

# Daf Notes

Insights into the Daily Daf

25 Menachem Av 5770

Sh'vuos Daf 39

Aug 5, 2010

Daf Notes is currently being dedicated to the neshamah of

**Yonina bas Menachem Mendel o"h.**

May the studying of the Daf Notes be a zechus for her neshamah and may her soul find peace in Gan Eden and be bound up in the Bond of Life.

Visit us on the web at <http://www.daf-yomi.org/>,  
where we are constantly updating the archives from the entire Shas.

Produced by Rabbi Avrohom Adler

To subscribe, please send email to: [aneinu@gmail.com](mailto:aneinu@gmail.com)

## Daily Daf

### *Severity of Swearing*

The *braisa* states: The oath administered by the judges was also stated in his language. They say to him: You should know, the whole world shook when Hashem said at Har Sinai, *Do not bear (i.e. say) the name of Hashem, your G-d, in vain.* Regarding all of the other sins in the Torah the verse says, *and He will cleanse* but regarding oaths it says *He will not cleanse.* Regarding all other sins he is punished, but here both he and his family are punished. This is as the verse says, *do not allow your mouth to cause sin (i.e. punishment) to your flesh.* Flesh refers to relatives, as the verse says, *And from your flesh do not turn away.* Regarding all other sins he is punished, but here both he and the entire world are punished. This is as the verse says, *Oath and denial (of the oath).*

The *Gemora* asks: Perhaps the verse there (*which states many sins*) meant that this punishment was given because of all of the sins together?

The *Gemora* answers: Do not think this, as the verse says, *because of these the land mourned.* The verse also says, *Therefore (Rashi in Kidushin 13a understands this means for anyone of these sins) the land will mourn, and everyone living there will be lonely.*

Other prohibitions in the Torah are not prosecuted for two or three generations if one has other merits, while oaths are prosecuted right away. This is as the verse says, *I have taken her out, and she will come to the house of the thief or the one who has sworn in My name falsely, and will sleep in his house and destroy him, along with his wood and stones. I have taken her out* implies immediately. *And she will come to the house of the thief* refers to the house of a person who tricks people. Someone else does not owe him money, yet he makes a claim against him and makes him swear. *Or the one who has sworn in My name falsely* is as it is translated. *And will sleep in his house and destroy him, along with his wood and stones.* This verse teaches you that even things that are not destroyed by fire and water will be destroyed due to false oaths.

If the person says he will not swear, we let him go right away (*and he pays*). If he says he will swear, the ones who are standing there say, *Go away from the tents of these wicked people.* When they administer the oath they say: You should know that we are not giving you the oath based on your mindset, but rather based on that of Hashem and the Beis Din. We found this by Moshe Rabeinu. When he administered the oath to Bnei Yisroel, he said: Know that this oath is not based on your mindset, but rather on the mindset of Hashem and my mindset. This is as the verse says, *And not with you alone...for whoever is here.* We only know this is

true regarding the people who were at Har Sinai. How do we know this remained true for the future generations and converts who would convert in the future? The verse says, *And those who are not here with us*. We only know this regarding the Mitzvos given at Har Sinai. How do we know this also applied to Mitzvos that would be established in the future such as reading the megilah on Purim? The verse says, *They upheld and established*. This implies that they upheld what had already been established. (38b – 39a)

### ***Language of the Oath***

The *Gemora* asks: What does the *braisa* mean when it says they even said it in his language?

The *Gemora* answers: The Mishna states, these are said in every language. The parsha of sotah, the statement regarding ma'aser, shma, davening, birkas ha'mazon, shevuas ha'eidus, and shevuas ha'pikadon. The *braisa* therefore states that this is also true regarding shevuas ha'dayanim. (39a)

### ***A False Oath will not be Cleansed***

The *braisa* states: They say to him, you should know, the whole world shook when Hashem said at Har Sinai, *Do not bear (i.e. say) the name of Hashem, your G-d, in vain*.

The *Gemora* asks: Why was this so? If it was because it was said at Har Sinai, all of the ten commandments were said at Har Sinai!

Rather, the *Gemora* answers: It must be because it was more stringent.

The *Gemora* asks: Is it more stringent? Doesn't the Mishna say that the lenient ones are basic positive and negative commandments without *Do not bear*, and the stringent ones are punished by kares and death and include *Do not bear*? [This implies it is not more stringent than kares and death!]

Rather, the reason it is more stringent is as the *braisa* itself states: Regarding all of the other sins in

the Torah the verse says, *and He will cleanse* but regarding oaths it says *He will not cleanse*.

The *Gemora* asks: Regarding all other sins does the Torah indeed say *He will cleanse*? Doesn't the verse say, *and cleanse He will not cleanse*?

The *Gemora* answers: This verse is needed for the teaching of Rabbi Elazar. He says in a *braisa*: The verse cannot mean He will clean, as it says He will not clean! It cannot mean He will not clean, as it says He will clean! It must be that He cleanses those that repent, and does not cleanse those that do not repent. (39a)

### ***Who gets Punished?***

Regarding all other sins he is punished, but here both he and his family are punished. Is this true? Doesn't the verse say (*regarding one who passes his children over to Molech*) *and I will put My face in that man and his family*? The *braisa* states: If he sinned, why should his family be punished? This teaches that there is no family that has a tax collector (*i.e. collects taxes to receive profit*) which is not a family of tax collectors. If they have a thief, they are all thieves, as they all cover for the thief.

The *Gemora* answers: The verse there is referring to them getting punished with a lighter punishment than the sinner himself. Here, the *braisa* means they will all receive the same punishment. This is as stated in the *braisa*. Rebbe says: The verse says, *and I will cut him off*. What does this teach us? The verse says, *And I will put My face etc*. One might think this means that the entire family receives *kares*. The verse therefore says, *He* implying that he receives *kares*, but not the entire family.

Regarding all other sins he is punished, but here both he and the entire world are punished.

The *Gemora* asks: Does this mean that the world is punished due to other sins? Doesn't the verse say, *And a man will stumble on his brother*? This means that a person will stumble on the sin of his brother,

teaching that all Yisroel are guarantors for each other.

The *Gemora* answers: This is only when they had the opportunity to protest, and did not.

The *Gemora* asks: What is the difference between the evildoers of his family and other evildoers, or the righteous of his family and other righteous people?

The *Gemora* answers: If he sins he receives the full punishment, the evildoers of his family are judged harshly, and other evildoers are judged lightly. The righteous are absolved from punishment. Regarding oaths, however, he and his evil family are punished as if they all did the sin, other evildoers are judged harshly, and the righteous are judged lightly. (39a – 39b)

### ***Who is Wicked?***

The *braisa* says: If he said he will not swear, we say he should go (*pay*) immediately. If he says he will swear, the ones who are standing there say, *Go away from the tents of these wicked people.*

The *Gemora* asks: It is understandable that the person swearing falsely is considered wicked. However, why is the one making him swear also considered wicked?

The *Gemora* answers: This is as the *braisa* states that Rabbi Shimon ben Tarfon says that the verse says, *The oath of Hashem will be between the two of them.* This teaches that the oath is on both of them. (39b)

### ***The Fear of Taking an Oath***

The *braisa* says: When they make him swear, they tell him, you should know etc.

The *Gemora* asks: Why do they tell him this?

The *Gemora* answers: This is due to the incident of Rava and the reed. (*A person came before Rava and swore that he already gave the claimant his money.*

*Before he swore, he had the claimant hold his reed that he used as a walking stick. The man held it, and the stick suddenly broke amid a shower of coins. He was trying to be able to take his oath that he paid the claimant without actually lying. (39b)*

### ***At Least a Perutah***

The *Mishna* said that the claim must be two silver coins.

Rav says: This means that the defendant must deny owing a minimum of two silver coins (*and admit owing a perutah*). Shmuel says: This means that the claim itself must be a minimum of two silver coins. However, the admission can be a *perutah*. Similarly, the denial can be regarding only a *perutah*.

Rava says: The *Mishna* appears to read like Rav, while the verses read better according to Shmuel. The *Mishna* reads better according to Rav as it says the claim is two silver coins and the admission is a *perutah*. It does not mention the denial of a claim of a *perutah*. The *Mishna* also says that admission can be of a *perutah*, but it does not say that denial can be a *perutah*.

However, the verse reads better according to Shmuel. The verse says, *when a person will give to his friend silver (i.e. money) or vessels to guard.* Just as vessels are a minimum of two, so too the money should be a minimum of two. Similarly, just as the money is important, so too this can be regarding that is important. The verse says, *for it is this.* [*This implies that the case where one is liable to swear is when a claim was made for two coins, as this is all that is stated in the verse, and there was partial admittance.*]

The *Gemora* asks: What does Rav do with this verse?

The *Gemora* answers: Rav says this verse is required to teach partial admittance. (*In other words, this teaches us the concept of partial admittance, not details of this law.*)

The *Gemora* asks: How does Shmuel reply to this?

The *Gemora* answers: There are two parts to this verse, *it* and *this*. This is an extra verse that teaches that if there is any kind of partial denial and partial admittance, he is liable to swear.

The *Gemora* answers: One of these verses tells me the general law, and the other teaches that the partial admittance must be regarding the type of claim (*not when he claims wheat and the other admits owing barley*).

The *Gemora* asks: How does Shmuel reply to this?

The *Gemora* answers: Shmuel says that this is obvious, as there is no more relevant claim to a case of partial admittance if a person admits owing a different item.

Rather, Rav will say: When the Torah discusses money, it is discussing what is denied, not what is claimed. Otherwise, the verse should say, *When a person will give his friend vessels to guard*. I would have realized from this verse that just as vessels is a minimum of two, so too money would have to be a minimum of two. Why did the Torah have to say money? It must be that if it is not needed to teach about the claim, it is needed to teach about the denial (*that the denial must be two silver coins*).

The *Gemora* asks: What does Shmuel say to this?

The *Gemora* answers: If the verse would just say vessels we would say that just as vessels is a minimum of two, so too anything would have to be a minimum of two. However, I would not know it has to be two significant items. This is why the verse said money.

The *Mishna* says: If a person claims that he has two silver coins in someone's hand, and the defendant claims he only has a *perutah*, he is exempt. This implies that the reason he is exempt is because he is lacking the amount required for a claim, which is two plus a *perutah*! This is a strong question on Shmuel!

The *Gemora* answers for Shmuel: Do you think that the people were talking about an amount equivalent to two silver coins? The claimant claimed that he was specifically owed silver, and the defendant admitted to a *perutah* (*of copper*). What the claimant claimed had no admission from the defendant, and the admission of the defendant was not relevant to the claim.

The *Gemora* asks: If so, what about the second part of the *Mishna*? The *Mishna* states: If someone claims that another person owes him two silver coins and a *perutah*, and the person only admits a *perutah*, he is liable. If you say that he is claiming an amount equivalent to this, this is understandable. However, if he is claiming specifically two silver coins and a *perutah*, this should not be considered a partial admission! What the claimant claimed (*two silver coins*) had no admission from the defendant, and the admission of the defendant was not relevant to the claim! [*The perutah is irrelevant, as it was admitted in full.*]

The *Gemora* answers: This reasoning is only fitting according to Shmuel. Rav Nachman quotes Shmuel as saying that if a person claimed wheat and barley and the defendant admitted one of them that he is liable to swear.

This is also logical. The second part of the *Mishna* says that if a person claims a litra of gold and the defendant claims he only owes a litra of silver, he is exempt. If you say the case where he claimed specifically a litra of gold, this is understandable. However, if he claimed the equivalent, why isn't this considered an admission? It must be that if this case is specific, the first case is also specific. (39b)