



Volume 4. Issue 29

A Shevuah and A Neder

One of the most solemn times of the year is on *Erev Yom Kippur* when the *shul* is filled with people and the *Chazzan* begins the *Kol Nidrei* service. During this *tefillah*, we annul all the various forms of oaths and vows that we have made over the past year. However, what is the difference between an oath and a vow? Do not both involve utterances that cause a person keep their word? Why is the content of our *masechet* simply included as part of *Masechet Nedarim* or visa versa?

The *Torah* in *Sefer Bamidbar* (30:3) states: "When a man vows a vow (*neder*) unto Hashem, or swears an oath (*Shevuah*) to bind upon his soul, he shall not break his word; according to all that came out of his mouth, he shall do."

The *Ramban*, in his commentary on this *pasuk*, addresses the question of the difference between a "*neder*" and a "*shevuah*". He explains (based on the *Gemara* in *Nedarim* 2b) that the difference between them is found in the relationship of the person making the oath or vow and the subject of the oath or vow.

Whereas a *shevuah* is an *issur gavra*, where a person prohibits **himself** from a particular action, in the case of a *neder*, a person prohibits an **object** (*cheftza*) onto himself. For example, when making a *neder* not to have *hana'ah* (benefit) from a piece of bread, the piece of bread is a *davar ha'assur* and is *assur* to you. However, if one makes a *shevuah* not to eat a piece of bread

the whole day, the bread itself does not become a *cheftzah shel issur*. Rather, you have imposed on yourself certain restrictions – namely not to eat bread. Therefore, a person is unable to make a *neder* on a *davar she'ain bo mamash* (something which has no substance), i.e. on an action. Therefore, if one were to take a *neder* not to speak, eat or sleep, these would not be valid since they do not relate to a *cheftza*. Only a *shevuah* can relate to a person and his actions.

Kehati, in his introduction to the first *mishnah* in *Masechet Shevuot*, explains that there are four kinds of oaths dealt with in the *Torah*. (The first three have been discussed in this week's *mishnayot*).

- 1) Declaratory oaths - e.g. that he will or will not eat¹;
- 2) Vain oaths - e.g. swearing that a stone is gold²;
- 3) Oaths of testimony - e.g. witnesses in a monetary matter who were asked by the claimant to testify in court, and swear that they have no knowledge of the matter³;
- 4) Oaths of deposit, e.g., denying on oath being in possession of another person's money or property⁴.

Aside from these four types, where a person swears voluntarily, there are oaths which the court imposes called the 'oath of the judges'. *Masechet Shevuot* deals with all aspects of these kinds of oath.

Rabbi Ben-Zion Hain

¹ As it is written: "Or if a person swears, pronouncing with his lips to do evil or to do good" (*Vayikra*. 5:4).

² as it is written: "You shall not take the Name of the Lord your G-d in vain" (*Shemot*. 20:7)

³ As it is written: "And if a person sins and hears the voice of adjuration, and is a witness, whether he has seen or known of it, if he does not utter it, he shall bear his iniquity" (*Vayikra* 5:1)

⁴ As it is written: "If a person sins and commits a trespass against the Lord, and denies [possessing] his neighbor's deposit, or [having received] a loan, or a robbery, or having wronged his neighbor, or has found that which was lost and denied it or swore falsely..." (*Vayikra* 5:21-22)

Revision Questions

שבועות ג' – ד' ח:

- If a man made a *shevuah* to fulfill the *mitzvah* of *tefillin* and missed a day is he obligated to bring a *korban*? (ג' ר:)
 - Explain *R' Yehuda ben Beteira's* opinion regarding the previous question and the *Chachamim's* counter argument. (ג' ר:)
 - What is the punishment for one that transgresses a *shevuat bitui*? (ג' ז:)
 - What is the difference between one that transgresses a *shevuat bitui* and a *shevuat shav*? (ג' ז:)
 - What is a *shevuat shav*? Include three different types. (ח' ר:)
 - Provide a case where a person makes two similar *shevuot* and the first is defined as a *shevuat bitui* and the second is defined as a *shevuat shav*. (ג' ט:)
 - Can a *shevuat bitui* be made outside of *beit din*? (ג' י:)
 - How can someone make a *shevuat shav* by only saying one word? (ג' י"א:)
 - Does a *shevuat edut* apply outside of *beit din*? (ד' ז:)
 - When does *R' Meir* differ with the *Chachamim* regarding the previous question? (ד' ז:)
 - How does the scope of who can make a *shevuat edut* differ from one who can make a *shevuat bitui*? (ד' ז:)
 - Describe a case involving *shegaga* in a *shevuat edut* where the person would still be obligated to bring a *korban*. (ד' ב:)
 - When is someone obligated to bring multiple *korbanot* for multiple *shevuot edut* about the same testimony, and when are they only obligated to bring one? Explain why. (ג' י:)
 - If two witnesses each make a *shevuat edut*, when are both *chayav* and when is only one *chayav*? (ד' י:)
 - Does the same law hold for two sets of witnesses? (ד' י:)
 - When is someone obligated to bring multiple *korbanot* for a *shevuat edut* regarding multiple things, and when is he obligated to only bring one. (ד' ה:)
 - Is one *chayav* if he made a *shevuat edut* regarding *tashlumei kefel*? Why? (ד' ר:)
 - What other case that occurred on *Yom Kippur* shares a similar law to the previous question? (ד' ר:)
 - Regarding the previous question, what would be the law if the testimony concerned that incident on *Shabbat*? (ד' ז:)
 - Complete this general rule regarding when one is *chayav* for a *shevuat edut*: (ד' ח:)
- " _____ על _____ חייבין אלא על _____"
- What case was brought in that same *Mishnah* as an example of what this rule excludes? (ד' ה:)

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Sunday -Thursday

Between mincha & ma'ariv
Mizrachi Shul

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10 minutes before mincha
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Next Week's Mishnayot...

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | שבת קודש |
|--|---|---|--|--|--|--|
| 9 th December כ"ט כסלו חנוכה ה' Shevuot 4:9-10 | 10 th December א' טבת ר"ח, חנוכה ו' Shevuot 4:11-12 | 11 th December ב' טבת חנוכה ז' Shevuot 4:13-5:1 | 12 th December ג' טבת חנוכה ח' Shevuot 5:2-3 | 13 th December ד' טבת Shevuot 5:4-5 | 14 th December ה' טבת Shevuot 6:1-2 | 15 th December ו' טבת Shevuot 6:3-4 |

