

Parshat Matot Mase'ei 5776

Parshas Matos commences with the laws regarding vows. As the posuk says: *"If a man makes a vow to Hashem or swears an oath to prohibit a prohibition upon himself, he shall not profane his word; according to whatever comes from his mouth shall he do"* (30:3). Within this posuk there appears to be two ways of giving ones word, namely, a neder (translated as a "vow") and a shevu'a (translated as an "oath").

The gemarah in Masekhes Nedarim clarifies that a person who makes a neder is affirming that a particular item (such as food) is forbidden to him, and thus the item becomes hekdesch (Temple property). On the other hand, when a person makes a shevu'a he does not create a new status for the item, but rather he proclaims that he himself will/ will not perform a particular action.

There are a number of practical halachic differences between nedarim and shevu'os, which are examined in Mishna Masekhes Nedarim (16a). One such distinction is that a shevu'a is unable to override a Torah command because it is not made on an item but on the individual. For instance, if a person makes a shevu'a declaring that he will eat on Yom Kippur, this oath is invalid and the only infringement he has violated is through the pronouncement of a worthless shevu'a- (Hashem's name in vain). Thus, since a person is already obligated (from Har Sinai) to keeping this Torah command, a person cannot therefore exclude himself from such a ruling.

Nevertheless, when it comes to nedarim, there are times when a neder can override a Torah law because it affects an item. For instance, if a person makes a neder that he will not eat Matza on Pesach, this vow is binding and he is then forbidden to participate in this mitzvah. This is because by making such a vow the person has changed the status of the item i.e. the matza, rather than creating an additional obligation on himself (which is the case with a shevu'a), and so the neder is upheld.

This halachic ramification originates from the pasuk mentioned above which reads: *"If a man makes a vow (a neder) to Hashem... he shall not break his pledge"*. The gemara comments that *"to Hashem"* with reference to a vow/neder, can be altered to mean *"against Hashem."* Therefore, even a neder that contradicts Hashem's commands cannot be broken.

The Rashba in Masekhes Nedarim and the Sefer Ha-chinuk (mitzva 30) query how a person is able to forgo the keeping of a Biblical law in exchange for the preservation of a neder. They back up their question by referencing a standard ruling that states *"asei docheh lo ta'aseh"* which means that a "positive" mitzvah supersedes an opposing "negative" mitzvah. Thus, one would think that the positive commandment to eat matza would overrule the negative command of *"he shall not break his pledge"*. The Rashba and Chinuka explain that a neder essentially contains both a negative and positive command, namely, the prohibition that a person *"shall not break his pledge"* is the lo ta'aseh, in combination with the positive command that *"he must carry out all that has come of his mouth"* which is inherently a mitzvas asei. Indeed, with respect to this principle even though a mitzva asei takes precedent over a mitzva lo ta'aseh, it is ineffective over a command that contains both a mitzvas asei and a mitzvas lo ta'aseh. Hence, the mitzva of eating matza on Pesach cannot take priority over the neder in question.

The Sefer Hachinuk expands this line of reasoning by recounting a phrase from the sages; *"Whoever attaches himself to an oath is free of obligation; but with a neder his is under obligation"* What does this mean? In explanation a person who hears another man make a neder and immediately afterwards declares *"I too like you"* his word is binding even though he has not clearly stated his intention. On the other hand, if a person overhears a man make a shevu'a and immediately afterwards proclaims *"I too like you"* it is not until he has made his intentions very clear by acknowledging and confirming his desire to take on this oath, that it becomes binding. This is due to the fact that when a person makes a shevu'a it is as if his words have affected himself personally and thus cannot include anyone else. Therefore, with the declaration of an oath/shavu'a a person must say it with his own mouth about himself, whereas with a neder a person need only indicate his desire for him to be bound. Why should this be the case? The Sifre state that as a neder is more stringent than an oath as it is likened to *"the life of a king"* (as though he vowed by the life of a king) it is taken more stringently and therefore should be upheld more readily than an oath.

In conclusion, the mouth produces words readily and with very little effort, but the impact and consequences can be far reaching. In order to utilize the gift of speech properly, one should always take care to speak appropriately