

OVERVIEW of the Daf

1) Taking an oath to violate a mitzvah (cont.)

One cannot take an oath to violate a mitzvah. The necessity for two sources to teach this is explained.

2) **MISHNAH:** The Mishnah presents another halacha which applies to נדריים that does not apply to שבועות.

3) Clarifying the Mishnah

R' Huna asserts that the Mishnah's ruling that one nezirus can take effect on another applies only when the second declaration adds a day or more to the first nezirus, but otherwise the second nezirus does not apply.

Shmuel disagrees and maintains that the second nezirus will take effect even if no additional day is added.

A successful challenge to R' Huna is presented.

An unsuccessful challenge from the Mishnah is recorded against R' Huna's position.

The Gemara begins another challenge to R' Huna from a Baraisa. ■

HALACHAH Highlight

An oath to transgress a Rabbinic mitzvah

יצא נשבע לבטל את המצוה

Thus excludes one who took an oath to transgress a mitzvah

Shulchan Aruch¹ rules that an oath (שבועה) that was taken regarding a Rabbinic mitzvah is binding. Thus if a person takes an oath that he will not light Chanukah candles or he will not read the megilla, the oath is in force. Similarly, if a person takes an oath to fulfill a Rabbinic mitzvah he is in violation of his oath if he does not fulfill that mitzvah. Additionally, those mitzvos that, although are Biblical, are derived from expositions rather than explicit pesukim, are treated the same as Rabbinic mitzvos and an oath taken that pertains to this category of mitzvah is also binding. Thus, for example², if one takes an oath to not study Torah the oath is binding since one fulfills his obligation to study Torah with the recitation of Krias Shema in the morning and evening. The additional obligation to study is derived by an

(Halacha Highlight...Continued on page 2)

Distinctive INSIGHT

A second nezirus applying upon a first nezirus

אין חלה נזירות על נזירות

Rambam (Hilchos Shevuos 4:10) rules that if a person vows that he will not eat that day, and he then declares another oath that he will never eat a particular loaf, and he eats the loaf on that day, he is liable for only one violation. The רמב"ד questions this ruling of Rambam, as he notes that the first oath only covered prohibiting the loaf for that one day. The second oath added to that restriction, as it prohibited the loaf for all subsequent days, as well. Why, then, is the second oath not binding?

Kesef Mishnah and Radbaz explain the opinion of Rambam. Usually, we do not allow one violation to add to a second violation—אין איסור חל על איסור. One situation where this is allowed, however, is where the second sin adds to the first condition (איסור כולל), which is apparently happening here, as the person is extending the prohibition to beyond that first day. Rambam, however, holds that a situation only qualifies as being an additional step when more prohibitions are added during the very time during which the original state of restriction is in effect. Here, the second oath does nothing to change the first statement. The speaker is merely adding more days to the איסור beyond the first day, but the situation for the first day itself remains unchanged. Therefore, no additional restriction is being placed upon the first limitation, and we are only left with the first oath.

Our Gemara teaches that everyone holds that if a person says, "I will be a nazir today," and then he says, "I will be a nazir tomorrow," both oaths are valid. ר"ן explains that after the first nezirus is finished on the thirtieth day, he will then observe one more day for the second nezirus which was declared to begin a day after the first one. However, this second nezirus only has a one-day observance, while the minimum time for any nezirus is thirty days. Therefore, the person must actually observe a full thirty day nezirus for the second oath beginning with that day (day 31).

The קרן אורה asks that the second commitment has an element of כולל, as it encompasses the first nezirus and it adds an additional day. Why, then, can't the second vow to be a nazir apply concurrently with the first nazir period, and then extend one extra day, rather than require its own full thirty days, only beginning on day 31?

(Insight...Continued on page 2)

(Halacha Highlight...Continued from page 1)

exposition and is therefore subject to a vow. Shulchan Aruch³ concludes with one qualification to all these halachos, and that is that the oath is binding only if it is to fulfill or not fulfill a mitzvah but if the oath is to violate a mitzvah, even if the mitzvah is only Rabbinic, it is not binding.

Shach⁴ challenges this last qualification from an earlier ruling. How can Shulchan Aruch rule that one cannot take an oath to violate even a Rabbinic mitzvah when earlier Shulchan Aruch⁵ ruled that one who takes an oath to eat less than a kezayis of nevailah is responsible for his oath? These ruling seem contradictory. One resolution suggested by Shach is that Rabbinic matters are treated more stringently than Biblical matters that are derived from Biblical exposition. Another resolution is that the ruling that the oath does not apply does not mean that it is to be completely disregarded rather it means that we force the vower to have the oath annulled. As a matter of practical halacha Aruch Hashulchan⁶ rules that in all cases one should annul an oath that involves transgress-

REVIEW and Remember

1. Explain the principle of נדר בתוך נדר.
2. What is the dispute between R' Huna and Shmuel?
3. How did the Gemara challenge R' Huna from the Mishnah?
4. What is the point of dispute between R' Huna and Rabbah?

ing a prohibition or restricts one from fulfilling a mitzvah. ■

1. שו"ע יו"ד סי' רל"ט סע' ו'
2. ע' צחידושי רעק"א שם בשם הר"ן
3. שו"ע שם
4. ש"ך שם סק"כ
5. שו"ע שם סי' רל"ח סע' ד'
6. ערוה"ש שם סע' ל"ד ■

STORIES Off the Daf

The chain of oaths

שבועה שלא אוכל שבועה שלא אוכל

A certain person had a bad middah and wished to uproot it. He heard of one path that reputedly worked and wanted to try it. The path is suggested by Ba'alei Mussar to this day and is often very effective. The tool is that one must pay a small fine for every misdemeanor until the bad behavior is eradicated. Unfortunately, the man actually made a שבועה saying, "I swear that every time I do such and such, I will pay a penny to tzedakah."

The man was not wealthy and immediately regretted his rash act. Not surprisingly, he found it very hard to stop.

The very first time he fell in this regard he decided to go to a Rav and express his regret. "I would never have

made the שבועה if I had realized how challenging it would be to have it annulled!"

The Rav decided to approach was the Maharam, זת"ל. The Rav answered, "I am not sure at all that you can be released from your oath since it does not take effect until you violate it. Although it is possible that once the Chacham annuls it once, the שבועה is nullified entirely, it is also possible that only that time is annulled but not the oath itself, which would remain in force. Perhaps you need to go to a Chacham every time you violate it!"

The Maharam Minz, זת"ל, explained, "He means that perhaps this is similar to the Gemara in Nedarim 17 which describes the case of one who makes a שבועה not to eat something and then makes another one regarding the same object. The second oath doesn't take effect unless he annuls the first. Similarly, since he explicitly said 'every time,' perhaps he created a chain

of many שבועות waiting to take effect, one after another. If that is the case, there is no recourse but to ask a שאילה about each one as it comes. On the other hand, perhaps it counts as only one oath. In that case, once one asks about even one time it is completely uprooted."

The man was left without a lasting היתר.

It is not surprising that Chazal exhorted us to steer clear of making nedarim. They are very hazardous and can cause great difficulty! ■

(Insight...Continued from page 1)

We should note that this question is only valid according to ראב"ד, who explains that איסור כולל applies in this circumstance. However, according to Rambam this is not an איסור כולל, as the additional day of the second nezirus has no effect upon the existing nezirus. ■