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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

Mishna

The Mishna states: If one said, “An oath that I will not sleep,” or “(An oath) that I will not speak,” or “(An oath) that I will not walk,” he is forbidden to do these acts.

If one said, “Korban, I will not eat of yours,” or “Hakorban that which I will eat of yours,” or “Lakorban, I will not eat of yours,” he is permitted. (15b3)

The Gemora asks: Whose opinion is taught in our Mishna?

The Gemora answers: It is the opinion of Rabbi Meir, for Rabbi Yehudah does not recognize a distinction between “korban” and Hakorban” (as they are both ineffective, for he must say, “Kakaorban” – “Like a korban”).

The Gemora asks: Then consider the latter clause: If he says, “Lakorban, I will not eat of yours,” he is permitted. But we learned in a Mishna: If someone says “La’korban I will not eat from you,” he is forbidden according to Rabbi Meir. And Rabbi Abba explained that (*the reasoning is*) it is as if he said “Your food should be like a *korban* and therefore I will not eat from you.”

The Gemora answers: There is no difficulty, as in this case (the previous Mishna) he said, “Lakorban” (in one word, which can be explained to mean “Like a korban,”

and therefore the vow is effective; but this one (in our Mishna), he said, “La Lekorban” (in two words), which means (that the vower is saying): let it not be a korban (and therefore the vow is ineffective). (16a1)

Mishna

If someone says “An oath, I will not eat of yours,” or “Behold. An oath, I will eat of yours,” or “Not an oath, I will not eat of yours” (*thus implying that there shall be an oath regarding that which he does eat from him*), he is forbidden to eat from his fellow’s food. (16a1)

“That I will Eat”

The *Mishna* had stated: If someone says, “Behold. An oath, I will eat of yours,” he is forbidden to eat from his fellow’s food. This implies that when one declares, “An oath, I will eat of yours,” he means an oath “not to eat of yours.”

The *Gemora* notes a contradiction to this from the following *Mishna*: Oaths are of two categories, which are extended to four (*two types are explicitly mentioned in the Torah and two more are derived through expositions*). “An oath that I will eat,” and “An oath that I will not eat,” (*using the future tense; they are both mentioned explicitly in the Torah*); “An oath that I ate,” and “An oath that I did not eat” (*both using the past tense; they are not mentioned in the Torah*). Since (the *Mishna*) said (the case of a negative oath)

“An oath that I will not eat” (after mentioning the case of a positive oath, “An oath that I will eat”), and then it stated: “An oath that I ate,” and “An oath that I did not eat,” is it not evident from here that the oath, “She-ochel lecha” -- “I will eat of yours” means that I will eat of yours (the positive and not the negative)?

Abaye answers: “I will eat of yours” actually has two meanings and it would depend on the circumstances. If he was being pressured to eat and he agreed saying, “I will eat, I will eat.” He then declared, “An oath, that I will eat.” There it means that he will eat. If, however, he said, “I will not eat, I will not eat,” and then he declared, “An oath, that I will eat,” we assume he meant that he will not eat.

Rav Ashi answers: The case of the *Mishna* should be emended to read, “Behold. An oath, I will *not* eat of yours.”

The *Gemora* asks: If so, what is the novelty of the ruling?

The *Gemora* answers: It might have been thought that since the expression “*she’i ochal*” is not commonly used by people, perhaps he stumbled in his speech and he actually meant to say “*she’ochal*,” meaning he will eat. The *Mishna* teaches us that this is not the case.

The *Gemora* explains why Abaye and Rav Ashi disagree with each other. Abaye did not explain like Rav Ashi, for the *Mishna* did not state: “*she’i ochal*” (and Abaya did not wish to emend the text). Rav Ashi turned away from Abaye’s explanation, for he maintains that (just as “I will eat of yours” actually has two meanings and it would depend on the circumstances, so too) “*shelo ochal*” – “that I will not eat” has two meanings as well (and it would depend on the circumstances). If he was

being pressured to eat and he agreed saying, “Will I not eat, will I not eat?” He then declared, “An oath she-ochel,” or, “An oath shelo ochel,” they are understood to mean, “An oath that I will eat.” And it is also possible that the expression, “An oath shelo ochal” means, “An oath that I will not eat.” Rather, the Tanna (of the *Mishna* there) concluded that “*she’ochal*” means “that I will eat,” and “*shelo ochel*” means, “that I will not eat.” (16a2 – 16a3)

Mishna

The *Mishna* states: This is a place where oaths are more stringent than vows (*the Gemora will explain as to which case the Mishna is referring to*). And the following is a case where a vow is more stringent. If one says, “*Konam*, a *sukkah* that I make,” or “*Konam*, a *lulav* that I take,” or “*Konam*, *tefillin* that I put on,” he is forbidden to sit in the *sukkah*, take the *lulav* or put on the *tefillin*. However, if he took an oath (*against sitting in a sukkah, taking a lulav or putting on tefillin*), he would still be permitted to do these acts, for one cannot swear to transgress a *mitzvah*. (16a3 – 16a4)

Stringency of an Oath

The *Gemora* asks: By the fact that the *Mishna* uses the term “stringent,” that implies that it (when he says, “*Korban*, I will not eat of yours) is indeed a vow! But the *Mishna* teaches that (in such a case) it is permitted (as it is not effective at all)!

The *Gemora* explains that the first statement of the *Mishna* (*that an oath has a greater stringency than a vow*) is referring to the latter part of a previous *Mishna* which said: If one said, “An oath that I will not sleep,” or “that I will not speak,” or “that I will not walk,” he is forbidden to do these acts. This is a case where an oath

has a greater stringency than a vow (*for if one would make a vow against sleeping, speaking or walking, it would only be effective Rabbinically, for a neder does not take effect on intangible things*). (16b1)

Contradicting a Mitzvah

The *Mishna* had stated that an oath has a greater stringency than a vow in the following case: If one says, “*Konam, a sukkah that I make,*” or “*Konam, a lulav that I take,*” or “*Konam, tefillin that I put on,*” he is forbidden to sit in the *sukkah*, take the *lulav* or put on the *tefillin*. However, if he took an oath (*against sitting in a sukkah, taking a lulav or putting on tefillin*), he would still be permitted to do these acts, for one cannot swear to transgress a *mitzvah*.

The *Gemora* cites the Scriptural source for this: Rav kahana taught this as follows: Rav Gidel said in the name of Rav. Rav Tavyomei taught it as follows: Rav Gidel said in the name of Shmuel. How do we know that one cannot swear to transgress a *mitzvah*? It is because it is written [Bamidbar 30:3]: *If a man makes a vow to Hashem or makes an oath to prohibit himself, he shall not desecrate his word; according to whatever came out of his mouth, he shall do*. We see from here that only “his word” (*a discretionary matter*) he should not desecrate. However, he may desecrate it when it involves the wishes of Heaven (*where his oath contradicts a mitzvah*).

The *Gemora* asks: Why is a vow any different? If it is because it says *makes a vow to Hashem*, which implies that he should not desecrate his word even when his vow involves the wishes of Heaven, why, by an oath, it is also written *makes an oath to Hashem* (*since the words “to Hashem” is written between a vow and an oath*)?

Abaye answers: In the case of a vow, one says, “The pleasure of the *sukkah* should be forbidden upon me.” (*Since the vow is upon the object, not the person, it is effective.*) However, in the case of an oath, one says, “I swear that I will not derive any pleasure from the *sukkah*.” (*Since the oath is upon the person and the mitzvah is upon the person, they are contradicting each other and the oath cannot take effect.*)

Rava asks on Abaye’s language: Were *mitzvos* given to derive benefit from them? (*He should still be able to sit in the sukkah?*)

Rather, Rava explains as follows: In the case of a vow, one says, “The sitting in the *sukkah* should be forbidden upon me.” However, in the case of an oath, one says, “I swear that I will not sit in the *sukkah*.” (16b1 – 16b2)

Scriptural Sources

The *Gemora* asks: Is this where we derive that a person cannot make an oath to transgress a *mitzvah*? There is actually a different source, as we learned in the following *braisa*: One might think that if one took an oath to transgress a *mitzvah* and he does not transgress it, perhaps he should be liable (*for desecrating his word*). It is written: *To do bad or to do good*. Just as “doing good” is only by discretionary matters and does not involve *mitzvos* (for swearing to perform a *mitzvah* is not a valid oath), so too, “doing bad” is only by discretionary matters and not when it involves transgressing a *mitzvah*.

The *Gemora* answers: One verse teaches us that he will not be liable to bring the *korban* for violating the oath and the other verse teaches us that he is exempt from lashes. (16b2 – 17a1)

Quick Summary

* What is the meaning when someone says, “An oath, I will eat of yours”?

According to Abaye, it would depend on the situation (*when being pressured to eat*). According to Rav Ashi, he means an oath “not to eat of yours.”

* In which case is an oath more stringent than a vow?

If one said, “An oath that I will not sleep,” or “that I will not speak,” or “that I will not walk,” he is Biblically forbidden to do these acts.

* In which case is a vow more stringent than an oath?

If he is declaring that he will not perform a certain *mitzvah*.

* What is the case where the *neder* will be effective?

If he says, “The sitting in the *sukkah* should be forbidden upon me.”

INSIGHTS TO THE DAF

The Ra”n Elucidated

Distinction between a vow and an oath - The *Gemora* cites the Scriptural source for this: How do we know that one cannot swear to transgress a *mitzvah*? It is

because it is written [Bamidbar 30:3]: *If a man makes a vow to Hashem or makes an oath to prohibit himself, he shall not desecrate his word; according to whatever came out of his mouth, he shall do.* We see from here that only “his word” (*a discretionary matter*) he should not desecrate. However, he may desecrate it when it involves the wishes of Heaven (*where his oath contradicts a mitzvah*).

The *Gemora* asks: Why is a vow any different? If it is because it says *makes a vow to Hashem*, which implies that he should not desecrate his word even when his vow involves the wishes of Heaven, why, by an oath, it is also written *makes an oath to Hashem* (*since the words “to Hashem” is written between a vow and an oath*)?

Abaye answers: In the case of a vow, one says, “The pleasure of the *sukkah* should be forbidden upon me.” (*Since the vow is upon the object, not the person, it is effective.*) However, in the case of an oath, one says, “I swear that I will not derive any pleasure from the *sukkah*.” (*Since the oath is upon the person and the mitzvah is upon the person, they are contradicting each other and the oath cannot take effect.*)

The Ran explains: It is reasonable that the word “to Hashem” should be referring to a vow, but not an oath. It is logical to assume that a *neder* in this manner will take effect. This is because he is not vowing directly against the Torah’s commandment. The *neder* takes effect and he is prohibited from deriving benefit from the *sukkah* because we cannot force a person to eat something that is forbidden to him. However, by an oath, he is saying that he will not sit in the *sukkah*. This is a direct contradiction to the Torah’s commandment and he doesn’t have the power to free himself from the Torah’s commandment to sit in a *sukkah*.

Incidental Benefit

Abaye explains the *Gemora* as follows: In the case of a vow, one says, "The pleasure of the *sukkah* should be forbidden upon me." (*Since the vow is upon the object, not the person, it is effective.*) However, in the case of an oath, one says, "I swear that I will not derive any pleasure from the *sukkah*." (*Since the oath is upon the person and the mitzvah is upon the person, they are contradicting each other and the oath cannot take effect.*)

Rava asks on Abaye's language: Were *mitzvos* given to derive benefit from them? (*He should still be able to sit in the sukkah?*)

Rather, Rava explains: In the case of a vow, one says, "The sitting in the *sukkah* should be forbidden upon me." However, in the case of an oath, one says, "I swear that I will not sit in the *sukkah*."

The Reshash asks on Rava's question: Although the *mitzvos* were not given for the purpose of deriving benefit from them, it still should be forbidden to sit in the *sukkah* in this situation? This is because he is enjoying the incidental pleasure of the shade!

He answers that if it is shade that the person desires, he could stay inside the house. The reason he chose to sit in a *sukkah* is solely because of the *mitzvah*. It is therefore not regarded as if he is benefitting from the shade of the *sukkah*.

The Machaneh Efraim is not satisfied with this answer. He asks that the bottom line is that he is not dwelling in his house; he is inside the *sukkah* and enjoying its shade! Why should this be permitted?

The Oneg Yom Tov answers: We are only concerned with the physical pleasure when the benefit is purely incidental and not related to the *mitzvah*. However, the *mitzvah* of *sukkah* is different. The Torah commands us to dwell in the *sukkah* in the same manner that one would live in his house. The enjoyment of sitting in a *sukkah* is not regarded as an incidental benefit; this is the fulfillment of the *mitzvah*. And since *mitzvos* were not given for the purpose of deriving pleasure from them, the (direct) benefit that one receives as he is fulfilling the *mitzvah* is not regarded as a benefit, and is therefore permitted.

DAILY MASHAL

It is written: Do not desecrate your word. The term used by the Torah is 'yachel.' The Zer Zahav explains that the root of the word is 'chahal' – 'a corpse,' as in murder.

He therefore explains: One who makes a vow or an oath and does not fulfill it, he has desecrated his words; i.e., he has 'killed' his words, for his words are now dead.