YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**TALMUDIC METHODOLOGY**

**By Rav Moshe Taragin**

**Shiur #14: Defining the Prohibition of a *Shevu’a Le-Haba***

**(Part 1)**

The first *mishna* of *Massekhet Shavuot* implies that there are four different varieties of a *shevu’at bituy*, a personal oath unrelated to judicial litigation. An oath can be articulated about past actions or past inactions. Alternatively, an oath can be declared about future actions or future inactions. Although an oath about the execution of an action is slightly different from one that describes inactivity, the greater difference exists between *shavu’ot* about the past (*le-she'avar*) and *shavu’ot* about the future (*le-haba*).

The core *issur* of the *shevu’a le-she'avar* surrounds the declaration of falsehood (*sheker*). By describing an event of the past inaccurately, the person has spoken falsely, incorporating it within a formal declaration and associating it with the name of God. *Sheker* is forbidden at any level, but this formal *sheker* defiles the presence of God (whose essence does not allow for *sheker*) and entails a separate violation, possibly even requiring a unique *korban* (*olah ve-yored*).

Is a *shevu’a le-haba* similarly a *sheker* violation? A false *shevu’a le-sha'avar* about the past is immediately deemed a false declaration because one has inaccurately presented the past, whereas a *shevu’a le-haba* **may** be fulfilled, thereby avoiding the issuing of a false statement. However, once the declaration **is** violated, the statement is rendered retroactively false and may be similarly problematic.

Alternatively, a *shevu’a le-haba* may be fundamentally different from a *shevu’a le-shava'ar*. By taking an oath, a person may be redefining neutral **activities** as **obligatory** or **forbidden**. For example, by taking an oath not to eat bread, the person may be rendering the **act** of eating bread as **forbidden**, so that it is now similar to classically forbidden acts, such as consuming *neveila*. Conversely, by taking a *shevu’a* to eat bread a person is rendering this classically neutral process into an **obligatory act**, similar to other obligatory acts, such as consuming *matza* on the night of Pesach. The halakhic core of *shevu’a* *le-haba* may not be whether an oath has been proven false, but conversion of otherwise neutral activities into personal *mitzvot* or *aveirot*.

This question clearly influence several debates among the *Rishonim*, but it appears that several disputes among the *Tannaim* and *Amoraim* were also based on this question. Chief among them is the *machloket* between R. Akiva and the *Chakhamim* (*Shavuot* 19b) about a person who swears not to eat food, who then ingests less than a *kezayit*. Ordinary food prohibitions, such as *neveila*, are only punishable in quantities of a *kezayit*. If one’s oath has rendered food as “personally” forbidden, it should only be punishable only in the minimum quantity of a *kezayit*; this, in fact, is the position of the *Chakhamim*. By applying a punishment even for lesser quantities, R. Akiva may be assuming that a *shevu’a* *le-haba* does not redefine personal acts as forbidden. Rather, after swearing not to eat a certain food, the person must avoid that food so as not to render his previous statements false. Even by eating even lesser quantities, a person has rendered his previous statements false, and thus violated the *shevu’a*.

A second intriguing *machloket* surrounds the ability of *hatfasa*. Rava (*Shavuot* 20a) maintains that *hatfasa* only works for a *neder*, but not a *shevu’a*. Since a *neder* redefines the identity of an **item**, *hatfasa* offers a shortcut for a subsequent *neder*; instead of articulating a complete *neder*, a person can merely **associate** a new item with a previously *neder*-banned item and confer it similar status. Since, however, a *shevu’a* does not redefine the object, but is merely a declared **intent** (which may or may not prove to be false), *hatfasa* is not compatible.

Abaye disagrees, extending *hatfasa* to a *shevu’a* as well. If a person has sworn not to eat, he can associate a separate *shevu’a* (for example, not to eat tomorrow) with his previously articulated oath. Perhaps Abaye agrees in principle with the *Chakhamim*. By swearing, the person has not simply issued words that must be upheld. Instead he has created concrete **actions** that are now banned or obligated. Theoretically, he can affiliate separate actions with those previously targeted actions through the mechanism of *hatfasa*.

Perhaps the most striking issue is which Biblical prohibition is violated by issuing a false *shevu’a le’haba*. This question may influence halakhic questions, such as the terminology of the warning issued. Rav Dimi (*Shavuot* 20b) claims that *shevu’a le-haba* violates the prohibition of “*lo tishavu be-shmi la-shaker*” (*Vayikra* 19:12), suggesting that – similar to *shevu’a* *le-she'avar* – future oaths are a violation of falsehood. By contrast, Ravin (*Shavuot* 21a) claims that future oaths do not violate the prohibition of *sheker*, but rather the prohibition of “*lo yachel devaro*” (*Bamidbar* 30:3), similar to a *neder*. A *neder* clearly creates a new halakhic prohibition surrounding an item. By equating a *shevu’a le-haba* to a *neder* and by dismissing the applicability of *sheker*, Ravin may be asserting that a *shevu’a* *le-haba* creates a newly forbidden or obligatory activity – again similar to the logic assumed by the *Chakhamim* in their debate with Rebbi Akiva about the requisite *shiur* of *kezayit*.

Perhaps this question can be further discerned in the *machloket* between R. Akiva and R. Yishmael about a *korban* for a violated *shevu’a le-she'avar* (*Shavuot* 25a). The Torah describes the *korban* in the context of a *shevu’a le-haba*, “*Le-hara o le-heitiv*” (*Vayikra* 5:4). Does a *korban* also apply to a falsely stated oath about the past? R. Akiva compares a future oath to a past oath and therefore extends the *korban* even to *shevu’a le-sh’avar*. Perhaps this is consistent with the previous logic attributed to his position that *shevu’a le-haba* is punishable even for less than *kezayit* quantities since the *issur* of a future *shevu’a* is based on false statements. As a *shevu’a le-haba* raises a question of *sheker*, any consumed quantities render the statement *sheker*. Since *shevu’a le-haba* is based on statements rendered as *sheker*, it is **structurally similar** to a *shevu’a le-she'avar*. Thus, even though the Torah articulated the *korban* about a *shevu’a* *le-haba*, it can easily be applied to the structurally similar form of *shevu’a* *le-she'avar*.

By contrast, R. Yishma’el may have asserted that *shevu’a le-haba* is fundamentally **dissimilar** to a *shevu’a le-she'avar*. The latter is a violation surrounding falsely spoken words, whereas the former renders new banned or obligated **actions**. In obligating a *korban* for performing banned actions, the Torah does not necessarily extend that *korban* to merely speaking falsely. Just because the Torah articulates a *korban* for *shevu’a le-haba* does not mean it can be easily extended to *shevu’a le-she'avar*. The two are completely different experiences and completely dissimilar violations.