



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h

Tzvi Gershon ben Yoel (Harvey Felsen) o”h

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

MISHNAH. Oaths are two, subdivided into four: “I swear I shall eat,” and “[I swear] I shall not eat”; “[I swear] I have eaten,” and “[I swear] I have not eaten.” — “I swear I shall not eat,” and he ate a minute quantity, he is liable: this is the opinion of Rabbi Akiva. They [the sages] said to Rabbi Akiva: Where do we find that he who eats a minute quantity is liable, that this one should be liable? — Rabbi Akiva said to them: but where do we find that he who speaks brings an offering, that this one should bring an offering? (19b5)

GEMARA. Shall We say that ochal means “I shall eat”? We may question this, [for we learned:] “I swear I shall not eat of yours”, “I swear I shall eat [ochal] of yours”; “I do not swear I shall not eat of yours”; he is prohibited [to eat of that man's food]? — Abaye said: Really [ochal] means “I shall eat” [as our Mishnah states], yet there is no difficulty: Here [it is a case here] he is urged to eat; and there [it is a case where] he is not urged to eat: our Mishnah [refers to the case where] he is not urged to eat; and the Baraisa [to the case where] he is urged to eat, and he says: “I shall not eat, I shall not eat”; so that when he swears, he means: “I swear I shall not eat.”

Rav Ashi said: Read [in the Baraisa]: “I swear I shall not eat of Yours.” - If so, what need is there to state it? — I might have thought his tongue became twisted, therefore he teaches us [that it is a definite negative]. (19b5 – 20a1)

Our Rabbis taught in a Baraisa: Mivta is an oath; issar is an oath. What is the binding force of issar? If you say that issar is an oath, he is liable; and if not, he is exempt. If you say that issar is an oath! But you have just said that issar is an

oath? - Abaye said: Thus he means: Mivta is an oath; issar is attached to an oath. What is the binding force of issar? If you say, that which is attached to an oath is like a properly expressed oath, he is liable; and if not, he is exempt.

And how do we know that mivta is an oath? Is it not because it is written: If any one swear, pronouncing with his lips. Then issar also [should be counted an oath], for it is written: Every vow and every oath of issar? Then again, how do we know that issar has the force of being attached to an oath? Is it not because it is written: Or if [a woman] bound her soul by an issar with an oath? Then mivta also [should have the force of being attached to an oath], for it is written: Whatever it be that a man shall pronounce with an oath.

Rather, said Abaye: That mivta is an oath we deduce from this: And if she be married to a husband while her vows are upon her, or the utterance of her lips, where she has bound her soul: Now, oath is not mentioned; with what, then, did she bind herself? With mivta.

Rava said: In reality, I can say to you, that which is attached to an oath isn't like a properly expressed oath; and thus he [the Tanna] means: Mivta is an oath; issar is also an oath; and what is the binding force of issar? Scripture placed it between a vow and an oath [to teach us that] if he expressed it in the form of a vow, it is a vow; and if in the form of an oath, it is an oath. -Where did [Scripture] place it [between a vow and an oath]? And if in her husband's house she vowed, or bound her soul by a bond with an oath.

And they follow their own opinions, for it has been stated:



That which is attached to an oath — Abaye said, it is like a properly expressed oath; and Rava said, it is not like a properly expressed oath.

An objection was raised; [for it has been taught in a Baraisa:] What is issar which is mentioned in the Torah? He who says: I take it upon me that I shall not eat meat, and that I shall not drink wine, as on the day that my father died, or, as on the day that So-and-So died, or, as on the day that Gedaliah, son of Achikam, was killed, or, as on the day that I saw Jerusalem in its destruction; he is prohibited [from eating meat, etc.]; and Shmuel said: only if he had already made a vow on that day. - Now, it is well, according to Abaye, for just as that which is attached to a vow is a vow, so that which is attached to an oath is an oath; but according to Rava, it is difficult? — Rava may say to you, explain it thus: What is the binding force of a vow which is mentioned in the Torah? He who says: I take it upon me that I shall not eat meat, and that I shall not drink wine, as on the day that my father died, or, as on the day that So-and-So was killed; [he is prohibited from eating meat, etc.]; and Shmuel said: only if he had already made a vow on that day. What is the reason Scripture says: If a man vow a vow unto Hashem — only if he vow in the matter which he had already vowed. — “As on the day my father died”! This is self-evident? — “As on the day that Gedaliah, son of Achikam, was killed” is necessary. I might have thought that, since it is also prohibited even if he had not vowed, the fact that he vowed does not bring a prohibition upon him [because of his vow]; so that it [his present vow] is not based on a [previous] vow, [and hence is not a normal vow]; therefore, he teaches us [that it is so based; and because perforce he mentions this clause, he mentions also the previous clause, though it is unnecessary].

And Rabbi Yochanan also holds this view of Rava, for when Ravin came [from Israel] he said that Rabbi Yochanan said: [If one says:] “Mivta that I shall not eat of yours,” or, “Issar that I shall not eat of yours,” it is an oath. When Rav Dimi came [from Israel] he said that Rabbi Yochanan said: [If one

says: “I swear] I shall eat,” or, “[I swear] I shall not eat,” [and he transgresses the oath,] it is a false oath; and its prohibition is [derived] from this [verse]: You shall not swear by My name falsely. [If one says: “I swear] I have eaten,” or, “[I swear] I have not eaten,” [and it was untrue,] it is a vain oath, and its prohibition is [derived] from this [verse]: You shall not take the Name of Hashem your God in vain. Vows come under the prohibition of: He shall not break his word.

An objection was raised from a Baraisa: Vain and false [oaths] are one. Does not this imply that just as a vain oath is in the past tense, so a false oath is in the past tense; hence, “[I swear] I have eaten,” and “[I swear] I have not eaten” are false oaths! — Is this an argument? This is in its own category, and that is in its own category. And what is the meaning of: ‘They are one’? That they were pronounced in one utterance; as it has been taught [in another connection]: Remember [the Shabbos day], and Guard [the Shabbos day] were pronounced in a single utterance, — an utterance which the mouth cannot utter, nor the ear hear. - Granted, there they were pronounced in one utterance, as Rav Adda bar Ahavah said, for Rav Adda bar Ahavah said: Women are obligated to sanctify the [Shabbos] day, by decree of the Torah, for Scripture says: Remember and Guard; all who are included in the commandment of Guarding the Shabbos are included in the commandment of Remembering; and women, since they are included in Guarding, are included also in Remembering. But here, for what law is it necessary?

Rather, [say then to teach us that] just as lashes are inflicted for a vain oath, so they are inflicted for a false oath. — Now, in which direction does this logic flow? — Well [then, say]: Just as lashes are inflicted for a false oath, so they are inflicted for a vain oath. - But this is obvious: this is a negative precept, and that is a negative precept! — I might have thought, as Rav Pappa said to Abaye: He will not hold him guiltless at all, therefore he teaches us [that he is punished by lashes] as Abaye answered him.

And if you will, I may say, that just as he brings an offering for a false oath, so he brings an offering for a vain oath; and it is in accordance with Rabbi Akiva's view who makes him liable for [an oath in] the past as in the future. (20a1 - 21a1)

INSIGHTS TO THE DAF

Isar

Abaye and Rava debate the explanation of the *Baraisa'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 *Baraisa*.

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 *Baraisa* 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 *Baraisa* begins by asking what the status of *isar* is, but never definitively answers the question.
2. It is not the general practice of *Baraisas* to leave a *halachic* question unresolved. *Baraisas* and *Mishnas* teach a certain position on a *halachah*.
3. If Abaye is explaining that the *Baraisa* 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?

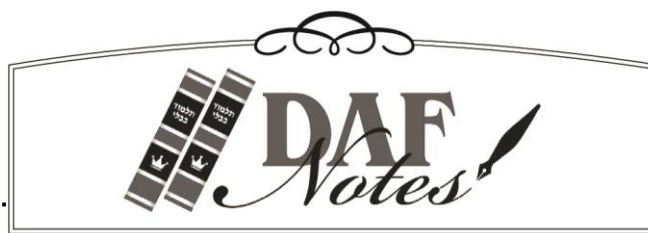
4. The more common text reads, "if *hatfasah* .. like a *shevuah*, and he is liable". Rashi removes the *and* to make it fit in his reading, as the *Baraisa* is saying, "if *hatfasah* is like a *shevuah*, [then] he is liable". Tosfos objects to modifying the more common text.

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

1. The *Baraisa* is stating that *mitva* itself means prohibiting as a *shevuah*, but *isar* means prohibiting via *hatfasah*. The *Baraisa* 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 *Baraisa* is requiring him to explicitly state a prohibition on the new bread. The *Baraisa* 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 *Baraisa'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 *Baraisa* 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 *Baraisa* to disprove Rava. The *Baraisa* 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 *Baraisa* that *hatfasah* is effective, both on a *neder* and a *shevuah*, while this *Baraisa* 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 *Baraisa* is difficult for Rava, since it presents a case of *hatfasah*. The *Gemora* says that Rava will explain that the *Baraisa* 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 *Baraisa*. The *Baraisa* 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 *Baraisa* differently, with *isar neder* simply meaning "the prohibition of a *neder*". The focus of the *Baraisa* 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.

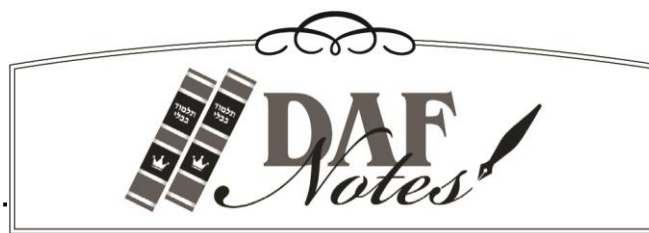
Rather, the Ran says that the nature of *neder* is a prohibition on an object, which can *only* occur by attaching to an existing prohibition. The fundamental source for all *neder* constructs is actually something consecrated, and all *neder* prohibitions have to derive from it or a derivation of it. (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 Rabbinically, 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 *Baraisa* 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 *Baraisa* 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.

DAILY MASHAL

Zachor and Shamor

There are several differences between the two places that the Torah discusses the Ten Commandments. In Shmos, it is written: "Remember the Shabbos day to sanctify it", whereas in Devarim, it is written: "Observe the Shabbos day to sanctify it, as the Lord your God commanded you".

Rabbi Shlomo Alkabetz wrote in his famous liturgical song *Lecha Dodi*: "Observe" and "Remember" in a single utterance, we were made to hear by the unified God". His words are based on our Gemora: "It has been taught: "Remember the Shabbos", and "Keep the Shabbos" were pronounced in a single utterance - an utterance which a (human) mouth cannot utter, nor the ear hear".

Although these two refer to different aspects of Shabbos – "*Zachor*" speaks of the requirement to designate Shabbos as a special day, and "*Shamor*" speaks of the activities that are forbidden on Shabbos – they were given together. Only

God is capable of issuing two commands in a single utterance. Perfect balance and harmony between conflicting ideals and values is not human; only God can achieve such perfection. Nevertheless, we are to strive to maintain as perfect a balance as possible. We must ensure never to focus exclusively on "*zachor*" or on "*shamor*," on a particular religious value or requirement, without taking note of the other side of the equation. The Torah must be learned, understood, internalized and practiced in its totality, with proper attention given to all its various components, so that the numerous different ideals and obligations it encompasses blend together into a single, integrated, balanced life of religious commitment.