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TALMUDIC METHODOLOGY  
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**SHIUR #17: A SHEVUA TO SUSPEND A MITZVA (PART 1)**

Typically, if one violates a *shevu'a*, he must offer a *korban oleh ve-yored*. However, the *mishna* in *Shevuot* (25a) exempts a *korban* in a situation in which a *shevu'a* about a *mitzva* act was violated. This exemption I derived from the clause “*le-hara o le-heitiv*” (*Vayikra* 5:4) (to perform something beneficial or detrimental), which qualifies the types of false oaths that mandate a *korban*. This clause implies a *shevu'a* about voluntary activities. Halakhic activities do not afford the type of flexibility implied by that phrase, and they are therefore exempt from *korbanot*.

A complementary *gemara* in *Nedarim* (16b) and *Shevuot* (25a) similarly eliminates the *malkot* (normally administered for false (future) oaths) in the case of an oath regarding the performance of a *mitzva*. This is based on the verse, “*lo yachel devarav*” (*Bamidbar* 30:3) (he should not violate his words), in which the word “*devarav*” is loosely interpreted as referring to one’s **personal** affairs. The syntax implies *malkot* for violation of oaths taken about personal issues. Since halakhic-centered activities are ritualistic, they are not personal, and their violation do not yield *malkot* or an *issur*.

In this *shiur* and the one that follows, we will explore the nature of the *malkot* exemption for a *shevu'a le-vatel mitzva*, an oath taken to violate a *mitzvat ase*.

By excluding halakhic activities from the scope of the *bal yachel* violation, is the Torah establishing a formal **scope** of *shevu'a* capabilities? Since a *shevu'a* is a personal reordering of a halakhic map, it only applies to neutral/personal activities. Activities which are halakhically legislated are not within the domain of *shevu'a* influence. Alternatively, the exemption may be more **technical**. Although a *shevu'a* has been taken to withhold from eating *matza*, this personal oath **conflicts** with the standard *halakha* to consume *matza*. When faced with a clash between a personal oath and a halakhic

mandate, a person must prioritize the halakhic activity, even at the expense of violating his oath. The Torah enshrines this prioritization by eliminating the *issur* of the oath.

To summarize the question, are halakhic activities beyond the **domain** of *shevu'a* ability, or does the Torah mandate *shevu'a* violation as the price for *mitzva* compliance? Why can't a *shevu'a* to break a *mitzva* operate?

The primary *nafka mina* to this issue relates to a *shevu'a* to **reinforce** *mitzva* performance, *le-kayem et ha-mitzva*. Would such a *shevu'a* obtain? Presumably, if halakhic activities are not within the domain of *shevu'a*, it would matter little whether the *shevu'a* aims to suspend the performance of the *mitzva* or to bolster it; a *shevu'a* can only be applied to neutral, non-*mitzva* activities. Indeed, this is the position of the Ramban (in *Milchamot Hashem* at the end of the third *perek* of *Shevuot*), who claims that similar to a *shevu'a le-vatel mitzva*, a *shevu'a le-kayem mitzva* is halakhically meaningless. In contrast, the Ba'al Ha-Ma'or (at the end of the third *perek* of *Shavuot*) and the Ran (based on *Nedarim* 8a, which cites a verse to defend a *shevu'a* to uphold a *mitzva*) claim that unlike a *shevu'a* to suspend a *mitzva*, a *shevu'a* to execute a *mitzva* is indeed binding. Presumably, they view the inapplicability of a *shevu'a* to suspend a *mitzva* as a result of the inevitable **practical** clash between performance of a *mitzva* and loyalty to a *shevu'a* (which entails suspension of the *mitzva*). When the *mitzva* and the *shevu'a* overlap, the *shevu'a* remains in force.

A second question relates to the violation of a *shevu'at shav* when asserting a *shevu'a* to suspend a *mitzva*. The *mishna* that delineates *shevu'at shav* scenarios (*Shavuot* 29a) lists someone who swears to suspend a *mitzva* (not to eat *matza* on the night of Pesach) as having violated *shevu'at shav*. At first glance, this indicates that a *shevu'a* surrounding halakhic activities is completely meaningless, since it was applied to activities "outside the domain" of an oath. *Shevu'a shav* is typically defined as a pointless and halakhically meaningless oath. As *mitzva* activities lie beyond the scope of a *shevu'a* an oath pivoted upon a *mitzva* is irrelevant and consequently in violation of *shav*.

If, however, *shevu'at shav* is defined slightly differently – as oaths that inevitably will be broken – perhaps a *shevu'a* to suspend a *mitzva* would qualify as *shav* even if the oath itself is valid. Even if halakhic activities are within the jurisdiction of a *shevu'a*, an oath to suspend a *mitzva* may be

classified as *shav* because the resolution of this practical clash between *mitzva* and *shevu'a* will always favor the *mitzva*, and never the *shevu'a*. This guarantee of *shevu'a* violation is sufficient to render that *shevu'a* as a *shav*. (Of course, this question is highly dependent upon the definitions of *shevu'a* *shav*, which were outlined in a previous *shiur* ([The Definition of Shevu'at Shav](#)).

An interesting additional debate emerges between the Rambam and the Rashba about a *shevu'a* to suspend “opportunistic” *mitzvot*, *mitzvot kiyumiyot*. Most *mitzvot* are absolutely and unconditionally obligatory, but there is a small set of *mitzvot* that are condition-dependent. For example, only someone who wears a four cornered garment is obligated to attach *tzitzit*. If one chooses not to wear such a garment, he is exempt from the *mitzva*. Would an oath not to wear *tzitzit* be suspended, in the manner that an oath not to eat *matza* would be?

The Rambam (*Shevuot* 1:6) freely extends this exemption to *tzitzit*, whereas the Rashba (*Shavuot* 25a) does not (he discusses an oath about optional *zedaka* as applying, even though an oath about mandatory *zedaka* would not). Perhaps these positions reflect the differing manners of understanding the exemption of *shevu'a* to suspend a *mitzva*. If a *shevu'a* fundamentally does not apply to halakhic actions, it should not apply to **any** halakhic activity – whether that activity is unconditionally or conditionally mandatory. The **action** is still defined as a *mitzva*, and it should therefore be immune to *shevu'a*. If, however, *shevu'a* can be applied to halakhic activities, but the *mitzva* will always override the oath fulfillment, perhaps there are types of *mitzvot* that will not override the oath compliance. One example, may be a *mitzva* that is conditional and possibly less severe than classic, unconditional *mitzvot*.

Another example of a *mitzva* that may not override oath compliance would be a *mitzva derabbanan*. The Ritva (*Nedarim* 13b) assumes that just as a *shevu'a* to suspend a *mitzva* does not obtain, a *shevu'a* to suspend a *mitzva derabbanan* similarly would not apply. If a person takes an oath not to read the *Megilla*, he must violate the oath and recite it. By contrast, the Tur (*Yoreh De'ah* 279) quotes his father the Rosh as claiming that only *mitzvot de-oraita* are unsuited for *shevu'a*.

By extending the rule to *derabbanan* activities, the Ritva may be taking a more fundamental view about the incompatibility between oaths and halakhic activities. Since oaths can only be imposed about personal and neutral activities, they cannot be applied to *mitzvot derabbanan*. By contrast, the Rosh may maintain that *shevu'a* applies to all acts, but when compliance clashes with a *mitzva*, the *mitzva* is prioritized. Perhaps when a *shevu'a* clashes with a *mitzva derabbanan*, the *shevu'a* compliance is prioritized.

These two models of understanding why a *shevu'a* does not apply to a *mitzva* are articulated by the *Afikei Yam* (1:36).