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Introduction to **Shevuot**

Tractate *Shevuot* deals primarily with the *halakhot* of the various categories of oaths. The tractate is included in *Seder Nezikin*, the Order of Damages, because many of the categories of oaths, including oaths of testimony and oaths of judges, are used within a court setting as part of the judicial proceedings in order to establish a person's liability or lack thereof. As such, it is a logical continuation of tractate *Sanhedrin*. Indeed, in the mishnaic order it appears immediately after tractate *Makkot*, which is considered a direct continuation of tractate *Sanhedrin*. Nevertheless, tractate *Shevuot* also covers other categories of oaths, such as oaths on an utterance, which are not in any way connected to the judicial process. Also included in the tractate are various *halakhot* of offerings, which are more directly associated with tractate *Zevahim* but are included here in a tangential way.

The underlying concept of an oath is that a person can be relied upon to tell the truth when he takes an oath that a statement he says is true, specifically when he attests to his claim by taking the oath in God's name.

The violation of an oath is considered a particularly severe matter. Already in the Ten Commandments it is stated: "The Lord will not absolve one who raises His name in vain" (Exodus 20:7; Deuteronomy 5:11), which refers to one who takes an oath about an issue, the truth of which is patently obvious. The Sages (see Jerusalem Talmud, *Nedarim* 3:2) understand that this refers even to one who takes an oath truthfully about an obvious fact. If so, all the more so does one who takes a false oath commit a grave sin. Indeed, a large section of the tractate deals with the process of atonement for one who takes a false oath. The consequences for taking a false oath include both liability to bring an offering in the case of an unwitting violation, and, in certain instances, corporal punishment for an intentional transgression.

Many of the various categories of oaths are defined by the Torah, although there are additional categories that were devised by the Sages. A number of significant distinctions exist between oaths by Torah law and oaths by rabbinic law.

One category of oaths involves those that affect only the person taking the oath and do not relate to the property or actions of other people. This includes oaths on an utterance and oaths taken in vain.

An oath on an utterance is one in which a person takes an oath about an event, stating either that it took place or that it will take place. The oath can refer either to an action that one will perform or to one refraining from performing an action.

If one takes a false oath about an event that has already happened, or about a reality that currently exists, then one immediately incurs liability. If one transgresses intentionally, and there are witnesses who had forewarned him, one is liable to

receive lashes. If the violation was unwitting, then one is liable to bring a sliding-scale offering, either a sheep, bird, or meal-offering, depending on one's financial ability.

Oaths taken in vain are oaths from which nothing is to be gained because they relate to truths that are patently obvious. These include oaths that one takes in which one commits to perform an action that is impossible for him to perform, either because it is physically inconceivable or because doing so would be in violation of a prohibition; false oaths that a person takes in which one claims that a certain fact is true when it is obviously false; and oaths where a person attests to an obvious truth, e.g., where one takes an oath that the sun is the sun. One who intentionally takes an oath in vain is liable to receive lashes, but one who does so unwittingly is not liable at all.

A second class of oaths relate to financial matters that affect other people. These include an oath of testimony, an oath of a deposit, an oath of the judges, and an oath of the bailees.

An oath of testimony is taken in a case where a litigant claims that witnesses have information supporting his case and he requests that they testify on his behalf, and they deny that they have such information. If in such a case the witnesses take a false oath to that effect, and in actual fact they could have testified, thereby causing the litigant a loss, they are obligated to bring a sliding-scale offering to achieve atonement.

An oath of a deposit is relevant in a case where one owes another money or property and denies his liability, and takes an oath to that effect. This applies to any case in which the claimant had a financial right to the money, whether it is due to a loan, a deposit, or claims for damage, but it does not include a debt that is the result of a financial penalty placed upon the defendant. If after taking a false oath the defendant admits that he lied, he must repay his debt and add to it a surcharge of one-fifth of the principal's value. In addition, he must bring a ram as a guilt-offering to atone for his transgression.

An oath of the judges is similar to an oath of a deposit, in that one denies a debt that he owes someone and takes an oath to that effect. The difference is that this oath is administered by the court's judges and not by the claimant. This occurs when the claimant states that another owes him money but he has only one witness to support his claim, or when the defendant admits to part of the claim. In these cases the court judges will demand that the defendant take an oath to support his claim. This oath is taken while holding onto a scroll of the Torah or onto phylacteries. Once he takes the oath he is then exempt from having to pay. If he later admits that he took a false oath, he is liable to bring a guilt-offering.

An oath of a bailee is another oath taken in a case where one denies a financial obligation and takes an oath to that effect. It is taken when a bailee takes charge of an item but when the time comes to return it, he claims that some mishap occurred to the item for which he is exempt from any liability. In such a case the owner of the item can demand that the bailee take an oath affirming his claim. The main discussion of this oath is held in tractate *Bava Metzia*, but many of its *halakhot* are also discussed here.

In addition to the above-mentioned classes of oaths, which are explicitly mentioned in the Torah, the Sages instituted the taking of oaths in various other circumstances. A number of such oaths are already mentioned in the Mishna. The Mishna explains that in these specific cases, it is the claimant who is required to take an oath and then he is deemed credible to extract money from the defendant. This is in contrast to oaths by Torah law, in which it is always the defendant who takes an oath and is

thereby exempted from liability. The reason for this distinction is that in the cases in which the Sages instituted the taking of oaths, there are strong grounds to believe the claimant. Nevertheless, the Sages insisted that before his claim is accepted, he must first reinforce his claim by taking an oath that it is true. Similarly, there are cases where even though the claimant does not state a definite claim, nevertheless, since there is basis to suspect that the defendant is liable, the Sages instituted that the defendant must pay unless he takes an oath that he is exempt.

During the period of the Gemara, the Sages instituted another type of oath, called an oath of inducement. This type of oath is required whenever one entirely denies a monetary claim presented against him. Since it was instituted later, there are various leniencies with regard to it.

An analysis of the various details concerning the different types of oaths, including their precise definitions, the circumstances in which they are taken, and the liability for their violation is the main focus of this tractate. In the course of these discussions the Gemara also raises other related subjects, including: The possibility to extend oaths and require one taking the oath to take an oath about additional matters; the ability to transfer an oath that one party was required to take onto the other party; and the fact that, in certain circumstances, the Sabbatical Year can cancel an obligation to take an oath.

The tractate opens with two chapters entirely unrelated to the *halakhot* of oaths. This is because the opening mishna formulates the various types of an oath on an utterance as: Two that are four, i.e., there are two types of oaths that can be further subdivided, for a total of four types. The mishna then goes on to list other sets of *halakhot* that can be formulated in this way and then proceeds, in the first two chapters of the tractate, to examine them. Though thematically, *Seder Teharot* or *Seder Kodashim* might have been a more appropriate place to discuss these sets of *halakhot*, apparently no fitting place was found there, so the discussion is recorded here.

The main focus of these examinations is the liability for defiling the Temple by entering it while one is ritually impure, and defiling its sacrificial foods by partaking of them while one is ritually impure. The liability for certain cases of these violations is mentioned in the Torah in the same passage that delineates one's liability for violating an oath of an utterance, and in both cases one is liable to bring a sliding-scale offering. These chapters detail all the situations in which violations can occur and how atonement is achieved for each of them, and then the discussion is expanded to include how atonement is achieved for all other transgressions.

Tractate *Shevuot* contains eight chapters, the majority of which primarily focus on and thoroughly examine a single topic, that of oaths.

Chapter One recounts which offerings atone for the various cases of the defiling of the Temple or its sacrificial foods. The different cases are defined by when and if the transgressor was aware of the components of the violation.

Chapter Two delineates the precise definition of awareness with regard to one's liability for the defiling of the Temple or its sacrificial foods, addresses which areas of the Temple are included, and sets out the *halakhot* of one who becomes ritually impure while inside the Temple.

Chapter Three discusses the *halakhot* of oaths on an utterance and oaths taken in vain.

Chapter Four addresses oaths of testimony, specifically, how they are administered and how one achieves atonement for having taken a false oath.

Chapter Five focuses on the oath of a deposit.

Chapter Six discusses oaths of the judges and deals primarily with an oath of one who admits to part of a claim.

Chapter Seven introduces the oaths that were instituted by the Sages, where it is the claimant who takes an oath reinforcing the truth of his claim and who may then take the defendant's money. The chapter also considers the possibility of transferring an oath from one party to another and extending oaths to force the one taking it to also take an oath about additional matters.

Chapter Eight delineates the various cases in which bailees must take oaths in which they state that they are exempt from liability.

The tractate includes very little aggadic material, and the little that it does contain focuses mainly on highlighting the gravity of taking false oaths.

Introduction to Perek I

You shall warn the children of Israel about their impurity; and they shall not die in their impurity, when they defile My Tabernacle that is in the midst of them.

(Leviticus 15:31)

And he shall effect atonement upon the Sanctuary from the impurities of the children of Israel and from their acts of rebellion, for all their sins; and so shall he do for the Tent of Meeting that dwells with them in the midst of their impurity.

(Leviticus 16:16)

And it shall be on Aaron's forehead, and Aaron will bear the sin of the sacred offerings which the children of Israel shall sanctify, for all their sacred gifts; and it shall be always upon his forehead, that they may be accepted before the Lord.

(Exodus 28:38)

Or if a person touches any impure thing, whether it is the carcass of a non-kosher undomesticated animal, or the carcass of a non-kosher domesticated animal, or the carcass of an unclean creeping animal, and it is hidden from him, so that he is impure, and guilty; or if he touch the impurity of man, whatever impurity it is with which a man shall become impure, and it is hidden from him; and he come to know of it, and be guilty.

(Leviticus 5:2–3)

In keeping with the main topic of the tractate, i.e., oaths, the opening mishna begins by detailing four types of oaths on an utterance. It then proceeds by citing a list of other sets of *halakhot*, which, while they have nothing to do with the *halakhot* of oaths, can also be formulated in a structure similar to that of oaths on an utterance, i.e., in the form: There are two types that are four. The tractate then diverts its attention to these sets of *halakhot*, and discusses them throughout its first two chapters, returning to the subject of oaths only in Chapter Three. The first chapter focuses primarily on the various cases of defiling the Temple, which can occur when one enters it while one is ritually impure, or defiling its sacrificial foods, which can occur when one partakes of them while one is ritually impure. In the Torah, great emphasis is placed on maintaining the sanctity of the Temple, and many mitzvot and prohibitions relate to preventing a violation of its sanctity through the introduction of ritual impurity. Indeed, the main significance of the *halakhot* of ritual purity and impurity is in relation to the Temple, and due to this, since the time the Temple was destroyed, many of the *halakhot* of purity and impurity are no longer practiced.

As explained in this chapter, many different offerings are brought in order to atone for the defiling of the Temple or its sacrificial foods, with different offerings serving to atone for different cases. The various cases are defined based on the awareness the perpetrator had of his sin. One case is where a transgression is committed, either intentionally or unwittingly, by an individual who is fully aware of all the facts involved. The main set of cases involves those in which a person is unaware of the facts of the case during his violation, i.e., either he was unaware of the fact that he was ritually impure or he was ignorant of the identity of the Temple or the sanctity of the sacrificial foods involved. In such cases, the means by which one achieves atonement is dependent on whether before the transgression he was aware of the facts of the case and then forgot them, and whether after the violation he gained awareness of what he had done.

The Torah specifies that one is liable to bring a sliding-scale offering for having defiled the Temple or its sacrificial foods. The Sages derived that this applies only in a case where one was both initially aware of all the facts involved, and then, during a lapse of awareness of one of those facts, he transgressed, and then afterward he regained his initial awareness. For other cases in which one did not have initial awareness of the facts or never ultimately gained awareness, other means of atonement are required, as the mishna explains.

While the chapter focuses mainly on the various offerings that atone for different cases of defiling the Temple, it also considers which offerings will atone for other transgressions, in particular, the power of the atonement of Yom Kippur and the offerings sacrificed on that day.

מתני' שבועות שתים שהן ארבע.

MISHNA With regard to oaths on an utterance of the lips, there are **two types that are actually four** types. The Torah specifies only two types of oaths whose violation renders one liable to bring a sliding-scale offering to atone for his transgression (see Leviticus 5:4): Where a person takes an oath to perform some action, and where he takes an oath to refrain from performing some action. With regard to both types, the Torah explicitly mentions liability only for an oath pertaining to one's future behavior. Nevertheless, the Sages derive that one is also liable for a violation of both types of oaths when they pertain to one's past behavior. Accordingly, although only two types are explicitly mentioned in the Torah, the Sages derive that there are actually four types.

דיעות הטומאה – שתים שהן ארבע.

The mishna lists similar groups of *halakhot*. With regard to cases of **awareness of the defiling** of the Temple by entering it while one is ritually impure, or defiling its sacrificial foods by partaking of them while one is ritually impure, there are **two types that are actually four**. It is prohibited for an impure person to enter the Temple (see Numbers 19:20) or to partake of its sacrificial foods (see Leviticus 7:19–20). If one transgressed either prohibition during a lapse of awareness, then upon becoming aware of his transgression, he is liable to bring a sliding-scale offering (see Leviticus 5:2). The Torah specifies that one is liable to bring the offering only in the case in which he had a lapse of awareness of the fact that he was impure. The Sages derive that one is liable not only in these two cases, but also where he was aware of his personal status but had a lapse of awareness concerning the identity of the place he was entering or the status of the foods he ate.

ציאות השבת – שתים שהן ארבע.

With regard to acts of **carrying out** that are prohibited on Shabbat,^B there are **two types that are actually four**. On Shabbat, it is prohibited to transfer an item from domain to domain. The Torah explicitly refers to only two cases, both of which involve an item being transferred from a private domain to a public domain: Where the transfer is made by a person who remains in the public domain, and where the transfer is made by a person who remains in the private domain. The Sages derive that liability is incurred in these cases also if the item is transferred from the public domain to the private domain. Although only two types are mentioned by the Torah, the Sages derive that there are actually four types.

מראות נגעים – שנים שהן ארבעה.

With regard to **shades of leprous marks**^B on a person's skin, there are **two types that are actually four**. The Torah specifies that if a leprous mark appears on a person's skin, the afflicted person must undergo a process of purification and then bring various offerings. Part of the classification of these types of leprosy is based on their shade of white. Two types of marks are explicitly mentioned in the Torah, and the Sages derive that each of these two types has a secondary mark.

BACKGROUND

Acts of carrying out on Shabbat – יציאות השבת: One of the Torah's thirty-nine categories of labor prohibited on Shabbat is the labor of transferring items, which is treated in detail in a significant portion of tractate *Shabbat*. The labor of transferring includes two different situations. The first is the transfer of an item from the private to the public domain or vice versa, unrelated to the distance the item was moved; and the second, carrying an item four cubits in the public domain. Despite the differences between these scenarios, they share several common elements. In both cases, the item in question is lifted from a significant surface with a minimum requisite measure, and then placed on another similar surface. If only one of the stages, either lifting or placing, was performed by an individual, or if each was performed by a different person, it does not constitute labor prohibited on Shabbat by Torah law.

BACKGROUND

Leprosy – צרעת: Leprosy is one of the primary sources of ritual impurity and is particularly severe in that it imparts impurity to objects found in the same enclosure with it, like the impurity caused by corpses. This malady is commonly referred to in the Torah as *tzara'at*, which is traditionally rendered as leprosy. But it is not necessarily the medical equivalent of that disease. The *halakhot* governing these symptoms are articulated at length in Leviticus, chapters 13–15, and in tractate *Nega'im*.

There are many types of leprosy, such as that of the skin, the hair, articles of clothing, and houses. When a symptom appears, it is examined by a priest, and only a priest is authorized to determine whether to quarantine the affected person for a certain period in cases of uncertainty, or to declare immediately

that the symptom is or is not leprosy. While the Jewish people were in the wilderness, a person afflicted with leprosy was sent out of the camp until the affliction was cured. In Eretz Yisrael, lepers were sent out of walled cities.

A cured leper undergoes specific rites outside the city, as well as a special purification ceremony in the Temple itself, which includes bringing several offerings. The main sign of human leprosy is a mark that appears on a person's skin, but the Torah distinguishes between a snow-white mark and a wool-white mark. Because the priest must determine the nature of the marks he is examining, sufficient lighting is required.

Temple chamber where lepers would immerse



Sliding-scale offering – עולה ויורד – The sliding-scale offering is a form of sin-offering where the financial situation of the sinner is taken into account in determining the nature of the sin-offering that he must bring. If the sinner is wealthy, he must bring a sin-offering of a female lamb or goat. If he cannot afford a lamb or goat, he brings a pair of doves instead, one as a burnt-offering and the other as a sin-offering. If he cannot afford even birds, he brings a meal-offering instead. The Torah allows one to atone with a sliding-scale offering for only three transgressions: Violating an oath on an utterance, taking a false oath to avoid giving testimony, and entering the Temple or partaking of sacrifices while ritually impure.

את שגשג בה ידיעה בתחלה וידיעה בסוף והעולם ביניהם – הרי זה בעולה ויורד.

יש בה ידיעה בתחלה ואין בה ידיעה בסוף – שעיר הנעשה בפנים ויום הכפורים תולה, עד שיודע לו ויביא בעולה ויורד.

אין בה ידיעה בתחלה אבל יש בה ידיעה בסוף – שעיר הנעשה בחוץ ויום הכפורים מכפר, שנאמר: "מלבד חטאת הכפורים", על מה שהיה מכפר זה מכפר, ממך הפנמי אין מכפר אלא על דבר שיש בה ידיעה, אף החיצון אין מכפר אלא על דבר שיש בה ידיעה.

ועל שאין בה ידיעה לא בתחלה ולא בסוף – שעירי הרגלים ושעירי ראשי חדשים מכפרין, דברי רבי יהודה. רבי שמעון אומר: שעירי הרגלים מכפרין, אבל לא שעירי ראשי חדשים. ועל מה שעירי ראשי חדשים מכפרין?

The mishna returns to the subject of defiling the Temple or its sacrificial foods. It elaborates on which offerings atone for different cases of defiling the Temple or its sacrificial foods: In cases in which one **had awareness**, i.e., he knew he was ritually impure and was aware of the sanctity of the Temple or foods involved **at the beginning**, i.e., before he transgressed, and **had awareness at the end**,¹¹ i.e., after the transgression, **but had a lapse of awareness** of one of those two components **in between**, while he actually transgressed, **this person is liable to bring a sliding-scale offering**.¹²

For cases in which one **had awareness at the beginning**, transgressed during a lapse of awareness, and **still had no awareness at the end**,¹³ the goat whose blood presentation is performed inside the Sanctuary on Yom Kippur, and Yom Kippur itself, **suspend** any punishment that he deserves **until he becomes aware** of his transgression; and then to achieve atonement **he brings a sliding-scale offering**.

For cases in which one **did not have awareness at the beginning but had awareness at the end**,¹⁴ the goat whose blood presentation is performed outside the Sanctuary, i.e., the goat of the additional offerings of Yom Kippur, and Yom Kippur itself, **atone**, as it is stated with regard to the offerings brought on Yom Kippur: "One goat for a sin-offering aside from the sin-offering of the atonements" (Numbers 29:11). The verse juxtaposes the internal and external goats together to teach that **for that which this one atones**, that one atones. **Just as the internal goat**, i.e., the one whose blood presentation is performed inside the Sanctuary, **atones only for a case in which there was awareness** of the components of the transgression at some point, i.e., at the beginning, **so too**, the external goat, i.e., the goat of the additional offerings of Yom Kippur, **atones only for a case in which there was awareness** at some point, i.e., at the end.

And for cases in which one **did not have awareness, neither at the beginning nor at the end**,¹⁵ the goats brought as sin-offerings for the additional offerings of the Festivals and the goats brought as sin-offerings for the additional offerings of the New Moons **atone**. This is the statement of Rabbi Yehuda. Rabbi Shimon says: The goats of the Festivals atone for cases in which one never had awareness of the transgression, **but the goats of the New Moons do not**. But if so, **for what do the goats of the New Moons atone?**

HALAKHA

One had awareness at the beginning and...at the end – **יש בה ידיעה בתחלה ובסוף**: One is liable to bring a sliding-scale offering for the defiling of the Temple or its sacrificial foods only when both before and after the transgression he was aware of his personal state of impurity and of the sanctity of the Temple or sacrificial foods involved, and the transgression itself was done during a lapse of awareness of one of those components (Rambam *Sefer Korbanot*, *Hilkhot Shegagot* 11:1).

One had awareness at the beginning but not at the end – **יש בה ידיעה בתחלה ואין בה בסוף**: For the defiling of the Temple or its sacrificial foods in which one had awareness of one of the components of the transgression before the transgression, then transgressed during a lapse of awareness, and did not regain awareness at the end, the goat whose blood presentation is performed inside the Sanctuary on Yom Kippur, and Yom Kippur itself, **suspend** any punishment that he deserves until he becomes aware of his transgression, at which point he is liable to bring a sliding-scale offering (Rambam *Sefer Korbanot*, *Hilkhot Shegagot* 11:9).

One did not have awareness at the beginning but did at the end – **יש בה ידיעה בתחלה אבל לא בסוף**: For the defiling of the Temple or its sacrificial foods where one was unaware until after the transgression of both the fact that he was ritually impure and of the sanctity of the Temple or of the sacrificial foods involved, when one then gained awareness, the goat whose blood presentation is performed outside the Sanctuary and Yom Kippur itself atone (Rambam *Sefer Korbanot*, *Hilkhot Shegagot* 11:9).

One did not have awareness, neither at the beginning nor at the end – **אין בה ידיעה לא בתחלה ולא בסוף**: For the defiling of the Temple or its sacrificial foods with regard to which one never had awareness, either of the fact that he was ritually impure or of the sanctity of the Temple or of the sacrificial foods involved, and even after the transgression he did not become aware, the goats of the Festivals and the goats of the New Moons atone. This is in accordance with the opinion of Rabbi Yehuda, as the *halakha* follows his opinion in his disputes with Rabbi Shimon (Rambam *Sefer Korbanot*, *Hilkhot Shegagot* 11:9).

על הטהור שאכל את הטמא.

רבי מאיר אומר: כל השעירין כפרתן שנה – על טומאת מקדש וקדשיו.

היה רבי שמעון אומר: שעירי ראשי חדשים מכפרים על הטהור שאכל את הטמא. ושל רגלים מכפרין על שאין בה ידיעה לא בתחלה ולא בסוף. ושל יום הכפורים מכפר על שאין בה ידיעה בתחלה אבל יש בה ידיעה בסוף.

אמרו לו: מהו שיקרבו זה בזה? אמר להן: יקרבו. אמרו לו: הואיל ואין כפרתן שנה, היאך קרבינן זה בזה? אמר להם: כולן באין לכפר על טומאת מקדש וקדשיו.

רבי שמעון בן יהודה אומר משמו: שעירי ראשי חדשים מכפרין על הטהור שאכל את הטמא: מוסף עליהן של רגלים – שמכפרין על טהור שאכל את הטמא, ועל שאין בה ידיעה לא בתחלה ולא בסוף.

מוסף עליהן של יום הכפורים – שהן מכפרין על הטהור שאכל את הטמא, ועל שאין בה ידיעה לא בתחלה ולא בסוף, ועל שאין בה ידיעה בתחלה אבל יש בה ידיעה בסוף.

אמרו לו: מהו שיקרבו זה בזה? אמר להם: הן. אמרו לו: אם כן, יהיו של יום הכפורים קרבינן בראשי חדשים, אבל היאך של ראשי חדשים קרבינן ביום הכפורים לכפר בפרה שאינה שלה? אמר להם: כולן באין לכפר על טומאת מקדש וקדשיו.

ועל דרון טומאת מקדש וקדשיו – שעיר הנעשה בפנים ויום הכפורים מכפרין.

They atone for a ritually pure person who unwittingly partook of ritually impure sacrificial food.

Rabbi Meir says: With regard to all the goats offered as additional offerings, those of the New Moons, Festivals, and Yom Kippur, their atonement, i.e., the atonement that they effect, is the same; they all atone for the defiling of the Temple by entering it while impure, or for the defiling of its sacrificial foods by partaking of them while impure.

Rabbi Shimon would say, delineating his opinion as the mishna expresses it above: The goats of the New Moons^b atone for a ritually pure person who unwittingly partook of ritually impure sacrificial food. And with regard to the defiling of the Temple or its sacrificial foods, the goats of the Festivals atone for cases in which one did not have awareness, neither at the beginning nor at the end, and the goats of the additional offerings of Yom Kippur^b atone for cases in which one did not have awareness at the beginning but did have awareness at the end.

The Rabbis said to him: What is the halakha with regard to whether goats consecrated for different days may be sacrificed, this one in place of that one? For example, if a goat was initially consecrated to be sacrificed as part of the Yom Kippur additional offerings, may it be sacrificed as part of the Festival additional offerings instead? Rabbi Shimon said to them: They may be sacrificed. They said to him: Since, according to you, their atonement is not the same, how could they possibly be sacrificed, this one in place of that one? Rabbi Shimon said to them: They can be interchanged, since ultimately all of them come to atone for the defiling of the Temple or its sacrificial foods.

Rabbi Shimon ben Yehuda^a says in the name of Rabbi Shimon a tradition of his opinion that differs from the way the mishna expresses it above: The goats of the New Moons atone for a ritually pure person who unwittingly partook of ritually impure sacrificial food. The goats of the Festivals exceed them, as they atone both for a pure person who partook of impure sacrificial food and also for cases of defiling the Temple or its sacrificial foods in which one did not have awareness, neither at the beginning nor at the end.

The goats of Yom Kippur further exceed them, as they atone both for a ritually pure person who partook of ritually impure sacrificial food and for cases of defiling the Temple or its sacrificial foods in which one did not have awareness, neither at the beginning nor at the end; and they also atone for cases in which one did not have awareness at the beginning but did have awareness at the end.

The Rabbis said to him: What is the halakha with regard to whether goats consecrated for different days may be sacrificed, this one in place of that one? Rabbi Shimon said to them: Yes, they can be interchanged. They said to him: If what you say is so, granted that the goats of Yom Kippur may be sacrificed on the New Moons, but how could the goats of the New Moons be sacrificed on Yom Kippur when they will need to effect atonement for that which they were not consecrated for? Rabbi Shimon said to them: They can all be interchanged, since ultimately all of them come to atone for the defiling of the Temple or its sacrificial foods, even if each one atones for a different case.

§ And for the intentional defiling of the Temple^a or its sacrificial foods, both the goat whose blood presentation is performed inside the Sanctuary on Yom Kippur, and Yom Kippur itself, atone.

BACKGROUND

Goats of the New Moons – שעירי ראשי חדשים: The Torah (Numbers 28:15) requires a goat to be sacrificed as a communal sin-offering on each New Moon. Its sacrifice follows the same procedure as that used for sin-offerings of a private individual, and it atones for certain transgressions involving ritual impurity in the Temple service.

Goats of Yom Kippur – שעירי יום הכפורים: The Torah requires that on Yom Kippur lots be drawn for two goats, one to be sacrificed as a sin-offering in the Temple, and one to be used as the scapegoat sent to Azazel (see Leviticus, chapter 16).

The goat sacrificed as a sin-offering is slaughtered in the northern section of the Temple courtyard. Afterward, the High Priest takes its blood into the Holy of Holies and sprinkles it between the staves of the Ark. Upon leaving the Holy of Holies, he sprinkles its blood on the curtain separating the Holy of Holies from the Sanctuary. Next, he mixes the goat's blood with that of the bull sacrificed previously and sprinkles that mixture on the golden altar. All these acts are necessary for the sacrifice to be valid. The remaining blood is poured at the western base of the altar. The flesh and the hide of this goat are burned in a special place outside Jerusalem.



Lottery of the two goats in the Temple on Yom Kippur

NOTES

רבי שמעון בן יהודה וכו' – Rabbi Shimon ben Yehuda, etc.: The difference between the two versions of Rabbi Shimon's opinion is as follows: According to the first version cited, Rabbi Shimon holds that each of the goats, i.e., of the New Moons, Festivals, and Yom Kippur, atones for a unique case, with none of them atoning for that which another one atones for. According to Rabbi Shimon ben Yehuda, Rabbi Shimon holds that there is some overlap between the atonement of the different goats. Listed in the order of: Goats of the Festivals, of the New Moons, and of Yom Kippur, each additional type of goat offering atones for an additional case, and it also atones for all of the cases relevant to the goats that appear earlier in the list.

HALAKHA

ידון טומאת, etc. – Intentional defiling of the Temple, etc.: In the case of intentional defiling of the Temple or its sacrificial foods, if the perpetrator is a priest, then the bull of the High Priest that he offers on Yom Kippur atones, and if he is a Israelite or Levite, then the goat whose blood is sprinkled inside the Sanctuary and Yom Kippur itself atone (Rambam *Sefer Korbanot*, *Hilkhot Shegagot* 11:9).

על שאר עבירות שבתורה, הקלות והחמורות, הזדונות והשגגות, הודע ולא הודע, עשה ולא תעשה, כריתות ומיתות בית דין – שעיר המשתלח מכפר.

For all other transgressions that are in the Torah, whether light or severe, whether intentional or unwitting, whether one became aware of them or did not become aware of them, if one repents then the scapegoat atones (Rambam *Sefer HaMadda*, *Hilkhot Teshuva* 1:2).

For rounding the edges of his head one is liable to receive two sets of lashes – תניב על הראש שתים: One who rounds the edges of his head transgresses a Torah prohibition and is liable to receive lashes. He is independently liable for each side of the head. Even if he rounds both edges at the same time, following a single forewarning, he is still liable to receive two sets of lashes (Rambam *Sefer HaMadda*, *Hilkhot Avoda Zara* 12:1; *Shulhan Arukh*, *Yoreh De'a* 181:1).

NOTES

Whether one became aware or did not become aware – הודע ולא הודע: As is apparent from the Gemara later (12b), the reference here is not to a case where an individual unwittingly transgressed a definite prohibition and later did or did not become aware of it. For such a violation, once he does become aware of his transgression he is liable to bring a sin-offering, and Yom Kippur will not absolve him of that obligation. Rather, here it is referring to a situation where the very details of the case were uncertain, such that for an unwitting violation one would be liable only for a provisional guilt-offering. For example, it was uncertain whether certain fat that he ate was forbidden or permitted fat. For such a case, Yom Kippur will atone and absolve the individual of the need to bring a provisional guilt-offering (see *Karetot* 25a).

על שאר עבירות שבתורה, הקלות והחמורות, הזדונות והשגגות, הודע ולא הודע, עשה ולא תעשה, כריתות ומיתות בית דין – שעיר המשתלח מכפר.

אחד ישראלים ואחד כהנים ואחד כהן מושח. מה בין ישראלים לכהנים ולכהן מושח? אלא שהפך מכפר על הכהנים על טומאת מקדש וקדשיו.

רבי שמעון אומר: בשם שדם השעיר הנעשה בפנים מכפר על ישראל, כך דם הפר מכפר על הכהנים: בשם שידויו של שעיר המשתלח מכפר על ישראל, כך וידויו של פר מכפר על הכהנים.

גמ' מדי תנא ממכות סליק, מאי שנא דתני שבועות? משום דתני: חייב על הראש שתים – אחת מיכן ואחת מיכן.

The mishna delineates how atonement is effected for other transgressions: For all other transgressions that are stated in the Torah,¹ whether they are the minor ones or the major ones, whether they were intentional or unwitting, whether one became aware of them before Yom Kippur or did not become aware² of them until after Yom Kippur, whether they involve a positive mitzva or a prohibition, whether the transgressors are subject to excision from the World-to-Come [*karet*] or to one of the court-imposed death penalties, the scapegoat³ sent to Azazel on Yom Kippur atones.

Israelites and priests and the anointed priest, i.e., the High Priest, achieve atonement from the scapegoat equally. What is the difference between Israelites, priests, and the anointed priest? The difference is only that the priests achieve atonement for their defiling of the Temple or its sacrificial foods through the bull that the High Priest offers on Yom Kippur, whereas the Israelites achieve atonement for defiling caused by them through the goats that are sacrificed on Yom Kippur.

Rabbi Shimon says: With regard to the defiling of the Temple or its sacrificial foods, just as the blood of the goat, whose blood presentation is performed inside the Sanctuary, atones for Israelites, so too, the blood of the bull of the High Priest, whose blood presentation is also performed inside the Sanctuary, atones for the priests. And for all other transgressions, just as the confession made over the scapegoat atones for Israelites, so too, the confession made over the bull atones for the priests.

GEMARA The Gemara inquires: Now, the *tanna* is leaving tractate *Makkot*, the tractate that precedes tractate *Shevuot* in the mishnaic order. What is distinctive about tractate *Shevuot* that he teaches tractate *Shevuot* after tractate *Makkot*? The Gemara answers: It is due to the fact that he teaches in a mishna at the end of tractate *Makkot* (20a): For rounding the edges of his head one is liable⁴ to receive two sets of lashes:⁵ One from here, the hair adjacent to one ear, and one from there, the hair adjacent to the other ear.

BACKGROUND

Scapegoat – שעיר המשתלח: The scapegoat sent to Azazel on Yom Kippur was ultimately thrown from a high desert cliff some 12 to 15 km from Jerusalem. Before sending the goat to its death, the High Priest would symbolically or metaphysically transfer to it all the iniquity of the Jewish people, for both intentional and unintentional sins, so that the goat's demise would erase the nation's guilt. He would accomplish this by placing his hands on the animal's head and confessing the Jewish people's sins. During the confession the High Priest pronounced the name of God three times, and all present would bow to the ground in reverence. Afterward, he sent the goat to the desert with a person specifically designated for this task. A red thread, which had earlier been tied to the goat's horns, was removed before the goat was pushed off the cliff. It was hoped that this thread would miraculously turn white, indicating that God had forgiven the nation's sins.

The service associated with this goat, an essential part of the Yom Kippur ritual, atoned for sins not atoned for by any other offering. The Sages were concerned lest people mock the efficacy of the scapegoat to atone for the nation's sins, and warn against doubting God's commandment by asserting that this is the divine will (*Yoma* 67b).



The scapegoat on its journey into the wilderness

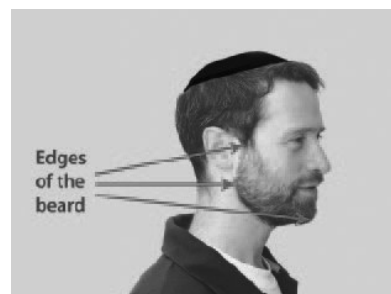
תניב על – For rounding the edges of his head one is liable – הראש: The Torah (Leviticus 19:27) prohibits shaving certain areas of the head, with the words “You shall not round the edge of your head.” Most commentaries explain that the edges of the head refers to the places where the cheekbones connect to the skull, approximately at the line between the eyes and the upper part of the ears. When the hair on the edge of the head is cut above that line, the result is hair in a straight line from the forehead to the nape, as depicted in the image. Such a haircut is prohibited by Torah law.



Edge of the head

NOTES

שְׁתֵּים מִכֵּן וְכִי – שְׁתֵּים מִכֵּן וְכִי: The early commentaries disagree with regard to the identity of these five edges of the beard. Virtually all of them agree that one edge is the chin, although there is an opinion that locates it on the throat (see Rosh). They disagree with regard to the location of the two edges on each side. Rashi explains that there are two edges on each side at the upper part of the beard adjacent to the ear, while Rabbeinu Hananel claims that there is only one edge in that area and the other two are located at the corners of the moustache or the lip. The Rivan contends that two are situated at the joint of the lower jawbone, beneath the ear, while the other two are at the sides of the chin (see Rambam; Meiri; *Makkot* 21a).



Edges of the beard

One prohibition for which one is liable to receive two punishments – חָדָא דְּמִתְיַיב עֲלֵה תְּרֵי: The intention is that although the Torah mentions only one general prohibition, one is punished separately for a violation of each detail of that prohibition (Rashi). Alternatively, the intention is that even if a person received only one general forewarning, if he then violated multiple details of the prohibition he is liable for each violation (*Tosafot*).

וְעַל הַזֶּקֶן – שְׁתֵּים מִכֵּן וְשְׁתֵּים מִכֵּן וְאַחַת מִלְמָטָה.

And for marring the edges of his beard there are two edges from here,^{NI} on one side of his face, and two from there, on the other side, and one from below.

חָדָא דְּמִתְיַיב עֲלֵה תְּרֵי – תְּנָא: שְׁבוּעוֹת שְׁתֵּים שָׁהֵן אַרְבַּע.

The Gemara explains: As apparent from the mishna in *Makkot*, this is a case where there is one prohibition for which one is liable to receive two punishments.^N Continuing on this theme, the *tanna* taught in the beginning of tractate *Shevuot* examples of other sets of *halakhot* that can be formulated similarly, beginning with: With regard to oaths on an utterance, there are two types that are actually four types.

מֵאִי שָׁנָא הָכָא דְּתַנִּי לָהּ לְכוּלָּהּ, וּמֵאִי שָׁנָא גַּבִּי יֵצִיאוֹת שְׁבֻת וּמֵרְאוֹת נִגְעִים דְּלֹא קָתְנִי לָהּ לְכוּלָּהּ?

The Gemara inquires: What is different here, in tractate *Shevuot*, that the mishna teaches all the sets of *halakhot* that can be formulated as: Two that are four, and what is different with regard to the chapter beginning: The acts of carrying out that are prohibited on Shabbat, i.e., the first chapter of tractate *Shabbat*, and the chapter beginning: And the shades of leprosy marks, i.e., the first chapter of tractate *Nega'im*, where the mishna does not teach all of them, rather only the specific set of *halakhot* relevant to that tractate?

אֲמַרִי: שְׁבוּעוֹת וְיָדִיעוֹת הַטּוֹמְאָה דְּגַבִּי הֲדָדִי כְּתִיבִין, וְדַמִּיִן אֶהְדִּי בְּקֶרֶן עוֹלָה וְיִוֵּרֵד – תַּנִּי לָהּ גַּבִּי הֲדָדִי, וְאֵינִי דְּתַנָּא תְּרֵי תַנָּא כּוּלָּהּ.

The Sages say in explanation: Since the passages of oaths and of liability based on one's awareness of the defiling of the Temple or its sacrificial foods are written together in the Torah (see Leviticus 5:2–4), and they are also similar to each other in that they can both incur liability to bring a sliding-scale offering, the mishna therefore taught both of them together here. And once it already taught two sets, it continued and taught all of them.

פָּתַח בְּשְׁבוּעוֹת וּמִפְרָשׁ יָדִיעוֹת הַטּוֹמְאָה! אֵינִי דְּזוּטְרִין מִלֵּייהּ פְּסִיק שְׁרִי לָהּ, וְהֵדֵר תַּנִּי שְׁבוּעוֹת דְּנִפְיִשׁן מִלֵּייהּ.

The Gemara inquires further: Tractate *Shevuot* opens with a reference to oaths, but then proceeds to explain the cases of one's awareness of the defiling of the Temple or its sacrificial foods, returning to discuss oaths only in the third chapter. Why? The Gemara explains: Since the cases of one's awareness of the defiling of the Temple or its sacrificial foods are relatively few, the *tanna* addressed them directly and dispensed with them, and then afterward returned to teach the *halakhot* of oaths, which have numerous details.

שְׁבוּעוֹת שְׁתֵּים שָׁהֵן אַרְבַּע: שְׁתֵּים – "שְׂאוּכַל" וְ"שְׂלֹא אוֹכַל", שָׁהֵן אַרְבַּע – "אֲכַלְתִּי" וְ"שְׂלֹא אֲכַלְתִּי".

§ The mishna teaches: With regard to oaths on an utterance, there are two types that are actually four types.^N The Gemara explains: The two types are where one states: On my oath I will eat, and where he states: On my oath I will not eat. If he violates either oath he is liable to bring a sliding-scale offering. These two types are actually four types because they also include the cases where a person falsely states: On my oath I ate, and where he falsely states: On my oath I did not eat.

HALAKHA

וְעַל – אֵל. And for the beard there are two edges from here, etc. **הַזֶּקֶן שְׁתֵּים מִכֵּן וְכִי:** A beard has five edges, two on each cheek and one on the chin. One who shaves them all simultaneously is flogged with five sets of lashes, in accordance with the unattributed mishna. As there are numerous opinions with regard to the precise location of these five edges, one who fears God will be certain not to shave any part of his beard with a razor, including the moustache, as Rabbeinu Hananel maintains that edges of the moustache are two of the edges of the beard. The Rema adds that this includes the area under the throat. It is permitted to use scissors that are similar to a razor in that area. The *Bah* rules stringently in that regard as well (Rambam *Sefer HaMadda*, *Hilkhot Avoda Zara* 12:7, and see 12:8; *Shulhan Arukh*, *Yoreh De'a* 181:11, and see *Taz* and *Shakh* there).

שְׁבוּעוֹת שְׁתֵּים שָׁהֵן אַרְבַּע – There are four types of oaths on an utterance, two that pertain to the past and two that pertain to the future. How so? With regard to oaths pertaining to the past, one is liable for taking a false oath either that a certain event did happen, e.g., I ate, or that a certain event did not happen, e.g., I did not eat. With regard to oaths pertaining to the future, one is liable whether one takes an oath that he will do a certain action, e.g., I will eat, or whether one takes an oath that he will refrain from a certain action, e.g., I will not eat, and then violates his oath (Rambam *Sefer Hafl'a'a*, *Hilkhot Shevuot* 1:1; *Shulhan Arukh*, *Yoreh De'a* 236:1).

Cases of one's awareness of the defiling of the Temple or its sacrificial foods, two that are four – **ידיעות הטומאה שתיים שהן ארבע**: With regard to the defiling of the Temple or its sacrificial foods, one is liable to bring a sliding-scale offering if the violation was done during a lapse of awareness. There are four different cases: Where one defiled the Temple, he is liable whether the lapse of awareness was of the fact that he was ritually impure or whether the lapse of awareness was of the identity of the Temple. Similarly, where one defiled sacrificial foods, he is liable whether the lapse of awareness was of the fact that he was ritually impure or whether it was of the sanctity of the foods involved (Rambam *Sefer Korbanot, Hilkhot Shegagot* 11:1).

Acts of carrying out on Shabbat, two that are four – **יציאות שבת שתיים שהן ארבע**: On Shabbat, one who transfers an item from a private domain to a public domain or vice versa transgresses a Torah prohibition, and if he was forewarned, he is liable to receive a court-imposed capital punishment (Rambam *Sefer Zemanim, Hilkhot Shabbat* 12:8, 13:2; *Shulhan Arukh, Oraḥ Hayyim* 347:1).

Shades of leprous marks, two that are four – **נגעים שנים שהן ארבעה**: There are four different shades of leprous marks: The two primary marks are a *baheret*, which is snow white, and a *se'et*, which is wool white. Each of these has a secondary shade, which is a duller white. One is lime white and the other is the color of an egg membrane (Rambam *Sefer Tahara, Hilkhot Tumat Tzarat* 1:2).

ידיעות הטומאה שתיים שהן ארבע: שתיים – ידיעות טומאת קדש וידיעות טומאת מקדש, שהן ארבע – קדש ומקדש.

יציאות שבת שתיים שהן ארבע: שתיים – היוצאה דעמי והוצאה דבעל הבית, שהן ארבע – הכנסה דעמי והכנסה דבעל הבית.

מראות נגעים שנים שהן ארבעה: שנים – שאות ובהרת, שהן ארבעה – שאות ותולדתה, בהרת ותולדתה.

מני מתניתין? לא רבי ישמעאל ולא רבי עקיבא: אי רבי ישמעאל – האמר: אינו חייב אלא על העתיד לבוא, אי רבי עקיבא – האמר: על העולם טומאה הוא חייב, ואינו חייב על העולם מקדש!

איבעית אימא: רבי ישמעאל, איבעית אימא: רבי עקיבא; איבעית אימא: רבי ישמעאל, מהן לחייב ומהן לפטור, ואיבעית אימא: רבי עקיבא, מהן לחייב ומהן לפטור.

The mishna continues: With regard to cases of one's awareness of the defiling of the Temple or its sacrificial foods, for which one is liable to bring a sliding-scale offering, there are **two cases that are actually four**.⁴ The Gemara explains: The **two cases** are where one's lack of awareness of the fact that he was ritually impure led him to eat sacrificial food, and where one's lack of awareness of the fact that he was ritually impure led him to enter the Temple. These two types are actually four types, because one is also liable where he was aware that he was impure, but had a lapse of awareness about the status of the sacrificial food or the identity of the Temple.

The mishna continues: With regard to acts of carrying out that are prohibited on Shabbat, there are **two types that are four**.⁴ The Gemara explains the cases by using the analogy of a poor person who remains in the public domain and a homeowner who remains in the private domain and one passes an item to the other: The **two types** are the carrying out by a poor person of an item from the private domain to the public domain and the carrying out by a homeowner of an item from the private domain to the public domain. These two types are actually four types because they also include the bringing in by a poor person of an item from the public domain to the private domain and the bringing in by a homeowner of an item from the public domain to the private domain.

The mishna's final example: With regard to shades of leprous marks, there are **two shades that are actually four**.⁴ The Gemara explains: The two shades are of a wool-white leprous mark [*se'et*] and of a snow-white leprous mark [*baheret*]. These two are actually four because they also include a *se'et* and its secondary mark, i.e., one similar to it, and a *baheret* and its secondary mark, i.e., one similar to it.

§ The Gemara asks: Whose opinion is expressed in the mishna? It is neither the opinion of Rabbi Yishmael nor the opinion of Rabbi Akiva. The Gemara elaborates: If one suggests that it is the opinion of Rabbi Yishmael, that suggestion can be refuted, as doesn't he say with regard to oaths: One is liable only for oaths pertaining to the future, but not for those pertaining to the past? The mishna states that one is liable also for oaths pertaining to the past. And if one suggests it is the opinion of Rabbi Akiva, that suggestion can be refuted, as doesn't he say: For having defiled the Temple or its sacrificial foods during a lapse of awareness of the fact that one is ritually impure one is liable to bring a sliding-scale offering, but one is not liable for having done so during a lapse of awareness of the fact that the place he entered was actually the Temple? The mishna states that one is liable also in such a case.

The Gemara answers: If you wish, say that the mishna expresses the opinion of Rabbi Yishmael, and if you wish, say that the mishna expresses the opinion of Rabbi Akiva. The Gemara elaborates: If you wish, say that the mishna expresses the opinion of Rabbi Yishmael, and the intent of the mishna is that while there are four types of oaths, among them are types for which there is liability to bring an offering for one who violates them and among them are types for which there is exemptionⁿ from liability for one who violates them. And if you wish, say that the mishna expresses the opinion of Rabbi Akiva, and the intent of the mishna is that while there are four cases defined by one's awareness of the defiling of the Temple or its sacrificial foods, among them are cases for which there is liability to bring an offering and among them are cases for which there is exemption from liability.

לפטור? The Gemara asks: How can one say that the mishna teaches types for which there is exemption from liability?

NOTES

Among them are types for which there is exemption, etc. – מהן לפטור וכו': The intention is only that one would not be liable to bring an offering, but Rabbi Yishmael certainly agrees that one violates a prohibition for taking a false oath about the past. Therefore, it is appropriate for the mishna to refer to oaths that pertain

to the past. Similarly, Rabbi Akiva certainly agrees that even if one's defiling of the Temple was due to his lack of awareness of the Temple's sanctity, a transgression has been committed, though he holds that one is not liable to bring an offering in such a case.

BACKGROUND

לֹא – לאו – A prohibition that does not involve an action – **שְׁאִין בּוּ מַעֲשֶׂה**: This term refers to a Torah prohibition that is transgressed by thought or speech and does not involve a physical act, e.g., the prohibition against hating one's fellow man or bearing a grudge against him (see Leviticus 19:17–18). Generally, punishment is not administered for violating a prohibition of this kind. Exceptions are made in the following instances: One who curses another or himself using the name of God, one who attempts to substitute a non-sacred animal for a sacrificial animal, and cases of false conspiring witnesses. The Sages also discuss whether false testimony is subject to lashes or not.

הָא דוּמְיָא דְּמִרְאוֹת נִגְעִים קָתְנִי, מִה
הָתָם כּוֹלְהוּ לְחִיּוּבָא, אִף הָכָא נִמְי
כּוֹלְהוּ לְחִיּוּבָא!

But the mishna teaches these cases similar to the different shades of leprous marks, which indicates that just as there, all four of them are shades for which there is liability to bring an offering, so too here, with regard to oaths and the cases of one's awareness of the defiling of the Temple or its sacrificial foods, all four of them are cases for which there is liability to bring an offering.

לְעוֹלָם רַבִּי יִשְׁמַעֵאל, וְכִי לֹא מַחֲיִיב
רַבִּי יִשְׁמַעֵאל לְשַׁעְבֵּר – קָרְבָּן, אֲבָל
מִלְּקוֹת חִיּוּבֵי מַחֲיִיב;

The Gemara suggests a different resolution: Actually, the mishna expresses the opinion of Rabbi Yishmael. And while Rabbi Yishmael does not deem one liable for oaths pertaining to the past, that is only with regard to liability to bring an offering; but he does deem one liable to be administered lashes.

וְכִדְרָבָא, דְּאָמַר רַבָּא: בְּפִירוּשׁ רִיבְתָּה
תּוֹרָה שְׁבוּעֵת שְׁקַר דּוּמְיָא דְּשְׁבוּעֵת
שׁוּא, מִה שׁוּא לְשַׁעְבֵּר, אִף שְׁקַר נִמְי
לְשַׁעְבֵּר.

And this is in accordance with the statement of Rava,ⁿ as Rava says: The Torah explicitly amplifiesⁿ the prohibition of taking a false oath to be similar to the prohibition of an oath taken in vain,ⁿ to teach that one is flogged for its violation. It follows that just as an oath taken in vain pertains to the past and renders one liable to receive lashes, so too, taking a false oath that pertains to the past renders one liable to receive lashes.

בְּשִׁלְמָא "אֲכַלְתִּי" וְ"לֹא אֲכַלְתִּי" –
כְּדָרְבָא, "שִׁלְא אֹכֵל" וְאִכְלָנִי – לֹא
שְׁיֵשׁ בּוּ מַעֲשֶׂה הוּא. אֲלֵא "אֹכֵל" וְלֹא
אֲכַל – אֲמַאי? לֹא שְׁאִין בּוּ מַעֲשֶׂה
הוּא!

The Gemara asks: Granted that one who stated: On my oath I ate, but in fact he did not eat, or one who stated: On my oath I did not eat, but in fact he ate, is liable to receive lashes, as this is in accordance with the statement of Rava. And also if one stated: On my oath I will not eat, and he ate in violation of his oath, he is liable to receive lashes, as it is a prohibition that involves an action, and, in general, such prohibitions are punishable by flogging. But if one stated: On my oath I will eat, and in violation of his oath he did not eat, why should he be liable to receive lashes? It is a prohibition that does not involve an action.^{BN} The generally accepted principle is that one is not liable to receive lashes for violating a prohibition without performing an action.

קָסֵר רַבִּי יִשְׁמַעֵאל: לֹא שְׁאִין בּוּ
מַעֲשֶׂה לֹקֵין עָלָיו.

The Gemara answers: Rabbi Yishmael disagrees with the generally accepted principle and holds that one is flogged for the violation of a prohibition that does not involve an action.

אִי הֵכִי, קָשְׁיָא דְּרַבִּי יוֹחָנָן אֲדָרְבִּי
יּוֹחָנָן;

The Gemara challenges: If so, then a difficulty arises between one statement of Rabbi Yohanan and another statement of Rabbi Yohanan.

דְּאָמַר רַבִּי יוֹחָנָן: הִלָּכָה כְּסֵתָם מִשְׁנָה,

As Rabbi Yohanan says: The *halakha* is always in accordance with the ruling of an unattributed mishna. Since the mishna here is unattributed and assumes that one is flogged for taking a false oath, Rabbi Yohanan should rule that this is the *halakha*.

NOTES

And in accordance with the statement of Rava – **וְכִדְרָבָא**: Were it not for Rava's statement, one would have considered a false oath to be a prohibition that does not involve an action and therefore concluded that he would not be flogged for it (Rashi).

The Torah explicitly amplifies – **בְּפִירוּשׁ רִיבְתָּה תּוֹרָה**: Rashi explains that this is derived from the verse: "You shall not take the name of the Lord, your God, in vain, for the Lord will not absolve anyone who takes His name in vain" (Deuteronomy 5:11). The repetition of the term "in vain" teaches that the prohibition applies to a false oath. Rabbeinu Hananel offers a different suggestion. In the Ten Commandments, as recorded in Exodus, it states: "You shall not bear false witness against another" (Exodus 20:13), whereas the record in Deuteronomy states: "You shall not bear vain witness against another" (Deuteronomy 5:17). The fact that the terms vain and false are interchanged demonstrates that with regard to oaths, the same *halakhot* apply to both. The Ri Migash refutes this explanation and interprets the Gemara as does Rashi (and see *Tosafot*).

An oath taken in vain – **שְׁבוּעַת שׁוּא**: An oath taken in vain is one in which no gain is to be made by taking the oath since the facts of the matter are already clear. For example, one takes an oath claiming that something is true when it is patently untrue. It is likewise prohibited to take an oath in vain even if it is true, for example taking an oath affirming a known object is precisely what everyone knows it to be, such as: The sun is the sun.

It is a prohibition that does not involve an action – **לֹא שְׁאִין בּוּ** – **מַעֲשֶׂה הוּא**: Rashi explains that even though the Gemara states that one is flogged for taking a false oath just as he is for taking a vain oath, this is limited to a false oath that pertains to the past. This is because the violation is performed, just as with an oath taken in vain, by the very utterance of the oath, at the moment of speaking. By contrast, an oath that pertains to the future is violated only at the time of the person's action or lack of action that will occur at some point after the utterance of the oath. As it is dissimilar to an oath taken in vain, it is not compared to it with regard to whether or not one should be flogged for its violation.