**YESHIVAT HAR ETZION**

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**TALMUDIC METHODOLOGY**

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**Shiur #12: *Shevuat Eid Echad***

Although the majority of *shevuot to’en ve-nitan* (litigational oaths) are Rabbinically imposed, there are three that are *de-oraita:* 1) A *shomer* (watchman) must take an oath upon completion of his service in guarding an object. 2) A person who partially confesses to owing funds (*modeh be-miktzat*) must take an oath regarding the funds he denies owing. By partially confessing, he has strengthened the claim of the prosecution, and he must therefore swear regarding the money that he denies. 3) *Shevuat eid echad*: If one *eid* testifies about prosecuted monies that are completely denied, the defendant must render a *shevua*. In this *shiur*, we will discuss the nature of this final *shevua de-oraita*.

Instinctively, we might define the oath as similar to the more well-known *modeh* *be-miktzat* oath. In the scenario of medeh be-miktzat, the initial prosecution claim is strengthened by a partial confession; in a situation of *eid echad* it is similarly strengthened by the testimony of one witness. **Any** claim that is legally strengthened must be replied to with a *shevua*. Seen in this light, the single witness does not trigger the oath; rather, it is triggered by the claim of the prosecution, which has been reinforced by the witness’s testimony.

A *derasha* in *Shavuot* (40b) provides a very different impression. Rejecting the ability of a lone witness to obligate monies, the *gemara* concludes that he **can** mandate a *shevua*. This formulation implies that the witness obligates the oath; he does not merely strengthen the claim that in turn actually obligates the oath.

This question of whether the witness himself **obligates** the oath or merely **augments** the claim of the prosecution, which in turn obligates the oath, may lead to many interesting *nafka minot* about the application of *shevuat eid echad*.

Principal among these *nafka minot* is the question of whether a *ta’ana* of “*shema”* – an uncertain and speculative claim – can trigger a *shevua*. If the prosecution lodges a *shema* claim, without professing definite knowledge of the disputed money, will the subsequent testimony of the *eid echad* obligate a *shevua*? Rabbeinu Efrayim, a contemporary of the Rif, claimed that it would not. In many ways, this is similar to the oath of *modeh be-miktzat*, which also cannot be triggered by a non-definite claim of “*shema*.” However, most *Rishonim* disagree, led by the Ramban in *Shavuot*, (40b) who cites and disputes the position of Rabbeinu Efrayim. Much of the Ramban’s opposition is pivoted on viewing the oath of an *eid echad* as fundamentally different from the oath of *modeh be-miktzat*. The latter oath is indeed triggered by an augmented claim and can only emerge in the wake of a *ta’ana* of *bari* (certainty). By contrast, an oath of *eid echad* is triggered by the witness himself and can evolve even if the associated claim is only a *shema* claim. In the scenario of *shevuat eid echad*, the claim is merely the pretext to **launch** the legal process. Even a *shema* claim can launch that process, and the arrival of the *eid echad* creates an obligation to swear.

An interesting statement cited in the name of the Ri Migash (cited by the Shitta Mekubezet *Bava Metzia* (3b) may offer a second hint to the nature of a *shevua* of one *eid*. When swearing, the defendant must articulate that he does not owe any of the money that **the *eid* testified about**. This requirement to actually cite the *eid* as part of his *shevua* may also indicate that the oath is not merely a response to the augmented claim. Instead, it is meant to disavow the testimony of the one *eid*. As such, it must directly relate to the *eid* by name.

A third issue surrounds the monetary value of the claim for which the defendant renders a *shevua*. Regarding the classic *modeh be-miktzat* oath, the *gemara* demands that, at a minimum, a value of two *kesef* be denied and subsequently become the subject of the oath. Does this requirement apply to a *shevua* of an *eid echad* as well? Although we might assume that it does, the Ri Migash (*Shevuot* 40a) distinguishes between a *modeh be-miktzat shevua*, which emanates from the claim, and a *shevuat* *eid echad*, which is solely mandated by the one witness’s testimony. In the former situation, only a denial valued at two *kesef* is sufficient to qualify as a part of the *modeh be-miktzat* suite of claims and counterclaims to mandate an oath. By contrast, a *shevua* of *eid echad* is created by testimony and not a claim, and there is therefore no minimal value requirement for the denial claim.

This logical association between the degree of certainty of the claim and the value of the denial may create an internal question within the Ri Migash. He waives the minimum two *kesef* requirement for the denial, suggesting that the *eid* creates the *shevua* obligation. By contrast, he demands a *bari* claim to obligate a *shevuat* *eid echad*, implying that the actual claim may generate the oath obligation. Evidently, the Ri Migash would reject part of the aforementioned analysis.

An interesting peripheral question may surround the ability of an *eid echad* to **exempt** a *shevua* and not just obligate a *shevua*. The Maharam Mi-Rotenberg (in is explanation of a position of Rabbeinu Tam) famously developed the doctrine of *eid mesayei’a* who can exempt someone from **any** *shevua*. For example, a person is obligated to swear on the denied part of a larger claim, part of which he confessed to (*modeh be-miktzat*). Subsequently, one *eid* reinforced his denial on part of the original claim. The Maharam rules that the *eid* would succeed in exempting this *shevua*. Just as one *eid* can obligate an oath, he may also acquit and oath. This logic would obviously only obtain if a *shevuat eid echad* is indeed generated by the witness. Accepting this logic, we can easily extrapolate the Maharam’s extension: If one *eid* can obligate an oath, he can certainly acquit. If, however, the oath is not generated by the one *eid*, but rather by a claim that was reinforced by an *eid*, there exists no precedent for one *eid* obligating an oath, and certainly no extrapolation about an *eid* exempting an oath.