YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**TALMUDIC METHODOLOGY**

**By Rav Moshe Taragin**

**Shiur #16: The Definition of *Shevu’at Shav***

The *issur* of *shevu’at sheker* is mentioned at least three times in the Torah, but the Torah delineates a separate prohibition for a *shevu’at shav*, typically translated as a “pointless *shevu’a*.” The *mishna* (29a) iterates four different examples of *shveu’at shav*: Swearing in contradiction of something patently obvious, swearing about something impossible, swearing to violate a *mitzva*, and swearing to reverse a previously declared *shevu’a*. In this *shiur*, we will probe the relationship between a *shevu’at shav* and a classic *shevu’at sheker.*

Is the prohibition of *shevu’at shav* merely a more **intense** form of *shevu’at sheker*? A classic *shevu’a le-haba* isn’t *sheker* when **first** declared, since the oath may be ultimately fulfilled. It only emerges as false in the wake of non-execution. Even a *shevu’a le-she'avar* or past *shevu’a* that is immediately false based on previous conduct is only a personal “falsehood,” inasmuch as the individual didn’t conduct himself as he purported to in his oath. The behavior stated in the oath **could in theory** be true. By contrast, *shevu’at shav* – for example, swearing in contradiction of an obvious reality (that a piece of gold is really silver) – is extreme dishonesty, since there is no way that gold can ever be silver and this is universal falsehood. If *shevu’a shav* is defined as extreme untruth, it is structurally analogous to *shevu’at sheker*.

Alternatively, *shevu’at shav* may comprise a completely different prohibition – not an extreme untruth, but rather a frivolous and wasteful *shevu’a*. By swearing to contradict something obvious, a person has frivolously and without any purpose mentioned the name of *HaKadosh Barukh Hu*. A *shevu’at sheker* isn’t frivolous, as the person taking the oath may be attempting to convince another of a (false) statement. An oath about something obviously untrue is just an abject waste, and this affront to the name of *HaKadosh Barukh Hu* entails an entirely different prohibition.

An interesting *gemara* (20b) mentions that *shav* and *sheker* "are one," which the *gemara* interprets to mean that they were delivered by *HaKadosh Barukh Hu* at Har Sinai through one integrated statement (much in the same manner that *zakhor* and *shamor* were fused and jointly delivered). This would definitely presume that they are structurally analogous. It is unclear, however, whether the *gemara* maintains this view in its conclusion.

Perhaps the most obvious *nafka mina* to help clarify the nature of *shevu’at shav* pertains to an oath to corroborate something obvious. The *mishna* describes a situation in which an obvious truth is contradicted as *shav*. The Yerushalmi adds a scenario wherein an obvious truth is **confirmed** (for example, someone who swears that a piece of gold is gold). If a *shevu’at shav* is an extreme form of *sheker*, this example would not be considered *shav*, as no falsehood has been uttered. If, however, *shav* entails a frivolous *shevu’a*, it would apply equally to contradictions and confirmations of obvious truths, each of which would entails a wasteful *shevu’a*.

A second question pertains to someone who mentions *HaKadosh Barukh Hu*'s name in vain without taking a formal *shevu’a*. Based on a *gemara* in *Berakhot* (21), the Rambam (*Berakhot* 1:15) claims that this scenario also violates a *shevu’at shav*. Once again, this expansion of *shevu’at shav* indicates that the core of the prohibition is the frivolous and wasteful mention of *HaKadosh Barukh Hu*'s name. This frivolity occurs anytime the Name is mentioned without any apparent purpose, whether in the framework of a *shevu’a* or as a stand-alone mention. If *shevu’at shav* were a form of falsehood, it would be completely inapplicable to an autonomous statement taken without a *shevu’a* framework.

An additional example of a *shevu’a* that may not be an extreme *sheker* but may be frivolous relates to a *shevu’*a to fulfill a *mitzva*. The *mishna* defines a *shevu’a* to suspend a *mitzva* as *shav*. It is unclear, however, whether this definition is based upon the frivolity of attempting to omit a *mitzva* or upon the inevitable *sheker* of this oath, since Halacha mandates the performance of the mitzva (and cancellation of the *shevu’a*). The test case would be a *shevu’a* to **fulfill** a *mitzva.* If this is **also** considered *shav*, apparently it is frivolous to swear about an action already mandated by *mitzva* whether to violate or violate. If *shav* were based primarily upon extreme *sheker*, it would not apply to a *shevu’a* that would be **upheld** and fulfilled by performance of a *mitzva* activity.

The *gemara* in *Nedarim* (8a) discusses a *shevu’a* to perform a *mitzva*, and the Rambam (*Shevuot* 5:16) at least according to some reading claims that *shevu’at shav* has been violated. Evidently, this supports his position that any pointless mention of *HaKadosh Barukh Hu*'s name is a violation of *shav*. Corroborating an obvious truth as well as mentioning *HaKadosh Barukh Hu*'s name independent of a *shevu’a* framework are examples of *shav* because they are frivolous. Similarly, a *shevu’a* to perform a *mitzva* is frivolous, even though it will not be proven false.

Those who argue with the Rambam and claim that a *shevu’a* to uphold a *mitzva* is not *shav* can adopt multiple approaches, including:

1. Unlike a *shavu’a* to break a *mitzva*, a *shevu’a* to perform a *mitzva* is *chal*; even though a *shevu’a* to avoid a prohibition is redundant and meaningless, one to uphold a *mitzva* is different
2. Even if the *shevu’a* to uphold a *mitzva* does not entail an actual halakhic oath, it still provides psychological motivation toward *mitzva* performance. Since it serve a purpose, it isn’t completely frivolous and cannot be considered *shav*.

An additional proof that *shevu’at chav* is defined as a pointless shevu’a can be gleaned from an interesting *machloket* about the range of “impossible” *shavu’ot*. As stated earlier, the *mishna* (29a) describes a *shevu’a* to perform something impossible as a *shevu’at shav*. The *gemara* provides an example: an oath not to sleep for 3 days would be *shav* since a person will certainly fall asleep during this duration. The Rambam (*Shavuot* 1:37) claims that an oath not to eat for a week would similarly be *shav*, since this is legally impossible – at the point of dangerous starvation, Halakha would mandate eating as *pikuach nefesh*, thereby rendering this scenario “impossible.” Since he takes an oath that is impossible to fulfill, he has violated *shevu’at shav*.

The Ran disagrees, presumably understanding *shav* as a form of extreme *sheker*. Since the starving person must ultimately **decide** whether to save his life and comply with Halakha by eating or whether to uphold the *shevu’a* by fasting and starving to death, this *shevu’a* is not an immediate *sheker* (as are other *shevu’at* *shav*).

The Ramban (consistent with his earlier statements defines *shav* as futile. Any attempt to contravene halakha is futile and considered *shevu’at* *shav*. Since halakha demands eating, a *shevu’a* to avoid it is *shav*. By contrast the Ran may have defined *shav* as extreme falsehood since there is no **option** for fulfillment. Since this person may violate halakha and maintain the *shevu’a* it can’t be extreme *sheker*.

Finally, the *mishna* (29a) describes a second *shevu’a* in contradiction of a previous *shevu’a* as an instance of *shav*. For example, if a person took an oath to eat and followed that by taking an oath not to eat, his second *shevu’a* is in violation of *shav*. The Rashba (*Teshuva* 1:702) claims that if the person repeals the first *shevu’a* retroactively, he no longer has violated *shav*. The Ratvaz (1:178) disagrees, claiming that if a *shevu’a* has been deemed *shav* at the outset, it cannot retroactively be redesigned as non-*shav*.

Perhaps this debate surrounds the nature of *shevu’at shav*. If the Rambam is correct and *shav* is a futile *shevu’a*, any subsequently emerging **function** will add utility and remove the tag of “frivolity” from a *shevu’a*. By contrast, if *shav* is a form of extreme *sheker*, it would likely de defined at the point of declaration (as typical *shevu’at sheker le-she'avar* is defined). Subsequent repealing of a previous *shevu’a* would not alter the identity of a subsequent *shevu’a* that was deemed *shav*/extreme *sheker* at its point of origin.