

OVERVIEW of the Daf

1) Release from an oath (cont.)

The Gemara offers two possible explanations for the circumstances of Rava's ruling that to be released from an oath at least an olive's volume must remain.

Rava's ruling is unsuccessfully challenged.

Ameimar disputes Rava's ruling and maintains that even if the loaf no longer exists he can be released from his oath since he still requires atonement.

Ameimar suggests that once he was bound to the post for lashes he may no longer be released from his oath.

This suggestion is rejected.

2) Conditional oaths

Rava presents the guidelines concerning liability for one who makes a conditional oath, i.e. "I take an oath that I will not eat this loaf if I eat that other oath."

The Gemara discusses the liability for one who declares an oath not to eat this loaf if he eats a second loaf and an oath not to eat the second loaf if he eats the first loaf.

R' Mari cites a Mishnah that supports one of the principles related to Rava's earlier ruling.

3) Aifa and Avimi

The Gemara presents three oath-related discussions between Aifa and Avimi in which Avimi asked Aifa a question and then asserted that his response was in error.

Abaye suggests a circumstance in which Aifa's ruling would be correct. ■

REVIEW and Remember

1. What is the meaning of the term אוכלנה?
2. What is the punishment for one who escapes after being bound up for lashes?
3. Explain התראת ספק.
4. How many times can one be liable for repeating the same false oath?

Today's Daf Digest is dedicated
 By Mr. & Mrs. Andrew Bransky
 in memory of their mother
 Mrs. Carole Bransky O.B.M.
 מרת סיבה ריבה בת ר' יהודה לייבן הלוי ע"ה

Distinctive INSIGHT

This loaf will become prohibited if I eat this other one
 אמר רבא רבא שבועה שלא אוכל ככר זו אם אוכל זו, ואכל את הראשונה בשוגג והשניה במזיד פטור

Rava taught that if a person issues an oath that if he eats a certain loaf ("A"), a different loaf ("B") will become prohibited to him. If the person eats "A" unknowingly (בשוגג), even if he then knowingly eats "B", he is not liable. The Rishonim present various approaches how to understand this ruling of Rava.

The view of Rashi is that the speaker must be clearly aware of the oath not only at the moment he pronounces the oath, but also at the moment he eats the first loaf, whether it be loaf A, the conditional loaf, or if it be B, the loaf which will become prohibited. The verse (Vayikra 5:4) which notes that a person makes "an utterance of the lips for an oath" indicates that the oath must be stated at the moment it is affected, which is when the first loaf is eaten.

The בעל המאור explains that in the scenario depicted by Rava, the oath is not violated until the person eats the second loaf. If he ate loaf A first, loaf B becomes prohibited, and when he later eats B, he has violated his oath. If he eats B first, this is not yet a prohibited act. When he later eats A, the eating of loaf A causes the earlier eating of B now to be construed as a violation of the oath. Therefore, this cause and effect is only set into motion when he eats loaf A knowingly and intentionally. It is only when this first loaf is eaten with a full awareness that the oath is activated, and the second loaf will complete the event.

חידושי הר"ן explains that the oath only comes into effect beginning with the moment that he must be careful not to eat the second loaf. Until such time that he eats the first loaf, he has no reason to beware of eating the other loaf.

Rashi notes that in the statement of Rava where the person is ultimately exempt, the "first loaf," which is eaten unknowingly, is A, the conditional one. This is based upon the order of how the person presented his oath, when he said, "If I eat A, then B will become prohibited." Therefore, if he ate A first, the oath never materializes, because B cannot become prohibited unknowingly. In fact, not only will he be exempt for eating B at this point, but he may even eat B outright, as it is not prohibited at all.

HALACHAH Highlight

Being released from an oath after it was violated

אפילו אכלה כולה נשאל עליה

Even if he ate it all he may petition annulment about it

Shulchan Aruch¹ writes that a person who made an oath not to eat a loaf of bread and ate it may petition a Torah scholar to release him from his vow. This represents the opinion of Ameimar in our Gemara. Rishonim, however, debate the circumstances in which one may be released from his vow, even though he already ate the loaf. Ra'avad² holds that one may only be released from his vow if it will save him from punishment or a korban obligation. Thus, if one violated his oath intentionally and was pre-warned he may be released from his vow since he would otherwise be liable to lashes. Similarly, if one violated his oath inadvertently he may be released from his oath since he is obligated to bring a korban. If, however, he violated his oath intentionally but was not pre-warned he may not be released from his oath. The punishment for this transgression comes from Heaven and one cannot be released from an oath to save himself from a Heavenly punishment. Rosh³ disagrees and maintains that even if one was not pre-warned he may be released from his oath. Since it is the type of transgression that could make him liable to lashes had he been duly warned, he may be released from his oath even though he was not warned.

The opinion of Rabbeinu Tam⁴ is that in the paragraph of Kol Nidrei one should not declare that oaths taken from

(Insight...continued from page 1)

However, if he ate B first, even unknowingly, when he later eats A with a full awareness that it is causing B to become prohibited, he is liable to bring an offering for the earlier consumption of B, which now has become prohibited retroactively.

Rabbeinu Tam agrees with Rashi that there must be an awareness of the oath at the moment the first loaf is consumed, but he holds that when Rava speaks about eating the "first" loaf **בשוגג**, it refers to either loaf. Even if he eats loaf B first, he is exempt from a **קרבן** when he later eats A intentionally, as the oath does not take affect when the first loaf is eaten without full awareness. ■

last Yom Kippur until this Yom Kippur should be nullified. One of the reasons he opposed this phrase is that one should not be able to be released from a vow that he has already violated. Beis Yosef⁵ challenges this from our Gemara which clearly indicates that one could be released from a vow even after he has violated that vow. Sha'ar Hamelech⁶ suggests that Rabbeinu Tam holds like Ra'avad and since nowadays one does not receive lashes for violating an oath his punishment will come from Heaven and one cannot be released from a vow that has been violated whose punishment comes from Heaven. ■

1. שו"ע יו"ד סי' רל"ח סעי' כ'.
2. ראב"ד תמים דעים סי' רל"ז.
3. רא"ש לפירקין סי' י"ז.
4. מובא דבריו במס' נדרים כ"ג: ד"ה ואת.
5. ב"י או"ח סי' תר"ט ד"ה ואומר כל.
6. שער המלך פ"ו מהלי שבועות הי"ח. ■

STORIES Off the Daf

Breach of Contract

"אפילו אכלה כולה..."

A certain man wished to borrow a huge sum of money from a wealthy friend. His friend refused to consider it unless the borrower swore to pay on time and accepted on himself to be stringent like the Ravad who holds that this commitment cannot be nullified. The borrower gladly fulfilled his conditions but when it came time to repay, he found that all of his expected profits had not materialized and he simply did

not have the money to repay his debt.

But of course, the oath really rankled on his conscience. So he went to a beis din and without telling them the special condition, explained why he regretted his vow and they annulled it. But of course when his creditor heard this he was furious and wondered if this could possibly be valid. The lender asked the Tashbatz, ז"ל, if this underhanded move had freed him from his oath.

The Tashbatz answered, "It is obvious that this annulment was ineffective. But you may wonder how this is different from the Gemara in Shevuos 20. There where we find that if one vowed

not to eat a loaf and ate it, if he annuls his vow he is not punished for having violated it. It seems clear to me that this is only when he has violated his neder in a way that it can no longer be fulfilled. But if he can make good on his vow, we do not annul it and if he took on a cherem that the annulment will not work, it will not work even post facto. The only question one could raise is regarding if he annulled his vow after the fact but before it came time to pay, which is not the situation in our case."¹ ■

1. שו"ת תשב"ץ, ח"ג, סי' ר"י ■