

HALAKHA

That one cannot take an oath to transgress the mitzvot – שְׁאִין נִשְׁבְּעִין לְעִבּוֹר עַל הַמִּצְוֹת: An oath that applies to a mitzva does not take effect, whether the wording of an oath is employed, e.g., an oath that I will not dwell in a sukka, or the wording of a vow is employed, e.g., dwelling in a sukka is prohibited to me by oath. With regard to benefit from a sukka, the opinion of Rava is accepted (Shulhan Arukh, Yoreh De'a 239:4).

וְשֵׁאִין נִשְׁבְּעִין לְעִבּוֹר עַל הַמִּצְוֹת
מִהֶתֶם נִפְקָא לִיָּהּ דְּתַנְיָא: יְכוּל נִשְׁבַּע לְבִטֵּל אֶת
הַמִּצְוָה וְלֹא בִיטֵל, יְכוּל יִהְיֶה חַיִּיב.

The Gemara asks: And is the principle that one cannot take an oath to transgress the mitzvot^h derived from here, i.e., the above verse? It is derived from there, i.e., another verse, as it is taught in a baraita: One might have thought that if one takes an oath to nullify a mitzva and does not nullify it, one might have thought that he will be liable for violating an oath on a statement.

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This excludes one who takes an oath to nullify a mitzva – יָצָא נִשְׁבַּע לְבִטֵּל אֶת הַמִּצְוָה: One who takes an oath to nullify a mitzva and then does not nullify it is not liable for violating an oath on a statement. However, he is flogged for taking an oath in vain, and he must fulfill the mitzva that he had taken the oath to nullify (Rambam Sefer Hafla'a, Hilkhot Shevuot 5:14; Shulhan Arukh, Yoreh De'a 239:4).

There is a vow within a vow – יֵשׁ נֶדֶר בְּתוֹךְ נֶדֶר: How does a vow take effect where another vow was already made? If one says: It is incumbent upon me to bring an offering if I eat this loaf; it is incumbent upon me to bring an offering if I eat this loaf, then, if he eats it he is liable for each vow. If he requests dissolution of the first vow and it is dissolved, the loaf is still forbidden until he requests dissolution of the second vow and it too is dissolved (Rambam Sefer Hafla'a, Hilkhot Nedarim 3:2; Shulhan Arukh, Yoreh De'a 229:3).

An oath that I will not eat, etc. – שְׁבוּעָה שְׂלֵא אוֹכֵל וְכוּ': An oath does not take effect where another oath has already been taken. If one says: I hereby take an oath that I will not eat this loaf, I hereby take an oath that I will not eat this loaf, the second oath does not take effect. However, if he requests dissolution of the first oath, the second one does take effect (Rambam Sefer Hafla'a, Hilkhot Shevuot 4:9; Shulhan Arukh, Yoreh De'a 239:13).

BACKGROUND

Naziriteship – נִזְרִית: This term refers to the status that applies to someone who vows to be a nazirite, as detailed in the Torah (Numbers 6:1–21). A nazirite must refrain from eating or drinking anything derived from the vine, especially wine. He must avoid ritual impurity imparted by corpses and must refrain from cutting his hair. A nazirite who violates any of these prohibitions is liable to be flogged. One can vow to be a nazirite for any period of time that he wishes, but the minimum period is thirty days. One who does not specify how long he wishes to be a nazirite assumes nazirite obligations for thirty days. The halakhot of the nazirite are discussed in tractate Nazir.

תְּלִמוּד לֹמֵר 'לְהַרְע אוֹ לְהִיטִיב' מֵהַ
הַטְּבָה רְשׁוּת – אִף הִרְעָה רְשׁוּת, יָצָא
נִשְׁבַּע לְבִטֵּל אֶת הַמִּצְוָה וְלֹא בִיטֵל,
שְׁאִין הִרְשׁוּת בִּידוֹ!

However, the verse states: "Or if anyone swears clearly with his lips to do evil, or to do good" (Leviticus 5:4). From the juxtaposition of evil and good it is derived that just as the doing of good, which is interpreted as obligating himself to take a positive action, is referring to a permitted activity, e.g., to eat, so too, the doing of evil, which is interpreted as prohibiting himself from something, refers only to that which is permitted, e.g., not to eat. This excludes one who takes an oath to nullify a mitzva^h and does not nullify it; he is not liable for violating the oath, as the permission to nullify it is not in his power.

חַד קָרָא לְמִיפְטִירִיהּ מְקַרְבֵּן שְׁבוּעָה,
וְחַד – לְמִיפְטִירִיהּ מִן לֹא דְשְׁבוּעָה.

The Gemara answers that both verses are necessary. One verse: "To do evil or to do good," which is stated in the context of the halakhot of offerings, is necessary to exempt him from bringing an offering for violating an oath, and one verse: "He shall not profane," is necessary to exempt him from the prohibition for violating an oath.

מִתְנִי' יֵשׁ נֶדֶר בְּתוֹךְ נֶדֶר, וְאִין
שְׁבוּעָה בְּתוֹךְ שְׁבוּעָה. בִּיצֵד? אָמַר
'הֲרִינִי נִזִּיר אִם אוֹכֵל, הֲרִינִי נִזִּיר אִם
אוֹכֵל' וְאָכַל – חַיִּיב עַל כָּל אַחַת
וְאַחַת. 'שְׁבוּעָה שְׂלֵא אוֹכֵל, שְׁבוּעָה
שְׂלֵא אוֹכֵל' וְאָכַל – אִינוּ חַיִּיב אֶלָּא
אַחַת.

MISHNA There is a vow within a vow.^h It is possible to impose an additional prohibition, by means of a vow, on an item that is already forbidden by means of a vow. But there is no oath within an oath. If one takes an oath twice with regard to the same action, the second oath does not take effect. How so? If one said: I am hereby a naziriteⁿ if I eat,^b and then repeated: I am hereby a nazirite if I eat, and then he ate, he is obligated to observe naziriteship for thirty days for each and every one of the vows, as both vows took effect. However, if he said: I hereby take an oath that I will not eat, and repeated: I hereby take an oath that I will not eat,^h and then he ate, he is liable to bring an offering for only one violation of an oath.

NOTES

How so? If one said I am hereby a nazirite – בִּיצֵד? אָמַר הֲרִינִי – נִזִּיר: Tosafot, the Ran, and others hold that the only way that a vow within a vow takes effect is with regard to naziriteship, and only due to the verse "The vow of a nazirite to consecrate himself" (Numbers 6:2), as explained later (18a). What allows for this possibility is that the second obligation of naziriteship goes into effect only after the first term of naziriteship is over. However, regular vows do not apply to items that are already forbidden due to a vow, as a prohibition does not take effect where another prohibition already exists. The Rid cites the wording of the mishna as proof for this opinion, as the mishna does not state: A vow takes effect where another

vow was already made, but rather: There is a vow within a vow. This indicates that only some vows can take effect in this manner. Other commentaries (Ritva; Rabbi Avraham min HaHar) maintain that a vow takes effect where another vow was already made even with regard to konamot. Accordingly, if someone states twice that eating a particular item will be forbidden to him, and he then eats it, he receives two floggings. The Ritva adds that the reason the mishna presents this halakha specifically with regard to naziriteship and not with regard to regular vows is that this halakha is derived from naziriteship. However, it applies to other vows as well.

הָרִינִי נָזִיר הַיּוֹם וְכוּ' – I am hereby a nazirite today, etc. – If one says: I am hereby a nazirite today, I am hereby a nazirite today, both vows take effect, and he must observe two periods of naziriteship. This ruling is in accordance with the opinion of Shmuel, as he was a greater scholar than Rav Huna. Furthermore, several problems were raised by the Gemara with regard to the opinion of Rav Huna (Rambam *Sefer Hafla'a, Hilkhot Nezirut* 3:10; *Shulhan Arukh, Yoreh De'a* 239:12).

GEMARA Rav Huna said: They taught that there is a vow within a vow **only where he said: I am hereby a nazirite today**, and then he said: **I am hereby a nazirite tomorrow. As since an additional day of naziriteship is added by the second vow, an additional thirty-day obligation of naziriteship takes effect upon the first term of naziriteship. However, if he said: I am hereby a nazirite today**, and then repeated: **I am hereby a nazirite today**,^h a vow of naziriteship does not take effect upon a previous vow of naziriteship, and he must observe only one term of naziriteship. And Shmuel said that even if he said: **I am hereby a nazirite today, I am hereby a nazirite today**, a second vow of naziriteship takes effect with regard to him, as one can apply two obligations of naziriteship to himself one after the other.

The Gemara asks: **And according to Rav Huna, instead of teaching that there is no oath within an oath**, drawing a distinction between a vow and an oath, **let the mishna teach a narrower distinction between different vows, stating that there is a case of a vow within a vow, and there is a case in which there is not a vow within a vow.** How so? If one says: **I am hereby a nazirite today, I am hereby a nazirite tomorrow**, in this case **there is a vow within a vow.** However, if one says: **I am hereby a nazirite today**, and then again says: **I am hereby a nazirite today**,

גַּמְ' אָמַר רַב הוּנָא: לֹא שָׁנוּ אֶלְיָא דְאָמַר "הָרִינִי נָזִיר הַיּוֹם, הָרִינִי נָזִיר לְמָחָר", דְּמִיגִזוּ דְקָא מִיתְסַף יוֹמָא יְתֵירָא – חֵיילָא נְזִירוּתָא עַל נְזִירוּתָא, אֲבָל אָמַר "הָרִינִי נָזִיר הַיּוֹם, הָרִינִי נָזִיר הַיּוֹם" – אִין חֵלָה נְזִירוּתָא עַל נְזִירוּתָא, וְשִׁמּוּאָל אָמַר: אֶפִּילוּ אָמַר "הָרִינִי נָזִיר הַיּוֹם, הָרִינִי נָזִיר הַיּוֹם" – חֵלָה נְזִירוּתָא עֲלֵיהּ.

וְלִרְבֵּי הוּנָא, אֲדִתְנָא אִין שְׁבוּעָה בְּתוּךְ שְׁבוּעָה, לִיתְנִי: יֵשׁ נָזֵר בְּתוּךְ נָזֵר, וְאִין נָזֵר בְּתוּךְ נָזֵר; "הָרִינִי נָזִיר הַיּוֹם, הָרִינִי נָזִיר לְמָחָר" – יֵשׁ נָזֵר בְּתוּךְ נָזֵר: "הָרִינִי נָזִיר הַיּוֹם, הָרִינִי נָזִיר הַיּוֹם" – חֵלָה נְזִירוּתָא עֲלֵיהּ.

Perek II
Daf 17 Amud b

אִין נָזֵר בְּתוּךְ נָזֵר! – קִשְׁיָא.

in this case **there is no vow within a vow.** The Gemara concludes: This question is **difficult**, although it is not a conclusive refutation.

תַּנּוּ: יֵשׁ נָזֵר בְּתוּךְ נָזֵר וְאִין שְׁבוּעָה בְּתוּךְ שְׁבוּעָה. הִיכִי דְמִי? אִילִימָא דְאָמַר "הָרִינִי נָזִיר הַיּוֹם, הָרִינִי נָזִיר לְמָחָר", דְּכּוֹתָה גַּבֵּי שְׁבוּעָה "שְׁלֵא אוֹכֵל תְּאֵנִים" וְחֹזֵר וְאָמַר "שְׁבוּעָה שְׁלֵא אוֹכֵל עֵגְבִים", אֲמַאי לֹא חֵלָה שְׁבוּעָה עַל שְׁבוּעָה?

The Gemara raises several problems with the opinion of Rav Huna. **We learned in the mishna: There is a vow within a vow, but there is no oath within an oath. What are the circumstances? If we say that the case of a vow within a vow is where one said: I am hereby a nazirite today, I am hereby a nazirite tomorrow, that in the corresponding situation with regard to an oath within an oath, which will not take effect, is where one said: I hereby take an oath that I will not eat figs,^h and he then said: I hereby take an oath that I will not eat grapes, i.e., he took two separate oaths; if so, why does an additional oath not take effect where an oath was already made? It ought to take effect, as the second oath is not connected to the first one.**

אֶלְיָא הִיכִי דְמִי דְלֹא חֵלָה שְׁבוּעָה עַל שְׁבוּעָה – בְּגוֹן דְאָמַר "שְׁבוּעָה שְׁלֵא אוֹכֵל תְּאֵנִים" וְחֹזֵר וְאָמַר "שְׁבוּעָה שְׁלֵא אוֹכֵל תְּאֵנִים", דְּכּוֹתָה גַּבֵּי נְזִירוּתָא הִיכִי דְמִי – דְאָמַר "הָרִינִי נָזִיר הַיּוֹם, הָרִינִי נָזִיר הַיּוֹם", וְקִתְנִי: יֵשׁ נָזֵר בְּתוּךְ נָזֵר. קִשְׁיָא לִרְבֵּי הוּנָא!

Rather, **what are the circumstances in which a second oath does not take effect after an oath was already made? For example, where one said: I hereby take an oath that I will not eat figs, and he again said: I hereby take an oath that I will not eat figs. In the corresponding situation with regard to naziriteship, what are the circumstances? It must be a case where one said: I am hereby a nazirite today, I am hereby a nazirite tomorrow; and the mishna teaches that in this case there is a vow within a vow.** This poses a **difficulty** to the opinion of Rav Huna, who holds that in this case the second vow does not take effect.

אָמַר לָךְ רַב הוּנָא: מִתְנִיתִין דְאָמַר "הָרִינִי נָזִיר הַיּוֹם, הָרִינִי נָזִיר לְמָחָר", דְּכּוֹתָה גַּבֵּי שְׁבוּעָה, דְאָמַר "שְׁלֵא אוֹכֵל תְּאֵנִים" וְחֹזֵר וְאָמַר "שְׁבוּעָה שְׁלֵא אוֹכֵל תְּאֵנִים" וְעֵגְבִים, דְלֹא חֵיילָא.

The Gemara answers that **Rav Huna could have said to you that the mishna is referring to a case where one said: I am hereby a nazirite today, I am hereby a nazirite tomorrow; that in the corresponding situation with regard to an oath is where one said: I hereby take an oath that I will not eat figs, and then said: I hereby take an oath that I will not eat figs and grapes, the second oath does not take effect, as he had already taken an oath with regard to part of its content.**

I hereby take an oath that I will not eat figs, etc. – With regard to one who took an oath that he will not eat figs, and then took a second oath that he will not eat figs or grapes, and then unwittingly ate figs and set aside an offering for violating his oath, and then unwittingly ate grapes, he is not liable for eating the grapes. The reason is because the grapes are the equivalent of a half-measure, and an offering is not brought for a half-measure. This is in accordance with the opinion of Rabba (Rambam *Sefer Hafla'a, Hilkhot Shevuot* 4:14).

Since the oath can take effect with regard to grapes, etc. – מיגו דחל שבועה על ענבים וכו' In the case of one who took an oath that he will not eat figs, and then took an oath that he will not eat figs or grapes, he is liable to be flogged twice for eating figs. Since the second oath took effect with regard to the grapes, it took effect with regard to the figs as well (Rambam *Sefer Hafla'a, Hilkhoh Shevuot* 4:11; *Shulhan Arukh, Yoreh De'a* 238:6).

The second term of naziriteship is counted for him instead of the first – עלתה לו שניה בראשונה: If one vowed to observe two terms of naziriteship, completed the first term of naziriteship, set aside an offering for it, and then requested and was granted dissolution of the first vow of naziriteship, he is counted as having served the second term of naziriteship during the period when the first vow was observed. Therefore, he brings his offering and is exempt from any further obligations. Even if he already brought his atonement offering and even shaved his head, and then requested dissolution, the second term of naziriteship is counted for him instead of the first (Rambam *Sefer Hafla'a, Hilkhoh Nazirut* 3:10).

NOTES

The second term of naziriteship is counted for him instead of the first – עלתה לו שניה בראשונה: The reason that the second term of naziriteship is counted for him instead of the first is that the dissolution of a vow uproots it retroactively, so that it is as if it never existed at all. Therefore, the second term of naziriteship takes effect in place of the first one which was nullified. When the term of naziriteship is concluded he may bring the requisite offering (*Shita Mekubbetzet*).

והאמר רבא: "שבועה שלא אוכל תאנים" וחזר ואמר "שבועה שלא אוכל תאנים וענבים", ואכל תאנים והפריש קרבן וחזר ואכל ענבים – הויא להו ענבים חצי שיעור, ואין מבאיס קרבן על חצי שיעור.

אלמא, היכא דאמר "שבועה שלא אוכל תאנים" וחזר ואמר "שבועה שלא אוכל תאנים וענבים", מיגו דחל שבועה על ענבים – חיילא נמי על תאנים! רב הונא לא סבירא ליה כרבא.

מיתביב: מי שגזר שתי נזירות, מנה את הראשונה והפריש קרבן, ונשאל עליה – עלתה לו שניה בראשונה.

היכי דמי? אילימא דאמר "הריני נזיר היום, הריני נזיר למחר" אמאי עלתה לו שניה בראשונה? הא איכא יומא יתיירא! אלא פשיטא דאמר "הריני נזיר היום, הריני נזיר היום",

The Gemara asks: **But didn't Rabba say that if one said: I hereby take an oath that I will not eat figs, and then said: I hereby take an oath that I will not eat figs and grapes, and he subsequently ate figs, violating the oath, and he then set aside an offering for the violation of an oath on a statement, and he then ate grapes, in this case the grapes that he ate are only a half-measure of the second oath.** The inclusion of both figs and grapes in the oath indicates that his intention was to prohibit himself from eating both. Since he already set aside an offering for eating the figs, he is now considered as having eaten only grapes and as having violated only half of the oath. **And therefore he is not liable to bring an offering for violating the second oath, as one does not bring an offering for a half-measure.**

The fact that he is exempt from bringing an offering merely because he ate a half-measure indicates that the second oath took effect. **Apparently, where one said: I hereby take an oath that I will not eat figs, and then said: I hereby take an oath that I will not eat figs and grapes, since the second oath can take effect with regard to grapes,^H as grapes were not included in the first oath, it takes effect with regard to figs as well.** This poses a problem according to the opinion of Rav Huna, who would explain the mishna as teaching that the second oath in this case does not take effect at all. The Gemara answers: **This is not a problem. Rav Huna does not hold in accordance with the opinion of Rabba, as Rabba was an amora and Rav Huna's student.**

The Gemara raises an objection from a *baraita*: **In the case of one who took two vows of naziriteship, counted the thirty days of the first term of naziriteship and set aside an offering at the end of its term, and then requested from a halakhic authority for dissolution of the vow before the offering was sacrificed, thereby rendering the offering unnecessary, the second term of naziriteship is counted for him instead of the first.^{HN}** He is considered as having fulfilled the second term of naziriteship during the period in which he observed the first one. Therefore, the offering that he set aside counts for the second term of naziriteship.

What are the circumstances? **If we say that it is a case where he said: I am hereby a nazirite today, I am hereby a nazirite tomorrow, why is the second term of naziriteship counted for him instead of the first? Isn't there an additional day in the second term of naziriteship that he has not yet observed, as the second thirty day term commences the day after the first thirty day period had commenced? How, then, is it possible that the second obligation was fulfilled through his observance of the first one? Rather, it is obvious that it is a case where he said: I am hereby a nazirite today, I am hereby a nazirite today,**

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ותיבתא דרב הונא!

and this is a conclusive refutation of the statement of Rav Huna.

לא, לעולם "הריני נזיר היום, הריני למחר", ומאי "עלתה לו" – לבר מההוא יומא יתיירא. אי נמי: בגון שקיבל שתי נזירות בבת אחת.

The Gemara answers: **No, actually the case is where he said: I am hereby a nazirite today, I am hereby a nazirite tomorrow. And what is the meaning of the statement: The second term of naziriteship is counted for him instead of the first? It is counted except for that additional day, which he still must observe. Alternatively, it may be a case where he accepted upon himself two periods of naziriteship simultaneously, i.e., he said: I am hereby a nazirite twice. Therefore, when the vow with regard to the first term of naziriteship is dissolved, the days he observed count entirely for his second term.**