



Shevuat Pikadon

The fifth *perek* deals with *shevuat pikadon* – an oath denying the possession of an object or money belonging to someone else. The second *Mishnah* provides two examples. The first is if one asks another for his item back, and the other person then swore he did not have it. The second is if the person denied having it is his possession, the owner then adjured him to take make an oath and he responded "amen". In both cases, if he had deliberately lied, then he would be liable to bring a *korban asham*.

The *Tosfot Yom Tov* explains that the two cases in our *Mishnah* should not be understood as the complete list of scenarios that qualify as *shevuat pikadon*. The *Tosfot Yom Tov* argues that even if the custodian was not challenged and voluntarily made the oath, it would still be qualified as a *shevuat pikadon*. The *Tosfot Yom Tov* cites the *Rambam* (*Shevuot* 7:5) who states this law explicitly. (The *Mishnah* includes only these two cases because a *shevuat edut*, the topic of the previous *perek*, is only defined as such if the individual confronted the potential witnesses first.)

The difficulty with this explanation is that the *Rambam* rules in the next *halacha* that if someone else challenged the custodian, it would only then be defined as a *shevuat edut* if he was a *shaliach* (agent) with a *harsha'ah* (legal authority). If denying possession unprompted can qualify as a *shevuat pikadon*, why would it not be enough if someone else challenged the custodian that was not a *shaliach* or did not have a *harsha'ah*.

The *Tosfot Yom Tov* answers that the *Torah* requires that the *shevuat pikadon* be "lifnei amito" – in front of the owner. Even though in other area of *halacha* we have the

principle of "*shlucho shel adam ke'moto*" – one's agent is considered like the one who sent him – in this case the *harsha'ah* is necessary since without it, the *shaliach* would not be able to legally extract the funds. (We find the same requirement in *shevu'at edut* also.)

The *Chazon Yechezkel* (*Shevuat* 2:5) however cites the *Ri Migash* who states that for it to be defined as a *shevuat pikadon*, the *shevuah* must follow the owner's claim. Does the *Ri Migash* then argue with the *Rambam*?

The *Chazon Yechezkel* does not think so and explains the *Rambam* differently. The *Rambam* provides an example of an unprompted *shevua*: "[the custodian asks] why are you coming after me? Do you think I have your money? I swear I do not have your money!" The *Chazon Yechezkel* explains that even though the owner did not challenge the custodian, it is only defined as a *shevuat pikadon* because of the context – the owner was approaching him. The *Chazon Yechezkel* cites *R' Chaim* who explains that even though for *shevuat pikadon* the claim of the owner is not required, the owner must nevertheless demonstrate that he wants his money back. This then explains why the *Rambam* adds the detail that the owner was pursuing the custodian.

Based on this explanation we can understand the requirement that the *shaliach* have a *harsha'ah* in a different manner. Recall, that until it is clear that the owner wants his money or property back, a *shevuah* would not qualify as a *shevuat pikadon*. Furthermore, it is only with the *harsha'ah* that the *shaliach* has the power to retrieve the property. Consequently, fit is only with the *harsha'ah* that we have a solid proof the owner is claiming is property be returned.

Revision Questions

שבועות ד': י"א – ו' :

- Is it considered a *shevuat edut* if:
 - The "witnesses" knew *ed mi'pi ed*? (ד': י"א)
 - One of the witness was an invalid witness? (ד': י"א)
 - The witnesses were adjured by the servant of the claimant? (ד': י"ב)
- What three expressions are listed for adjuring witnesses? (ד': י"ג)
- What are the three debates between *R' Meir* and the *Chachamim* related to the previous question? (ד': י"ג)
- To what is a *shevuat pikadon* more similar: *shevuat edut* or *shevuat bitui*? (ה': י"א)
- What sacrifice must one bring for a *shevuat pikadon*? (ה': י"א)
- In which case of *shegaga* is one still obligated to bring this *korban*? (ה': י"א)
- Explain how one makes a *shevuat pikadon*. (ה': י"ב)
- When is one obligated to bring one *korban* and when is obligated to bring many if he made *shevuat pikadon* regarding collaterals belonging to different people? (Include all three opinions) (ה': י"ב)
- What other case brought is similar to the one in the previous question? (ה': י"ג)
- Explain the debate regarding a *shevuat pikadon* in a case of *ones*. (ה': י"ד)
- Regarding which case involving a person's ox killing something would the owner's denial qualify as a *shevuat pikadon* and in which case would it not? (ה': י"ד)
- Complete the following rule: (ה': י"ד)

" כל המשלם על פי עצמו _____ ושאינו משלם על פי עצמו _____ "
- What is a *shevuat dayanim* and when does it apply? (ו': י"א)
- Regarding what case would one not be obligated to make a *shevuat dayanim* as it is considered *meishiv aveidah*? (ו': י"א)
- What is the law regarding a case where he admitted to owing another money, yet the next day said: (ו': י"ב)
 - "I gave it to you"? When is the law different?
 - "I never owed you anything"?
- If one person said the other owed him a gold object and the person admitted he owed him a silver one, regarding which object would he be obligated to make a *shevuah* and regarding which object would he be exempt? (ו': י"ג)
- Complete the following rule and explain: (ו': י"ג)

"הנכסים _____ זוקקין
את הנכסים _____ לשבע עליהן"
- A claim made by which three people would not obligate the other party with a *shevuah*? (ו': י"ד)
- Who do we never obligate to make a *shevuah*? What other efforts are made on behalf of this person? (ו': י"ד)
- To what items does a *shevuat dayanim* not apply? (ו': י"ה)
- Which two fines do not apply to these items? (ו': י"ה)
- How do these items differ in the laws of *shomrim*? (ו': י"ה)
- About which of the items does *R' Shimon* argue? (ו': י"ה)
- Complete the following rule of the *Chachamim* and explain: (ו': י"ו)

_____ כל המחבר לקרקע _____
- How does *R' Meir* disagree with this principle? (ו': י"ו)
- Complete the following rule and explain with examples: (ו': י"ו)

_____ אין נשבעין אלא על דבר _____

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Efrat, Israel
Shiur in English

Sunday -Thursday
Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

ONLINE SHIURIM

Yisrael Bankier
mishnahyomit.com/shiurim

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
http://www.dafyomi.co.il/calend
ars/myomi/myomi-thisweek.htm

**SHIUR
ON KOL HALOSHON**

Rabbi Moshe Meir Weiss
In US dial: 718 906 6400
Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
9 June ו' סיון	10 June ז' סיון	11 June ח' סיון	12 June ט' סיון	13 June י' סיון	14 June יא סיון	15 June י"ב סיון
Shevuot 6:7-7:1	Shevuot 7:2-3	Shevuot 7:4-5	Shevuot 7:6-7	Shevuot 7:8-8:1	Shevuot 8:2-3	Shevuot 8:4-5

