

שבת קודש פרשת יתרו | מסכת נדרים דף טז'

INSIGHTS FROM OUR CHABUROS

An oath as a response to being put under pressure

אמר אבי שאוכל שתי לשונות משמע, היו מסרביו בו לאכול ואמר אכילנא אכילנא, ותו שבועה שאוכל, שאכילנא משמע וכו'

The Shitta Mikubetzes explains that the term דאכילנא can mean two different things, and its particular interpretation depends upon the context in which it is used. One case is where the person was being pressured to eat something, and he blurted out, "I will eat!" followed by an expression of an oath, "I take an oath that I will eat!" In this case, we interpret his initial reaction as a positive acceptance to eat. This is true even where he originally repeats and says, "I will eat, I will eat." Although this might seem to suggest that he is resisting and even questioning those pressuring him ("Do you think I am going to give in and eat?"), nevertheless, the person never indicated any clear negativity, and we understand his words to be a valid oath to eat.

If, however, the person first resisted by saying, "I will not eat," followed by an expression of an oath where he says, "I take an oath that I will eat!" we interpret any statement of "I will eat" as a question, especially if it is doubled. It is as if he said, "Do you think I will eat? Of course I will not!" Even the oath which follows is an affirmation of his resistance to the pressure, and he is then not liable to eat.

ר"ם explains that the expression used by the person is interpreted according to what others were saying to him to elicit such a response. That he is pronouncing an oath could be understood classically as a statement of prohibiting himself from the food, or it could be a non-binding affirmation, as we find the word שבועה used in this sense in reference to sotah (Bemidbar 5:21), "You will be a curse and as an oath (לאילה ולשבועה) amidst your people."

The ר"ן notes that our Gemara and Abaye's understanding differs from how Abaye himself explains these expressions in Shevuos (19b). Here, Abaye explains that the person's intent is understood in terms of how others speak to him. However, in Shevuos, Abaye says that the words "שאוכל שבועה" is always interpreted to mean "I will eat," unless there is clear indication that he meant the opposite. ר"ן cites Rambam who rules according to the Gemara in Shevuos, but Rambam rules according to Rav Ashi, who argues against Abaye in our Gemara and holds that "שאוכל—I will eat" in our Mishnah should read אוכל אי, which in this context means "I will not eat."

POINT TO PONDER

The Mishna says "קונם סוכה שאני עושה", why is this considered a נדר on a מצוה? The חיוב is to sit in a סוכה but he doesn't have to build a סוכה?

Response to last week's Point to Ponder:

The Gemara quotes משנה regarding a husband who told his wife that she can't derive הנאה from him until סוכות if she goes to her father's house before פסח. The משנה continues and says that if she did go before פסח she becomes פסח in getting הנאה until סוכות, and she is permitted to go after פסח. Why can't she go before פסח? The נדר was already triggered by her going once, so going again doesn't change anything?

The מהר"ל דיסקין explains that she is not allowed to go before פסח because someone who sees her and is aware of the נדר may suspect that she is causing herself to violate the נדר.

STORIES OF THE DAF

Going up to the land!

שאלין נשבעין לעבור על המצוה

Over the centuries, it was the dream of every Jew to make the trip to Eretz Yisrael. Often, this goal could be attained only with great self-sacrifice, and many risked their lives for this privilege.

There was a certain wealthy man who felt a lot of fear about making this trip. There was so much danger and so many had set out who were robbed, killed, or had never been heard from again. For various reasons there were several people who were pressuring him to make the trip regardless of the danger. The only way they tried to assuage his fears was to say, "Hashem will surely help." The man had no doubts about the truth of this statement. However, in the face of the great danger he felt that this platitude was not helpful. Besides he enjoyed things where he was and really did not wish to travel.

He thought long and hard of how to rid himself of this nuisance and finally decided that the best way to deal with this was to swear not to go up to Eretz Yisrael. However, someone mentioned to him that this may not be a binding shevuah at all since the Mishnah in Nedarim 16a states clearly that an oath meant to override a mitzvah does not take effect.

This question was brought before the Rashbash, ז"ל, who ruled, "His oath took effect. He merely said that he would not go up. The mitzvah itself is not going up on a pilgrimage to Israel, but actually living in the land. An oath not to live in Israel can't take effect, but an oath not to go up to Israel does!"

The Avnei Nezer, ז"ל, argued, "That is true only regarding standard מצוה, like building a Sukkah. Since one can fulfill this mitzvah by sitting in his friend's Sukkah, building a Sukkah is not actually a mitzvah, it just provides the means to fulfill the mitzvah. Therefore, an oath not to build a Sukkah can take effect. However, since the only way it is ever possible for someone outside of Israel to fulfill the mitzvah of yishuv Eretz Yisrael is by going up to Israel, going up is part of the mitzvah. Therefore, an oath not to go up does not take effect!"

קונם סוכה שאני עושה

Konam is the sukkah that I will make

Commentators disagree about the meaning of the declaration **קונם סוכה שאני עושה** —konam is the sukkah that I will make. Sefer Shalmei Nedarim¹ writes that although the declaration literally means that there is a prohibition against making, i.e. building, a sukkah, clearly the intent is to prohibit sitting in the sukkah. The reason the Mishnah utilizes this language is to teach a novelty concerning this ruling. Although one could claim that the vow should be invalid since his mouth (i.e., he will not make a sukkah) and his intent (i.e. he will not sit in the sukkah) do not match, nevertheless the vow is binding because the direct consequence of not building a sukkah is that he will be incapable of sitting in the sukkah. Accordingly, it is considered as if his mouth and heart are consistent.

Avnei Nezer² disagrees with this explanation and maintains that this person intends to prohibit building the sukkah. This indicates that there is a mitzvah to build a sukkah. Proof to this assertion can be found in Rashi's comments to the Gemara Makos (8a ד"ה השתא, Teshuvos Minchas Elazar³ disagrees with Avnei Nezer and prefers the first explanation that the declaration addresses the mitzvah of sitting in the sukkah. Proof to this is found in the Gemara Kesubos (9) that rules that if a person does not comply when instructed, "עשה סוכה" – Make a sukkah he should be struck until he complies. According to Avnei Nezer the Gemara would be referring to a person who refuses to build a sukkah and it seems unreasonable that a person should be struck for merely refusing to build a sukkah; rather the more logical interpretation is that it refers to someone who refuses to sit in the sukkah.

Chasam Sofer⁴ also notes that the language of the Torah is בסוכות תשבון Sukkos you should sit rather than תעשו סוכות make Sukkos. This clearly indicates that there is no mitzvah to build a sukkah, the mitzvah is to sit in the sukkah. Nevertheless, Poskim⁵ emphasize the importance of being personally involved in the construction of one's sukkah.

1. ספר שלמי נדרים תוס' בא"ד וא"ת אפילו
2. שו"ת אבני נזר א"ח סי' תנ"ט
3. שו"ת מנחת אלעזר ח"ס ד סי' כ"ה
4. שו"ת חת"ס י"ד סי' רע"א
5. ע' שו"ת חות יאיר סי' ר"ה וספר מועדים וזמנים ח"א סי' פ'

אמר רבא: וכי מצות ליהנות ניתנו

The Gemara discusses the case when a person says that they **אסר** the **הנאה** of the **סוכה** on themselves. Is it מותר for a person to sit in such a **סוכה**? Rava explains that it is not a problem because of the **כלל** of **ליהנות** ניתנו. Since מצוות were not given for the **הנאה**, one can still sit in a **סוכה** even though they **אסר** any **הנאה** of the **סוכה** from themselves. How does that answer the question? Granted that the מצוות weren't given to us for our **האנה**, however, one is still deriving the **הנאה** (enjoyment) from the particular מצווה? Rav Shimon Shkop (י"ב) discusses the concept of **ליהנות** ניתנו. He explains that a מצווה's main purpose is to enable one to serve **הקב"ה**. Therefore, the **תורה** only forbade **הנאה** (when one forbids something onto one's self) when one is using something which is meant for **הנאה**. It is similar to **הלכות שבת**, when we say there are certain **קולות** when one is using a **כלי** which isn't **מיחד** for that specific **מצווה**. Since מצוות weren't designated or given specifically for **הנאה**, the **הנאה** one gets from it would be מותר in the case of our Gemara.

This is an important **כלל** to remember. Sometimes people forget this fundamental concept, and their **עבודה** becomes self-serving. They forget that we do מצוות for **הקב"ה** and the pleasure is only a byproduct (**עי"ש רש"י שבת דף י"ב**). Rav Wolbe explains (עלי שור חלק א) that if a person only learns for pleasure, what will happen on those days when they don't feel the pleasure in the learning? There must be fundamental **מצוות** in which one does them simply because **הקב"ה** commanded them; or as the Chovos Halevovos says because he recognizes the need to **hakaros hatov** to the **RBS"O** for all the good that He does for us on a moment by moment basis.

REVIEW AND REMEMBER

1. What are the two oaths that are four?
2. In what regard are **נדרים** stricter than **שבועות**?
3. What is the stringency that applies to **שבועות** that does not apply to **נדרים**?
4. What is the source that one cannot take an oath to violate a mitzvah?

PARSHA CONNECTION

In this week's daf the Gemara discusses someone who is being asked to eat (היו מסרבין בו לאכול). The circumstances are not discussed in the Gemara but this can be understood to be an occasion like a שמחה that someone is asked to join. In the beginning of the פרשה we find a description of a meal joined by אהרן and the **יקח יתרו חתן משה עלה וזבחים לאקלים ויבא אהרן וכל זקני** **פסוק** says: **זקנים**. The **פסוק** says **even though** we already know that **יתרו** is **משה's father-in-law**? Secondly, why is it telling us that **אהרן** joined him? The **הקדוש אלשיך** explains that usually when a father-in-law comes to visit his son-in-law he would bring the son-in-law a gift. Here the **תורה** is telling us that although he was **משה's father-in-law**, he brought a **קרן** to the **הקב"ה** to thank **רבונו של עולם** for all the miracles. For this same reason **זקנים** came to partake in the meal, since this was a מצווה. This also explains the end of the **קוספ** which repeats **"חותן משה"** and **לפני האלקים**, meaning that they came because they realized that his intention was **לשם שמים** and not as **"חותן משה"** a typical father-in-law buying dinner, for his son-in-law.