

25.3.7

26a (ר' ישמעאל אומר [משנה 2]) → 26b (וחולין מקדשים לא גמרינן)

Note: our *invokes* 2 exegetical approaches to rules and examples: *ריבוי ומיעוט* - the general is seen as all-inclusive and the example as a single exclusion; the other method is *כלל ופרט* - the general is seen as a principle and the example as defining the group.

1. או נפש כי תשבע לבטא בשפתים להרע או להטיב לכל אשר יבטא האדם בשבעה ונעלם ממנו והוא ידע ואשם לאחת מאלה: ויקרא ה.ד.
 2. איש כי ידר נדר לה' או השבע שבעה לאסור אסור על נפשו לא יחל דברו ככל היצא מפיו יעשה: במדבר ל.ג.
 3. מוצא שפתים תשמר ונשית כאשר נדרת לה' אלהיך נדבה אשר דברת בפיו: דברים כג.כז.
 4. ויבאו האנשים על הנשים כל נדיב לב הביאו חח ונגזם וטבעת וכמוז כל כלי זהב וכל איש אשר הניף תנופת זהב לה': שמות לה.בב.
 5. ונחשב לכם תרומתכם כדגן מן הגרן וכמלאה מן היקב: במדבר יח.כז.

I Continuation of 'ה משנה ביטוי שבועות about the past:

- a להרע או להטיב (v. 1) only applies to future, as per *ישמעאל ד.ר'*
- b להיטיב (להרע) or benefits (להרע) should only apply to clear cut deprivations (להרע) or benefits (להיטיב)
- i Response: *יבטא* expands to include "benefit-neutral" actions
- ii Retort: same expansion allows for שבועות ביטוי about the past
- c *יוחנן ד.ר'*'s explanation of dispute:
- i Teachers: (see note above)
- 1 כללים ופרטים – was trained to read *ר' נחוניא בן הקנה* – *ללמוד* with *ר.י.*
- (a) Read: *יבטא*: כלל; להרע או להיטיב: פרט; כי תשבע: כלל
- (i) Therefore: פרט, which is about the future defines all – must be the future
- (ii) Note: the כללים allow expansion to oaths beyond a clear הרעה והטבה
1. And: the פרט excludes oaths about the past – even if they relate to a clear הרעה והטבה
2. Question: why not the inverse?
- a. Answer (*ר' יצחק*): must follow lead of *יחל* (v. 2) – a commitment which may be fulfilled
- b. Alternate (*ר' יצחק בר אבין*): per v. 1 – כי תשבע לבטא; oath must precede action (ביטוי)
- 2 ריבויים ומיעוטים – was trained to read *נחום איש גמזו* with *ר.ע.*
- (a) Read: *יבטא*: ריבוי; להרע או להיטיב: מיעוט; כי תשבע: ריבוי
- (i) Therefore: all are included, only דבר מצוה is excluded

II Related discussion: application of האדם בשבועה (v. 1) – exemption of אונס

- a אונס – exempts האדם
- i meaning: if he forgot, at the time of his oath, what had really happened
- 1 example: story of *תלמידי רב*, each swore as to what *רב* had taught; errant one didn't violate שקר שבועות – אונס
- b only if he forgot the oath, not the object (?)
- i reaction (in *א.י.*): they dismissed it – as there is no way to forget the object
- 1 (assumption: "forgetting" object means forgetting the terms of the oath, not oblivion to reality)
- 2 explanation: forgetting oath is understandable – he remembered that he took an oath concerning, e.g. wheat bread, but forgot if it was "to eat" or "to avoid eating" – remembered object, forgot oath
- (a) but: if he remembered that he swore not to eat, but thought it was "barley bread" – that's שבועה העלם
- ii conclusion (*א.י.*): they are one and the same (העלם חפץ: העלם שבועה)
- iii defense (*ר' יוסף*): if he remembered the oath, but thought he grabbed barley bread but it was wheat bread
- 1 block1 (*א.י.*): since he brings the קרבן for what he eats, it's still שבועה העלם
- 2 block2 (*א.י.*): the קרבן is brought for this bread – which he forgot he foreswore – העלם שבועה
- (a) defense (*ר' יוסף*): had he known this was wheat, he would've avoided it → העלם חפץ
- c Question (*ר' לר.נ.*): if he forgot both (חפץ ושבועה) is he liable?
- i Answer: yes – he did forget שבועה
- i Counter: he forgot חפץ – should be פטור
- ii *א.י.*'s solution: see if he stepped away when reminded of שבועה or חפץ
- 1 Block: in either case, both components play a role in his avoidance when reminded
- 2 Conclusion: should be exempt (*ר.י.*) or it is a תיקו (*ר.י.*)

- III בשוגג – בשינוי: Identifying ביטוי שבועות as it applies to the past – ר"נ: question of רבא
- a lemma1: if he knows that he's lying – מזיד
 - b lemma2: if he forgot – considered אינס (as above, with רב's students)
 - c answer: if he remembered what really happened, but didn't remember if he's liable for קרבן for לשעבר שבועת ביטוי לשעבר for קרבן
 - i challenge: this seems to accord only with מונבז (contra חכמים) – forgetting liability of קרבן constitutes שוגג
 - ii defense: could be רבנן – they only disagree with מונבז in regular cases (where קרבן is expected – in case where זדון → כרת, as per model of ע"ז);
 - 1 but: in this case, which is odd, as the זדון is a לאו but the שגגה → קרבן, רבנן may agree that קרבן = שגגת קרבן
 - d related question (רבא רבינא): if he took an oath against eating a particular loaf and then avoiding it becomes mortally dangerous (i.e. there's nothing else to eat) – should he eat it?
 - i answer: this is obvious – שבועה פקוח נפש trumps נפש
 - ii modified question: if he would have eaten it anyway (due to non-threatening hunger) but forgot about the שבועה
 - 1 answer: if he repents once he is informed – חייב בקרבן; else, exempt
 - (a) and: in this case, being reminded of the oath would not have prevents him from violation → פטור
- IV שמואל's ruling about "internal oaths"
- a if: he committed to an oath in his heart – invalid until he expresses and enunciates with his lips
 - i challenge: לבטא בשפתים (v. 1) – means that he must express with his lips
 - ii but: same ברייתא infers from end of פסוק (לבטא בשפתים) that if he committed – valid (w/o verbalization)
 - iii internal contradiction: resolved (ר' ששה):
 - 1 if: he committed to express verbally – invalid until he does so
 - 2 but if: he committed internally – valid at that point
 - 3 resolution: of ברייתא –
 - (a) but: שמואל is still challenged
 - (b) resolution: (ר"ש) – reread ברייתא –
 - (i) if: he committed to say X and said Y – invalid
 - (ii) but if: he committed to say X and said "all letters" (a group which includes X) – valid
 - (c) challenge: v. 3 implies a requirement to express verbally (in case of נדרי הקדש)
 - (i) v4: extends to a commitment in his heart to make a donation to מקדש
 - (ii) explanation: why don't we apply v. 4 to שבועות and allow for "internal commitments" to be valid?
 - 1. answer: because v. 4 (מקדש) and v. 5 (תרומה) are כאחד שני כתובים הבאים – cannot be applied
 - a. question: what about according to ר' יהודה מלמדן – ר' יהודה
 - b. answer: we cannot infer rules of חולין (including שבועות) from קדשים