching to an existing *shevuah* prohibition, just like someone who swore he will not eat a loaf of bread, and then states that another loaf should be like this one. The *braisa* therefore concludes that the status of one who expressed a prohibition as *isar* depends on whether one who attaches to an existing *shevuah* is effective – if it is effective, so is *isar*, and otherwise not.

Abaye explains that *isar* is used by the verse in conjunction with *shevuah*, indicating that *isar* is a form of attaching to an existing to an existing *shevuah*. However, *mivta* is also used in the verses on its own to express a prohibition, when the verse says that if a woman marries, and “her oaths are in effect, or *mivta sefaseha* – *the expression of her lips* which she prohibited are in effect.”

Rava says that attaching to an existing *shevuah* is not effective, and explains the *braisa* differently. The *braisa* is instead teaching that both *mivta* and *isar* are expressions of a *shevuah*. The end of the *braisa* is stating that since the verse uses the word *isar* between expressions of *shevuah* – *promise* and *neder* – *oath on an object*, it can be used both as a form of either one, depending on the expression used. If it was expressed as a prohibition on the person, it is a *shevuah*, while if it was expressed as a prohibition on an object, it is a *neder*.

Hatfasah - attaching

The *Gemora* explains that these explanations are consistent with an existing dispute between Abaye and

Rava about *hatfasah* – attaching to an existing prohibition. Abaye says that one who attaches to an existing *shevuah* is tantamount to a *shevuah*, while Rava says it is not.

The *Gemora* cites a *braisa* as a possible proof to Abaye. The *braisa* says that an example of *isar* stated in the Torah is one who accepts to not eat meat or drink wine on a certain day “like another such day” (e.g., day his father died, day someone else died, day Gedalia died, day he saw Yerushalayim in its destruction). Making such a statement prohibits him from eating meat or drinking wine on that new day.

Shmuel explains that the *braisa's* case is one who had already made an oath to accept such restrictions on these original days, and is now attaching the new restrictions to the original ones.

The *Gemora* says that Abaye will explain that just as one who attaches a new oath to an existing oath is effective, so one who attaches a new promise to an existing promise is effective.

Rava does not agree that attaching to a promise is effective, making this *braisa* difficult for him to explain.

The *Gemora* answers that Rava will explain that the *braisa* is simply explaining that the method of taking an oath is to *explicitly* accept restrictions (such as eating meat or drinking wine). If he is attaching it to an existing prohibition, he must attach to one created by an oath, as the verse says “a man *ki yidor neder* – when he will make a vow to an oath”. The extra word *neder* – oath teaches that an oath that attaches must attach to an *oath*, not another prohibition.

The *Gemora* explains that although it is obvious that this works when attaching to an oath on meat on his father's *yahrtzeit*, the *braisa* is teaching us that it even works when attaching to an oath on meat on the fast of Gedalia. Since all eating is already prohibited on this day, we would have thought that an oath to restrict meat on the fast of Gedalia is not in effect, making it impossible to attach to. The *braisa* teaches that the oath is in effect, and one can attach to it.

Rabbi Yochanan also agrees with Rava that the term *isar* is like *mivta*, both meaning *shevuah*, since Ravin quotes him saying that if one says “*mivta* I will not eat from you” or “*isar* I will not eat from you”, it is considered a *shevuah*.

False – now or later?

Rav Dimi quotes Rabbi Yochanan saying that there are three types of prohibitions due to statements:

| Statement | Circumstance | Prohibition |
|------------------------------------|--------------------|---|
| I ate/didn't eat | False statement | <i>Shevuahs shav</i> – a useless promise |
| I will eat/not eat | Violates | <i>Shevuahs sheker</i> – false promise |
| <i>Konam</i> – prohibiting an item | Benefits from item | <i>Bal yachel dvaro</i> – not trivializing his word |

This statement is classifying any promise which is false at the time it's made (i.e. a false promise about the past) as *shav* – useless, while limiting *sheker* – false to a (future) promise which could have been true, but was made false by the future.

The *Gemora* challenges this from a *braisa*, which says that the prohibitions of *shav* and *sheker* are equivalent. The *Gemora* assumes that the equivalence is that they are both cases of a promise about the past, which conflicts with Rabbi Yochanan's statement that a promise about the past is *shav*, while *sheker* is only a promise about the future.

The *Gemora* answers that the *braisa* is not referring to the tense of the two prohibited promises, but rather stating that they were both stated simultaneously in the *aseres hadibros* – the ten commandments. The Torah records two versions of the *aseres hadibros*, with some linguistic differences between the two, and the *Gemora* says that when the *dibros* were given, Hashem said both versions simultaneously. The *Gemora* says this is similar to the difference in the commandment of Shabbos stated in the *aseres hadibros*, with the first stating *zachor* – remember, and the second stating *shamor* – guard.

The *Gemora* objects that in the case of Shabbos, these two simultaneous words teaches us something. From the equation of *zachor* (the positive commandments) and *shamor* (the negative prohibitions), we learn that whomever is obligated in *shamor* is obligated in *zachor*. Therefore Rav Ada bar Ahava learns that women are

obligated in the positive command of *kiddush* from *zachor*, although it is time limited, since they are obligated in *shamor*. However, there doesn't seem to be a lesson learned in the case of *shav* and *sheker*.

The *Gemora* gives two answers:

1. We learn that just as one receives lashes for violating the prohibition of a *sheker* promise, by violating the promise, so he receives lashes for uttering a *shav* promise. The *Gemora* explains that although both are prohibitions, we may have thought (like Rav Pappa initially did) that the verse that says that “*lo yenakeh Hashem – Hashem will not cleanse him [one who makes a shav promise]*” indicates that there is no cleansing for such a transgression, even in a court by lashes. Therefore, the *braisa* teaches us (like Abaye answered Rav Pappa) that the verse says only that *Hashem* will not cleanse him, but the court will, by administering lashes.
2. They are equivalent in the obligation to bring an *oleh v'yored – sliding scale sacrifice*. The *braisa* is teaching that just as one brings an *oleh v'yored* on a *sheker* (*future*) promise that he ultimately violated, so is he obligated on making a *shav* (*past*) promise. This follows the opinion of Rabbi Akiva, who obligates an *oleh v'yored* for both types of promises.

INSIGHTS TO THE DAF

Isar

By: Reb Yechezkel Khayyat

Abaye and Rava debate the explanation of the *braisa's* seemingly conflicting statements about the term *isar*.

The Rishonim differ in their understanding of Abaye and Rava's position, and how they explain the *braisa*.

Abaye says that *isar* is a form of *hatfasah* – attaching to an existing promise. Rashi says that Abaye means that the term *isar* itself implies *hatfasah*, so that one who uses the term is tantamount to saying that this bread is like another one, which is already prohibited by a *shevuah*. Furthermore, Rashi implies that according to Abaye the person need not explicitly state a prohibition when actually using *hatfasah*. Rashi says that Abaye explains that the *braisa* first is stating that *isar* is tantamount to *hatfasah*, and then states that the status of one who

expresses *isar* depends on whether *hatfasah* on a *shevuah* is effective.

Tosfos challenges Rashi's reading with four questions:

1. According to this reading, the *braisa* begins by asking what the status of *isar* is, but never definitively answers the question.
2. It is not the general practice of *braisas* to leave a *halachic* question unresolved. *Braisas* and *Mishnas* teach a certain position on a *halachah*.
3. If Abaye is explaining that the *braisa* is unsure about the effectiveness of *hatfasah*, why do we then say that Abaye is consistent with his other dispute with Rava, where he categorically states that *hatfasah* on a *shevuah* is effective?
4. The more common text reads, “if *hatfasah* .. like a *shevuah*, and he is liable”. Rashi removes the *and* to make it fit in his reading, as the *braisa* is saying, “if *hatfasah* is like a *shevuah*, [then] he is liable”. Tosfos objects to modifying the more common text.

Tosfos therefore offers the following alternate explanations of the *braisa's* statements, according to Abaye:

1. The *braisa* is stating that *mivta* itself means prohibiting as a *shevuah*, but *isar* means prohibiting via *hatfasah*. The *braisa* therefore concludes, “If the person used *hatfasah*, by saying that this bread will be like the bread already prohibited by a *shevuah*, that is tantamount to explicitly prohibiting with a *shevuah*, and he is liable. If he just used the word *isar*, that is not tantamount to a *shevuah*, and he is not liable”
2. The *braisa* is requiring him to explicitly state a prohibition on the new bread. The *braisa* therefore concludes, “If he stated the prohibition and *hatfasah*, that is tantamount to an explicit *shevuah*, and he is liable, but otherwise it is not tantamount to a *shevuah*, and he is not liable”
3. The *braisa's* conclusion is raising the question of a second level *hatfasah* – attaching to an item, which itself was prohibited through *hatfasah* to another *shevuah*. The *braisa* is leaving this an open question, but accepting *hatfasah* in principle, at least for one level. This explanation only addresses the third question raised by Tosfos. (Ri Migash)

The *Gemora* continues with a *braisa* to disprove Rava. The *braisa* asks what is the *isar* written in the Torah, and

then proceeds to give a case of *hatfasah*. The *Gemora* says that Abaye understands from this *braisa* that *hatfasah* is effective, both on a *neder* and a *shevuah*, while this *braisa* is difficult for Rava.

Rashi explains that Rava does not accept *hatfasah* with no explicit prohibition, neither for a *neder* or a *shevuah*, and therefore this *braisa* is difficult for Rava, since it presents a case of *hatfasah*. The *Gemora* says that Rava will explain that the *braisa* means that he *did* explicitly prohibit meat and wine, but he must still do the *hatfasah* correctly, by attaching to something prohibited due to a *neder*, and not due to an existing prohibition.

Tosfos objects, and says that Rava agrees to the principle of *hatfasah* on a *neder*. Rather, the *Gemora's* question was from the terminology of the *braisa*. The *braisa* seemed to be presenting a definition of the term *isar* used in the Torah, and then presented a case of *hatfasah*, following Abaye's explanation. The *Gemora* answers that Rava will read the *braisa* differently, with *isar neder* simply meaning “the prohibition of a *neder*”. The focus of the *braisa* is on how *hatfasah* must be structured to work.

Hatfasah

We rule like Rava, precluding *hatfasah* on a *shevuah*.

The Rishonim differ in their understanding of Rava's position on *hatfasah*. Rashi says that Rava does not accept *hatfasah*, neither on a *neder* nor a *shevuah*, and if one used only *hatfasah*, there is no prohibition at all. Rashi agrees that if one stated the prohibition he is creating via a *neder*, and then attached it to an existing *neder*, this is effective. [See the Ran on the Rif who learns that Rashi *requires* the *neder* to be attached to an existing *neder*]

The Rif rules that Rava accepts *hatfasah* on a *neder*, but from the verse cited in the *Gemora* : *ki yidor neder*, indicating one can create a *neder* from an existing *neder*. Since Rava learns it from this verse, and not the term *isar*, it only applies to a *neder*, and not a *shevuah*.

The Ran challenges the Rif's position, since there is no reason to not then extend the rule of *hatfasah* to a *shevuah*, as the *Gemora* applies many constructs between *neder* and *shevuah*, due to the verse's connecting phrase *ki yidor neder* – when he will take an oath... oh hishava *shevuah* – or make a promise.

Rather, the Ran says that the nature of *neder* is a prohibition on an object, which can *only* occur by attaching to an existing prohibition. The fundamental source for all *neder* constructs is actually something consecrated, and all *neder* prohibitions have to derive from it or a derivation of it. (See Ran Nedarim 2a for a comparison of *neders* for mundane or sanctification reasons) Therefore, there is no option for a *neder besides hatfasah*, so it must work by definition. However, Rava has no reason to apply *hatfasah* to a *shevuah*, and therefore does not.

The Rosh and Tosfos explain that the distinction between *hatfasah* of *neder* and *shevuah* is based on the different nature of their prohibitions. Since a *neder* is a prohibition on an object, it is meaningful to say that another item should be just like the first, and therefore prohibited. However, since a *shevuah* is a prohibition on a person, the loaf of bread that one is attaching to is not itself a prohibited object, making it impossible to attach to.

The Tur (YD 239) therefore says that if one used *hatfasah* to a *person* who made a *shevuah*, it will be effective. Thus, if one person made a *shevuah* to prohibit something, and someone else said “I will be like him”, he is also prohibited, since he attached to the “object” that is prohibited by the *shevuah*, i.e., the person.

The Rambam (Shevuos 2:7-8) rules that *hatfasah* on a *shevuah* is not tantamount to a *shevuah*, neither through an object or a person, but does state that *hatfasah* on a *shevuah* is prohibited, although not punished with lashes or a sacrifice. This follows the opinion of the Rambam's teacher, the Ri Migash, quoted by many of the Rishonim as saying that *hatfasah* is not a bona fide *shevuah*, but is prohibited.

The Meiri quotes the Ba'al Hashlama, who says that *hatfasah* is punishable by lashes, but just not by a sacrifice. Many Rishonim object to these opinions, questioning where the source for such a prohibition is.

The Ran suggests that the Rambam says it is prohibited Rabbinnically, as a safeguard for *hatfasah* of a *neder*.

See Kehilas Yaakov (Shevuos 14, reprinted in Nedarim 1) who suggests that the Rambam says that every *shevuah* has two aspects to it – the formal act of *shevuah*, and the effect of the *shevuah*, which creates a prohibition. While *hatfasah* is effective in extending the effect of the *shevuah*, it is not effective in creating a formal *shevuah*, and therefore the item is prohibited (from the Torah), but

does not carry all the formal rules and punishments of a *shevuah*.

These opinions explain that Rava therefore does not say that *hatfasah* is permitted, but rather “is not like stating a *shevuah*”, since it is not permitted, but just not tantamount to a bona fide *shevuah*.

The Ran says that Rava used this terminology since *hatfasah* on a *shevuah* via the person who made the *shevuah* is effective, and therefore all Rava could say is that it is not fully equivalent to a *shevuah*, since it does not work in the case of attaching to an object - if one states that a loaf of bread should be like an existing loaf, which is prohibited by a *shevuah*.

Neder on a Mitzvah

Rava says that the *braisa* taught that if one made a *neder* prohibiting wine and meat on the fast of Gedalia, this is considered a *neder* prohibition, and can be attached to. We may have thought that it is not a *neder* prohibition, since eating is already prohibited on that day, but the *braisa* teaches that it is.

Some Rishonim have a text which states that “since the fast of Gedalia is Rabbinic, the *neder* prohibition is in effect, and it can be used for *hatfasah*”.

Rashi rejects this text, since the *Mishna* (25a) teaches that a *neder* takes effect on commandments just like any other realm, and this applies to all commandments, Rabbinic or from the Torah. Tosfos (20b dchi) says that this *Mishna* only means that a *neder* takes effect to prohibit one from fulfilling a *mitzvah* (e.g., prohibiting a sukkah from benefit) but not take to prohibit something which is already prohibited due to a *mitzvah*. However, Rabbi Yossi beRabbi Yehudah who says (27a) that a *shevuah* to fulfill a *mitzvah* is effective will definitely say that a *neder* can prohibit something already prohibited. [See Rabbi Akiva Eiger who disputes this argument. See Ran (8b in Rif) who cites the Baal Hamaor citing the same proof as Rabbi Akiva Eiger].

Tosfos also suggests that this text is correct, even if a *neder* takes effect on all prohibitions, even from the Torah. Although the *neder* is in effect, when one attaches to the prohibited item, he is attaching to the *mitzvah* prohibition. Only when the *mitzvah* is Rabbinic do we assume that he is attaching to the (Torah) prohibition of his *neder*.

Kiddush

The *Gemora* cites the statement of Rav Ada bar Ahava that from the simultaneous expression of *zachor* and *shamor* we learn that women are obligated in *kiddush* (from *zachor*) just as they are obligated in the negative commandments of Shabbos (*shamor*).

Rav Ada bar Ahava says that women are obligated in *kiddush* dvar Torah – from the Torah, indicating that *kiddush* itself is a Torah obligation.

Tosfos (20b Nashim) questions this from the *Gemora* in Nazir (4a), which says that drinking the wine of *kiddush* is not a Torah obligation. Tosfos offers the following answers:

1. The obligation to recite *kiddush* is from the Torah, but the obligation to do so on a cup of wine is Rabbinic.
2. *Kiddush* over wine is a Torah obligation, but the obligation to drink the wine is Rabbinic.

The Magen Avraham (O”C 271:1) therefore assumes that once one says *maariv* on Friday night, he has fulfilled his Torah obligation of *kiddush* and is left only with the Rabbinic obligation of *kiddush* on wine.

The later Acharonim discuss the implications of this statement at length. See Dagul Merevava, Biur *Halachah*, Livyas Chen on O”C 271 and Rabbi Akiva Eiger (Respona 7) for discussions on how a man who has said *maariv* can release his wife from her Torah obligation. See Yabia Omer (1:15:6-15) on sources for and challenges to the Magen Avraham's statement.