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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

### ***Oath in Vain***

When Ravin came from *Eretz Yisroel*, he said that Rabbi Yirmiyah said that Rabbi Avahu said in the name of Rabbi Yochanan: If one says, "I swear that I have eaten," or, "I swear that I have not eaten" (*and it was false*), this is regarded as a false oath, and the prohibition against this is from: *You shall not swear by My name falsely*. If one says, "I swear that I shall eat," or, "I swear that I shall not eat," and he violated the oath, he transgresses the prohibition: He shall not profane his word. And what is a vain oath? One who swears that which is contrary to the facts known to man.

Rav Pappa notes: Rabbi Avahu never actually said this explicitly, but rather implicitly. For Rav Idi bar Avin said in the name of Rav Amram in the name of Rav Yitzchak in the name of Rabbi Yochanan: Rabbi Yehudah said in the name of Rabbi Yosi HaGelili: The rule for negative prohibition in the Torah is as follows: If it involves an action, one would incur lashes for violating it; if it does not involve an action, he would not incur lashes, except for one who swears falsely, makes a *temurah* (*the owner attempts to exchange a different animal with the original korban; the halachah is that the temurah animal gets the same sanctity as the original one, and both animals must be brought as a korban*), or curses another fellow using God's Name.

Rabbi Yochanan said in the name of Rabbi Shimon ben Yochai: That which one incurs lashes for swearing falsely is derived from the verse: *You shall not take the name of Hashem, your God, in vain; for Hashem will not absolve him*

- the High Court will not absolve him, but the lower court inflicts lashes and then absolves him.

Rav Pappa asked Abaye: Perhaps the Torah is saying that one who takes God's name in vain will not be absolved at all!?

Abaye answered: If the Torah would have written: *For he will not be absolved*, it would have meant what you say; but now that it is written: *For Hashem will not absolve*, it means that the High Court will not absolve him, but the lower court inflicts lashes and then absolves him. (21a1 – 21a2)

### ***False Oath***

The *Gemara* asks: This is a valid source for one who swears in vain; but what is the source for one who swears falsely?

Rabbi Yochanan said: It is written, "*in vain*" two times. If it is not necessary to teach regarding an oath in vain, it teaches us regarding a false oath.

Rabbi Avahu asked: What is the case of the false oath? It cannot be where he took an oath that he will not eat, and then he ate, for that case involves an action. Rather, it must be a case where he took an oath that he will eat, and he didn't. But, in that case, does he in fact incur lashes? It was stated: If one swore to eat a loaf of bread today, and the day passed, Rabbi Yochanan and Rish Lakish agree that he does not receive lashes for the prohibition of a false oath, but for different reasons. Rabbi Yochanan says that

he is exempt because he only passively transgressed the prohibition, while Rish Lakish says that he is exempt because the warning administered was doubtful, since there was always more time that the person could have eaten it.

Rather, Rabbi Avahu said: It is referring to a case where he took an oath, saying, "I ate" or, "I did not eat."

The *Gemara* asks: Why are these cases different than the other (*they both do not involve an action*)?

Rava answered: The Torah clearly stated that a false oath is like a vain oath (*regarding lashes*): just as an oath in vain is necessarily in the past (*being untrue the moment it is uttered, and it is subject to the penalty of lashes*), so is a false oath in the past (*subject to the penalty of lashes*).

Rabbi Yirmiyah asked Rabbi Avahu from a *Mishnah*: If one says, "I take an oath that I will not eat this loaf," and then he says again, "I take an oath that I will not eat this loaf," and he eats it, he is guilty of transgressing only one oath (*for the second oath cannot take effect upon the first one*). This is an oath of utterance for which the punishment of lashes is inflicted for a deliberate transgression, and a *korban olah v'yored* for an unwitting transgression. The *Gemara* infers from here: This is an oath for which the punishment of lashes is inflicted for a deliberate transgression, but in the case where he swears that he ate, or he did not eat, he would not receive lashes.

The *Gemara* answers: Perhaps it excludes the case of where he swears that he ate or that he didn't eat that he will not bring a *korban* (*but he will incur lashes if he deliberately violates these oaths*). And this will be in accordance with the opinion of Rabbi Yishmael who holds that he is only liable a *korban* for an oath in the future; but lashes he incurs (*if he deliberately violates it*).

The *Gemara* asks: But let us consider the latter case of the *Mishnah*: This (*if a man swears that a man is a woman*) is an example of an oath taken in vain, where he incurs lashes if it was done willfully, and he will be exempt from a *korban* if he transgresses unwittingly. May we not infer from her that if he swears that he ate, or he did not eat, he would not receive lashes?

The *Gemara* answers: Perhaps it excludes the case of where he swears that he ate or that he didn't eat that he will bring a *korban*. And this will be in accordance with the opinion of Rabbi Akiva who holds that he is liable a *korban* for an oath concerning the past in the same manner as he would regarding an oath in the future.

The *Gemara* asks: But how can the former part of the *Mishnah* be in accordance with Rabbi Yishmael, and the latter part of the *Mishnah* be according to Rabbi Akiva?

The *Gemara* therefore retracts and answers that the entire *Mishnah* reflects Rabbi Akiva's opinion, and the first part of the *Mishnah* does not exclude the case of where he swears that he ate or that he didn't eat that he will not bring a *korban*, but rather, it excludes the case of where he swears that he will eat or that he will not eat that he will not incur lashes (*if done willfully*), but he will be liable to bring a *korban* (*if done unwittingly*).

The *Gemara* explains the difference (*regarding the inference from the Mishnah*) between the two cases: It is logical that when the *Mishnah* is discussing cases of oaths regarding the future, it excludes other oaths pertaining to the future; does it make sense to say that the *Mishnah* is discussing cases of oaths regarding the future, and it excludes other oaths pertaining to the past!? (21a2 – 21b1)

### ***Rabbi Akiva's Opinion***

The *Mishnah* had stated: [*Rabbi Akiva said:*] If one said, "I swear that I will not eat," and he eats a little bit, he is liable.



The *Gemara* inquires: Why does Rabbi Akiva hold that he is liable even if he only eats a minute amount? Is it because he always holds like Rabbi Shimon that one is liable for a small amount, as it was taught in a *Baraisa*: Rabbi Shimon said 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 by right they should disagree elsewhere as well, but the reason their disagreement is stated here is to demonstrate the strength of the Rabbis, for, although it is possible to say that since if one had explicitly stated a minute amount he would have been liable, he should also be liable even if his statement is unspecified, we are taught by the *Tanna*, nevertheless, that they exempt him. Or, perhaps elsewhere, Rabbi Akiva would agree with the Rabbis, and here, this is the reason (*why the swearer is obligated even for a minute amount*): since if he explicitly stated a minute amount he is liable, he is liable also if his statement is unspecified.

The *Gemara* attempts to bring a proof (*that Rabbi Akiva does not hold like Rabbi Shimon by all eating prohibitions*) from the following *Mishnah*: Rabbi Akiva said: Even if he soaked his bread in wine and there is enough in it to equal a *k'zayis*, he will be liable. [*Rabbi Akiva disagrees with the earlier Mishnah, and holds that even regarding drinking wine, the amount for which a nazir incurs lashes is a k'zayis, which is the amount displaced from a full cup of wine when an olive is placed within it; therefore, edibles combine with liquid to equal a k'zayis. He also teaches us that a permissible item can combine to equal the amount needed to be liable.*] Now, if he holds like Rabbi Shimon (*that one is liable even for a minute amount*), why would he need to combine the bread and the wine?

And it was taught in another *Mishnah*: If a person swore not to eat, and he ate *neveilos*, *tereifos*, or forbidden creepy and crawly creatures, he is liable. Rabbi Shimon says: He is exempt. And the *Gemara* asked: 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*)!? And the *Gemara* there answered: Rav, Shmuel and Rabbi Yochanan said that the *Mishnah* 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 said that the *Mishnah* 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. Now, if he holds like Rabbi Shimon (*that one is liable even for a minute amount*), he already stands sworn from Mount Sinai against eating even a minute amount!? It must be that in general Rabbi Akiva holds like the Rabbis! This is indeed a proof. (21b1 – 21b3)

## INSIGHTS TO THE DAF

### *Lashes without an Action*

Tosfos asks: The *Gemara* lists three prohibitions that one violates without performing an action, and nevertheless, one incurs lashes for transgressing them. They are: Violating an oath, making a *temurah* (*attempting to exchange an animal that possesses sanctity with one that does not*) and one who curses his fellow using the name of Hashem. Why doesn't the *Gemara* include the case of a husband who defames his wife? It is also a prohibition that does not involve an action, but yet, one incurs lashes for its violation.

Tosfos answers: It is not necessary for the *Gemara* to include this case in the listing because the fact that the husband receives lashes is explicitly written in the Torah. Tosfos adds that even if you say that this case should be included in the listing, it is not a question as to why it was

omitted because the *Gemara* wasn't listing every applicable case.

The Ramban answers that the *Gemara* is in accordance with Rabbi Yehudah who rules that the husband does not receive any penalties unless he has hired the witnesses. Accordingly, this prohibition does involve an action, and that is why it is not included in the listing.

The Brisker Rav (Temurah 3a) answers that the lashes received is not because the husband violated the prohibition of slandering, for anyone who talks *lashon harah* does not receive lashes. The lashes are one of the laws for one who defames his wife; he is required to pay a fine, he may not divorce her and he receives lashes. The *Gemara* required a verse for the warning only because there is a rule that one may not receive lashes unless the Torah states a warning. Accordingly, this is why it is not included in the listing; he does not receive lashes because he violated a negative prohibition, but rather, it is one of the components of the laws for one who defames his wife.

#### DAILY MASHAL

In his youth, R' Yaakov Meshulam Orenstein (known as the Yeshuas Yaakov) was known as a very gifted child. By the time he was 12 years old, the rich men of the city cited with each other to claim him as a son in law.

On one occasion, one of these men sent a great Torah scholar to test the boy to see if he was indeed as brilliant as he was rumored to be.

When they meet, the boy extended his hand and offered the scholar the customary "Shalom aleichem."

"Perhaps you would be able to tell me," asked the scholar a pilpul (a sharp-witted Torah discourse) regarding the expression, "Shalom aleichem."

"Certainly," he replied: In truth, it should be forbidden to say "Shalom aleichem," for "Shalom" is one of the Names of Hashem and we should be concerned that a person will die immediately after saying "Shalom" without having the opportunity to conclude and say "aleichem." If this would happen, it would emerge that he had said Hashem's Name in vain. However, since Chazal have told us that one who greets his fellow with "shalom" will merit living a long life, there is no need to be concerned that he will die immediately following saying "shalom." This logic is only applicable to the first one greeting his fellow, for he is the one that has this guarantee. The fellow responding, however, does not have this guarantee, and that is why he replies and says, "Aleichem shalom." [Yeshuos Yaakov (Y"D 148)]