



Volume 10. Issue 29

## Shevuat Edut Be'Shogeg

During our study this week we have covered many different categories of *shevuot* (oaths). The most recent is the *shevuat edut*. This is where one falsely swears that they have knowledge of incidents surrounding a case and can therefore not act as a witness. One of the things that set this *shevuah* apart from others is when one is punishment.

If one deliberately violates his *shevuat bitui* (a regular oath) then he would be liable to lashes. If the transgression is inadvertent (*be'shogeg*) then he would be required to bring a *korban oleh ve'yored* (see last weeks issue). We have also learnt that if one deliberately make a *shevuat shav* (an empty/meaningless oath) then he too would be liable to lashes; *be'shogeg* he would be exempt. We find however by *shevuat edut* it is a deliberate violation that obligates one to bring a *korban oleh ve'yored*. The *Mishnah* (4:2) teaches that this is the case if they intentionally lied, whether or not they knew that the violation would be obligated one to bring a *korban*. The *Mishnah* continues that in a case of *shogeg* however they would be exempt. What exactly constitutes a case of *shogeg* as stated in the *Mishnah* with respect to *shevuat edut* is the subject of debate.

First however, we shall look at the *Gemara* (31b). The *Gemara* asks that this *Mishnah* appears to be the source of a ruling discussed in an earlier *Gemara* (26a), yet it is not cited as being so. *Rav Kahana* and *Rav Assi* debated regarding the opinion of *Rav*. Each of them made a *shevuah* asserting their position. When they eventually met *Rav* and one of them was proven wrong, they asked whether he violated a *shevuat bitui*. *Rav* responded in the negative since he was "forced" by his heart because he sincerely thought he was right – it is a case of *ones*. The *Gemara* responds that this *Mishnah* could not have been used to resolve the question regarding the *shevuat bitui*. Since the term "*ne'elam*" is not used in the *Torah* with *shevuat edut* the *shogeg* that obligates one for a *korban* must be similar to the *meizid*; as the *Mishnah* states, they lied but did not know that they are obligated to bring a *korban*. Since however the term "*ne'elam*" is used with respect to a *shevuat bitui*, one might have thought that even the smallest amount of *shogeg* would have obligated him. *Rav's* separate ruling was therefore required.

What then is the *shogeg* that exempts in our case? *Rashi* understands that they honestly thought they had no knowledge of the case - only later however they remembered. The *Tosfot* however ask that if that was the case, then that is obvious that they are exempt - they were not lying when they made the *shevuah*! It cannot be defined as *shogeg* since it does not even qualify as a violation of a *shevuat edut*. They suggest that perhaps *Rashi* meant that they swore "we did not know" or "we did not see" which would indeed be false.

The *Tosfot* however suggest that that the *shogeg* here is that the witnesses did not know that there was a prohibition to swear falsely. The *Ramban* who brings a *Yerushalmi* that explains in a similar manner adds that thinking that a prohibition is permitted, is normally considered *shogeg* and would not exempt one for a *korban*. With respect to a *shevuat edut* however, since the prohibition is violated by speech alone it is not enough to obligate one to bring a *korban* if he believed it was permitted.

The difficulty the *Tosfot Yom Tov* has with this explanation is that that law could have already been derived from the first two cases. Recall that the *Mishnah* first taught that if one deliberately swore falsely or the lied and knew it was prohibited to do so but did not know they would be obligated to bring a *korban*, then in both cases they would be required to bring a *korban*. Since those two cases are specifically mentioned, it implies that if one did not know it was prohibited they would be exempt. The last statement of the *Mishnah* therefore must be teaching us something new.

The *Ran* however suggests that *Rashi* means that when they swore, they indeed did know. Had they given it a moment's thought they would have realised, so they were not telling the truth. Yet since they were flustered and believed they were telling the truth, they are *shogegim* and exempt. This then aligns more closely with the case of *Rav Kahana* and *Rav Ashi* where their heart compelled them to make a *shevuah*.

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**Revision Questions**

שבועות ב' ה' ד' ב'

- whether the person would bring a *korban oleh ve'yored*? (ב' ה')
- Complete the following expression and explain: (ג' א')  
שבועות \_\_\_\_\_ שהן \_\_\_\_\_
- What is the law if someone made a *shevuah* not to eat, and:
  - They ate and drank? (ג' א')
  - They ate three different type of bread? (ג' ב')
- Regarding the previous question, when would the law be different? (ג' א' ב')
- What other case is brought that shares a similar law to the previous two questions? (ג' ג')
- If a person made a *shevuah* not to eat, and he ate, when would he not be *chayav*? (ג' ד')
- Explain the debate regarding a person who made a *shevuah* not to eat, then ate *neveilot* and *tereifot*. (ג' ד')
- The *Mishnah* explains that *shevuot* apply to four extra categories – what are they? Explain. (ג' ה')
- If a man made a *shevuah* to fulfill the *mitzvah* of *tefillin* and missed a day is he obligated to bring a *korban*? (ג' ו')
- Explain *R' Yehuda ben Beteira's* opinion regarding the previous question and the *Chachamim's* counter argument. (ג' ו')
- 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. (ג' ח')
- 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*? (ג' י"א')
- When does *R' Meir* differ with the *Chachamim* regarding the previous question? (ג' י"א')
- How does the scope of one who can make a *shevuat edut* differ from one who can make a *shevuat bitui*? (ג' י"א')
- Describe a case involving *shegaga* in a *shevuat edut* where the person would still be obligated to bring a *korban*. (ג' י"ב')

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Melbourne, Australia

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**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
1 <sup>st</sup> September כ"ו אלול	2 <sup>nd</sup> September כ"ז אלול	3 <sup>rd</sup> September כ"ח אב	4 <sup>th</sup> September כ"ט אלול	5 <sup>th</sup> September א' תשרי	6 <sup>th</sup> September ב' תשרי	7 <sup>th</sup> September ג' תשרי
Shevuot 4:3-4	Shevuot 4:5-6	Shevuot 4:7-8	Shevuot 4:9-10	Shevuot 4:11-12	Shevuot 4:13-5:1	Shevuot 5:2-3

