



Shemittah and Shevuot

The seventh *perek* of *Shevuot* ends with the statement that the *Shemittah* year absolves the obligation to make a *shevuah*. The *Bartenura* explains that this comment is not related to the *shevuot* discussed in this chapter, but rather the *shevuah* demanded of a borrower that has partially admitted to the claim against him.

The *Tosfot Yom Tov* cites the *Gemara* (49a) that provides a source for the law. "This is the matter (*davar*) regarding *Shemittah*". The *Chachamim* understand that the use of the word *davar*, also meaning word, implies that not just loans are absolved in the *shemittah* years, but also "words" that are owed, i.e. a *shevuah*.

He continues citing the *Ran* that questions the need for a *pasuk*. The obligation to make a *shevuah* was based on a partial admission to money owed. Since *shmittah* absolved that debt, if there is not loan, clearly there is no requirement for a *shevuah*!

The *Ran* continues by citing the *Yerushalmi* that teaches that *shemittah* does not absolve any loan that was denied.¹ This implies that since the lender claimed his money back prior to the *shemittah* year and the borrower denied part of the sum, *shemittah* does not absolve that part of the loan he denied. Consequently, since the *shevuah* related to the part of the loan that was not absolved, were it not for the *pasuk*, one might have thought that the *shevuah* could be demanded even after the *shemittah* year. He continues that the *pasuk* teaches us that since *shemittah* absolve the part of the loan that the borrower admitted to, it is considered as if the borrower denied the entire claim against him and as we have learnt, would not be required to make a *shevuah*.

The *Rashash* cites the *Shulchan Aruch* (ChM 67:8) that writes that if *Beit Din* ruled regarding a disputed loan, obligating the borrower to pay, then *shemittah* does not absolve that loan because it is considered as if it is already collected. Consequently, according to the above explanation, that after *shemittah* the borrower is considered as if he denied the full claim against him, if *Beit Din* wrote a ruling

obligating the partial payment, then not only would the obligation to pay the amount he admitted to endure, but the *shevuah* also. This is because even after the *shmittah* year, the borrower would still be considered as having partially admitted to the claim made against him.

The *Rashash* however prefers a simpler explanation. The *shevuah* stands in place of a payment. Consequently, the obligation to make the *shevuah* is considered like a loan itself. If the person had been absolved of the requirement to pay the loan (had he admitted), then he is absolved of making a *shevuah* that took its place.

A different understanding of the *Ran* can be found in the *Grach* (*Shemittah* 9:6). He cites the *Minchat Chinnuch* who asks that the obligation to make the *shevuah* arises at the time of the claim. It is irrelevant whether later the borrower is defined as having fully denied the claim against him. because the obligation is set at the time of the original claim. The *Grach* therefore suggest that the *Ran* was trying to solve a different problem. It is indeed a *Torah* decree that the obligation to make the *shevuah* is absolved. The question however is, since part of the loan endures (as explained above) why can the lender not the make a claim again and recreated the obligation to make a *shevuah*? It is this question the *Ran* addresses and explains that the borrower's response to the second claim would be considered as a complete denial.

The *Tosfot R' Akiva Eiger* cites the *Teshuvot Toldot Adam* (372) of the *Rashba* who provides another answer for the necessity of the *pasuk*. Consider the case where one made a *shevuah* to pay the loan when it was due, and the due date was after the *shemittah* year. It is regarding this *shevuah* that the *pasuk* was referring. Were it not for the *pasuk* one might have thought that the *shevuah* would obligate him to pay off the loan. Even though the creditor is obligated to say the debt is absolved, one could think that the borrower's *shevuah* would obligated to pay. Consequently, the *pasuk* is required to teach that that that *shevuah*, obligating him to pay, is also absolved.

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¹ The *Rambam* (*Shemittah* 9:8) rules like this *Yerushalmi*.

Revision Questions

שבועות ו' ז' – ח' :ה'

- Who makes a *shevuah* (first) if a *pikadon* was lost and its value disputed and in what case is the lender exempt from making a *shevuah*? (ז': ו')
- What other case is similar to the one in the previous question? (ז': ו')
- In what way are the *Shevuot* in the seventh *perek* fundamentally different from those in the sixth *perek*? (ז': ו')
- Explain the case that requires a *Shevuat Mishnah* involving:
 - A *sachir*. (ז': ו')
 - A *nigzal*. (ז': ב')
 - A *nechbal*. (ז': ג')
 - "A person that is not trusted in making a *shevuah*". (ז': ד')
 - A store account. (ז': ה')
- On which of the above cases does *R' Yehuda* argue and why?
- On which of the above cases does *Ben Nanas* argue and why?
- Who makes a *shevuah* in a dispute between a shopkeeper and purchaser whether: (ז': ו')
 - The shopkeeper gave the purchaser his item yet it was definitely paid for?
 - The purchaser paid yet the item was definitely handed over?
- On which case does *R' Yehuda* argue and why? (ז': ו')
- What other case brought is similar? In that case how does *R' Yehuda* argue? (ז': ו')
- In which five cases is a woman required to make a *shevuah* in order to collect her *ketubah*? (ז': ו')
- In which five cases can one obligate another to make a *shevuah* without a definite claim? (ז': ח')
- What are the four different types of guardians? (ז': ח')
- For each of the guardians, when do they make a *shevuah* exempting themselves from paying compensation? (ז': ח')
- Is a *shomer chinam* obligated to bring a *korban* if he made a *shevuah* stating that the animal he was guarding was lost but in truth it had died? (ז': ב')
- If a *shomer chinam* swore that the ox he was guarding was lost but in truth the *shomer* ate the ox, what compensation is he required to pay if: (ז': ג')
 - Witnesses came and testified that he slaughtered and ate the ox?
 - He admitted he lied prior to any witnesses testifying that he lied?
- What is the law if a *shomer* swore that the ox was stolen, and witnesses came and said that the *shomer* stole, slaughtered and sold the ox? (ז': ד')
- Regarding the previous question, what is the law if the *shomer* saw the witnesses approaching and quickly admitted that he stole the ox? (ז': ד')
- What is the law if a *sho'el* made a *shevuah* stating that the animal he was guarding was lost but in truth it had died? (ז': ה')

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
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Melbourne, Australia

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Efrat, Israel
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Sunday -Thursday
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Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
16 June י"ג סיון	17 June י"ד סיון	18 June ט"ו סיון	19 June ט"ז סיון	20 June י"ז סיון	21 June י"ח סיון	22 June י"ט סיון
Shevuot 8:6 - Eduyot 1:1	Eduyot 1:2-3	Eduyot 1:4-5	Eduyot 1:6-7	Eduyot 1:8-9	Eduyot 1:10- 11	Eduyot 1:12- 13

