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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

Inclusive Prohibitions

The *Mishna* had stated: If one says, “I swear that I will not eat” etc.

The *Gemora* asks a contradiction in the *Mishna*: The *Mishna* had stated that if one says, “I swear that I will not eat,” and he eats food that are not fit for eating, or he drinks beverages that are not fit for drinking, he is exempt; but then the *Mishna* states that if one says, “I swear that I will not eat,” and he eats *neveilos*, *tereifos*, abominable or crawling creatures, he is liable. What is the difference between the two cases?

The *Gemora* answers that the latter case of the *Mishna* is referring to an oath where he stated explicitly, “I will not eat *neveilos* etc.”

The *Gemora* asks: But even in that case, why is he liable? He already stands sworn from Mount Sinai against eating those types of things (*and therefore his oath should not take effect at all!*)?

Rav, Shmuel and Rabbi Yochanan answer that the *Mishna* is referring to a case where he included permitted items in his oath together with the prohibited ones (*and once it takes effect on the permitted items, it takes effect on the prohibited ones as well*).

Rish Lakish says that the *Mishna* can only be explained by saying that he took an oath not to eat even a partial amount, and it is in accordance with the opinion of the

Rabbis (*who hold that an oath, in general, does not include less than the minimum amount, unless specifically stated*); or it can be referring to a case where he did not specify an amount, but it is in accordance with Rabbi Akiva, who holds that a person does prohibit himself even from a very small amount.

The *Gemora* notes that it is understandable why Rabbi Yochanan did not explain the *Mishna* like Rish Lakish, for he wanted the *Mishna* to be established according to all opinions; but why did Rish Lakish choose not to learn like Rabbi Yochanan?

The *Gemora* answers: Rish Lakish can tell you that he maintains that a more inclusive prohibition can take effect upon another preexisting prohibition when the new prohibition comes by itself (*such as Yom Kippur on a piece of neveilah meat*), but it does not apply when the new prohibition comes by his own actions (*such as an oath*).

The *Gemora* notes further: According to Rish Lakish, it’s understandable why Rabbi Shimon exempts the swearer, for Rabbi Shimon holds that one who eats a small amount (*less than the minimum required*) incurs lashes, but is not liable for a *korban* unless he eats a *k’zayis* (*and since he is already forbidden from eating less than the minimum amount, his oath does not add any new prohibition*); however, according to Rabbi Yochanan, why does Rabbi Shimon exempt him?

The *Gemora* answers that Rabbi Shimon does not hold of the “inclusive prohibition” principle, for it was taught in a



braisa: Rabbi Shimon says that one who eats *neveilah* (carcass of an animal that was not slaughtered properly) on Yom Kippur is exempt from bringing a *korban chatas* (for eating on Yom Kippur, since it was forbidden from beforehand).

The *Gemora* asks: According to Rish Lakish, it is possible to have an oath in the negative form (*that he will not eat even less than a k'zayis of neveilah*) and in the positive form (*that he will eat less than a k'zayis of neveilah*); but, according to Rabbi Yochanan, granted that the negative (*that he will not eat neveilah meat*) is possible, but how is the positive (*that he will eat neveilah*) possible (*for an oath which is expressly stated negating the oath taken at Mount Sinai is not effective*)? [And the *Gemora* states below that an oath is not effective unless it is possible to be stated in both forms – positive and negative!?!]

The *Gemora* retracts its explanation of the *Mishna*, and explains it in accordance with Rava's view, for Rava said: If a man said, "I swear that I shall not eat," and he ate dirt, he is exempt (*and that is what the Mishna means when it exempts him from eating something which is unfit for eating; however, he will be liable for eating forbidden foods, such as neveilah*).

Rav Mari attempts to provide support for this explanation from the *Mishna*, but the *Gemora* refutes his proof.

Rava said: What is the reason of the one who holds that an inclusive prohibition can take effect upon a previous prohibition? It is because it is analogous to an extensive prohibition. [An inclusive prohibition – *issur kollel*, does not add anything to the previous prohibition, but includes more objects in the present prohibition upon the effected person; e.g., *neveilah* is prohibited; when Yom Kippur arrives, it prohibits not only *neveilah*, but also previously permitted foods; Yom Kippur does not make the *neveilah* prohibited in any way except as food, but it includes in its prohibition other foods apart from this

neveilah. An extensive prohibition – *issur mosif*, adds something to this present prohibited object, making it more extensively prohibited; e.g., *cheilev* (forbidden fat) of an offering is prohibited to be eaten, but may be offered on the Altar; when it becomes *nossar* (by being kept beyond the time limit for its offering), it is prohibited to be offered on the Altar. The prohibition of *nossar* takes effect on the *cheilev* (which was permitted so far as the Altar is concerned), so that it may not now be offered on the Altar; and since the prohibition of *nossar* takes effect on the *cheilev* (so far as the Altar is concerned), it therefore takes effect on it so far as human consumption is concerned as well; so that a man eating it now is liable both for *cheilev* and *nossar*.]

And the reason of the one who exempts him does not hold like this, for he says that an extensive prohibition is applicable only regarding a single item, but it does not apply with respect to two items. [An extensive prohibition can take effect on a previous prohibition because it extends the scope of the prohibition of this one piece; e.g., *cheilev*, permitted for the Altar, on becoming *nossar* is prohibited; this same piece of fat is now more extensively prohibited; previously it was prohibited for human consumption only, now it is prohibited for the Altar also. But an inclusive prohibition does not add any prohibition to this one piece; it merely includes other pieces in its prohibition; therefore, he holds, it does not take effect on a previous prohibition.]

And Rava also said: According to the one who holds that an inclusive prohibition takes effect on a previous prohibition, if one says, "I swear I shall not eat figs," and then he says, "I swear that I shall not eat figs and grapes," since it takes effect on the grapes, it takes effect on the figs as well.

The *Gemora* asks: This is obvious (*for it as a regular case of an inclusive prohibition*)!?

The *Gemora* answers: I might have thought that in the case of a prohibition which comes by itself, we say that it takes



effect on a previous prohibition, but in the case of a prohibition which is imposed by his own actions, we do not say this; therefore Rava teaches us that even in this case it takes effect.

Rava the son of Rabbah challenged this ruling from the following *Mishna*: If a person who is *tamei* eats *cheilev*, (*forbidden fats of an animal that was slaughtered*) and the fats were *nosar* (*left over from kodoshim, consecrated sacrifices*), and the eating occurred on Yom Kippur, he will be liable four *chatas* offerings and one *asham* offering. He is liable for the prohibition of a *tamei* eating food that is consecrated, for eating *cheilev*, for eating *nosar*, and for eating on *Yom Kippur*. He is also liable an *asham* offering because he has been *moel behekdesch*, using consecrated property illegally. Rabbi Meir maintains that if the act occurred on *Shabbos* and he carried the food in his mouth outside, he is liable for transgressing the *Shabbos*. Rabi Meir maintains that although he has violated the prohibition of carrying on *Shabbos*, eating catalyzed the sin. The *Chachamim*, however, maintain that the sin is carrying and not related to the eating. Now, according to you, it is possible to have five; for example, if he said, "I swear that I shall not eat dates and *cheilev*." Since it takes effect on the dates, it takes effect also on the *cheilev*!?

The *Gemora* answers: The *Tanna* mentions only the case of a prohibition which comes by itself, but a prohibition imposed by his own actions he does not mention.

The *Gemora* asks: But he mentions the case of consecrated property!?

The *Gemora* answers: It refers to a firstborn, whose sanctity is from the womb.

Alternatively, you may answer that the *Tanna* mentions only that which cannot be revoked, but an oath which may be revoked, he does not mention.

The *Gemora* asks: But he mentions the case of consecrated property!?

The *Gemora* answers: We have established that it refers to a firstborn.

Alternatively, you may Answer that the *Tanna* mentions only cases where a fixed sacrifice is brought, but where a variable offering is brought, he does not mention.

The *Gemora* asks: But he mentions the case of a *tamei* person who ate consecrated food, for which a variable offering is brought!?

The *Gemora* answers: It refers to a *Nasi*, and it is in accordance with the view of Rabbi Eliezer, who says that a *Nasi* brings a goat.

Rav Ashi answered: The *Tanna* mentions only that which takes effect on the legal minimum (*a k'zayis*), but an oath which takes effect on less than the legal minimum, he does not mention.

The *Gemora* asks: But he mentions the case of consecrated property!?

The *Gemora* answers: It is because we require that it should be the value of a *perutah*.

And Rav Ashi of Avirya answered in the name of Rabbi Zeira: The *Tanna* mentions only that for which, for a willful transgression, the punishment is *kares*, but that for which, for a willful transgression, there is only a negative prohibition, he does not mention.

The *Gemora* asks: But he mentions an *asham* (*guilt offering*), in the case of which, for a willful transgression, there is only a negative prohibition!



The *Gemora* answers: He was answering that the *Tanna* only mentioned those transgressions punishable by *kares*, but only regarding *chatas* offerings.

Ravina answers: The *Tanna* mentions only that which is applicable to foods, but an oath, which can take effect even on that which is not a food, he does not mention.

The *Gemora* asks: But he mentions the case of consecrated property, which are applicable also to wood and stone!

The *Gemora* answers: Rather, he mentions only that which is applicable to that which is tangible, but an oath, which can take effect also on that which is not tangible, as, for example, "I shall sleep," or, "I shall not sleep," he does not mention. (24a – 25a)

INSIGHTS TO THE DAF

DESECRATION OF HIS WORD

The *Mishna* in Makkos states that a person can commit one action of plowing and be liable for eight transgressions.

The *Gemora* asks: Couldn't the *Mishna* list a ninth; if he took an oath not to plow on Yom Tov?

The *Gemora* answers: He has already been sworn from Har Sinai not to violate Yom Tov and therefore the oath does not take affect.

The Ran explains the principle: An oath must be regarding something voluntary; anything that a person is obligated to do regardless of his oath is not binding. However, this is only relevant to the bringing of a *korban chatas* if he would violate the oath, but in respect of transgressing the oath intentionally, he would incur the thirty-nine lashes.

Reb Akiva Eiger asks on the Ran from the *Gemora* in Makkos: The *Gemora* was discussing the amount of lashes one could possibly receive for committing one action that entails many different transgressions. The *Gemora* states that an oath cannot be included for a person is sworn from Har Sinai prior to uttering the oath against plowing on Yom Tov. According to the Ran, it should still be included because it is another prohibition that incurs the penalty of lashes?

Reb Akiva Eiger understands the *Gemora* that the oath does not have any validity whatsoever because of the principle that one prohibition cannot take effect on an existing prohibition.

Reb Shmuel Rozovksy asks: Why don't both prohibitions take effect simultaneously; the oath does not take effect until the beginning of Yom Tov and that is precisely the same moment that the prohibition against engaging in labor on Yom Tov commences?

Reb Elchonon Wasserman states: The principle that one prohibition cannot take effect on an existing prohibition is not applicable to an oath. He cites a Tosfos as proof to this: Tosfos states that the principle of one prohibition not taking effect on an existing prohibition would not apply to a case where one eats on Yom Kippur and simultaneously carries the food in his mouth from one domain to another. Although, the swallowing of the food causes both transgressions it is regarded as two different actions; swallowing and carrying.

Reb Elchonon explains regarding one who violates an oath by eating something he swore not to eat or by plowing a field when he swore that he wouldn't; the transgression is not the eating or plowing, but rather the desecration of his words the oath. It is therefore not considered the same action which causes the other prohibition, and the principle of one prohibition not taking effect on an existing one would not be applicable.