



OVERVIEW DAF 4

Section 1: The Tzad Ha'Shavah (Combined Argument)

Third Attempt at the Kal va'Chomer (Rav Papa):

Learning from ONE witness and "Gilgul":

What's Gilgul? Once you have to swear because of one witness, the person suing you can make you swear about OTHER things too (things the witness didn't even mention).

The Argument:

- One witness makes you swear about what he saw
- Gilgul makes you swear about OTHER stuff
- So two witnesses should definitely make you swear!

Problem: But we don't have any source that two witnesses create an oath in the first place!

Answer: We learn from your own admission:

- Your admission makes you swear about things you DIDN'T admit to
- So witnesses should do the same!

Problem: Your admission can't be proven false by other witnesses. But witness testimony CAN be!

Answer: Look at one witness - his testimony CAN be proven false, yet he still makes you swear!

Problem: One witness makes you swear about what HE saw. Two witnesses should only make you swear about what THEY saw!

Answer: We combine BOTH sources (admission and one witness):

- Admission makes you swear about things NOT covered by your admission
- One witness can be contradicted but still makes you swear

- **The common factor (Tzad ha'Shavah):** When someone makes a claim and you deny it, you have to swear
- Same should apply to two witnesses!

More Objections:

Problem: In both sources (admission and one witness), you're not PROVEN to be a liar. But two witnesses PROVE you're lying! Maybe we don't trust your oath!

Answer: Two witnesses DON'T actually make you a liar in this case:

Rav Idi bar Avin explains:

- If you deny a LOAN → You're NOT disqualified as a witness (maybe you plan to pay it back and just need time)
- If you deny a DEPOSIT → You ARE disqualified (if you planned to return it, you'd do it now!)

Another Problem: With admission and one witness, there's no punishment if they turn out to be lying. But with two witnesses, if they're proven false (Hazamah), they get punished!

Answer: R. Chiya doesn't think this ruins the argument (because one witness CAN be invalidated too).

Wait, There's a Bigger Problem!

Objection: How can R. Chiya use our garment rule to support his case? They're different situations!

In R. Chiya's case:

- Only the LENDER has witnesses
- If the BORROWER also had witnesses, R. Chiya wouldn't make him swear!

In the garment case:

- BOTH sides have "witnesses" (the fact that each is holding half)

Fix: Actually, R. Chiya brought the garment case to support a DIFFERENT law!

Section 2: "Heilach" - Here, Take It Back

R. Chiya's Teaching:

Situation: Reuven says "You owe me \$100!" Shimon says "I only owe \$50. Heilach - here, take it back!" and returns \$50.

What's "Heilach"?

- **Rashi:** "Take back your loan - I never even spent it!"
- **Ran:** We're talking about a deposit (something you were holding for someone)

R. Chiya says: Even though he returned \$50, he still must swear about the other \$50!

Question: Why? We should say they're only arguing about the other \$50, and he's completely denying that part!

Answer: Even when he says "Heilach," he's still admitting to PART of the claim.

Proof from our garment rule:

- Each person holding half is like witnesses that he owns half
- He has to give up the other half (that's like Heilach)
- And they STILL have to swear!

Rav Sheshes Disagrees:

Rav Sheshes says: If someone admits to part and says "Heilach," he does NOT have to swear!

Question: But the garment rule shows he MUST swear!

Answer: The garment rule is just a special rabbinical rule to stop thieves from grabbing stuff.

R. Chiya responds: Yes, it's a rabbinical rule, BUT the rabbis only make rules similar to Torah law! If "Heilach"

meant you're exempt from swearing in Torah law, the rabbis wouldn't create an oath that's different from Torah oaths.

The Case of the Unclear Loan Document:

Background: A loan document says "Dinarim" (coins) but doesn't say HOW MANY.

- Lender says: 5 coins
- Borrower admits to: 3 coins

Two opinions:

R. Shimon ben Elazar: Since he admitted to part, he must swear!

R. Akiva: He's like someone returning a lost object (he could have easily said only 2), so he's exempt!

Testing the Two Opinions (Version #1 - Against R. Chiya):

Question: R. Shimon makes him swear when he admits to 3. If he admitted to only 2, he'd be exempt!

Why? Because the document obviously means AT LEAST 2 coins, and there's already a claim on his property for those 2. This is like "Heilach," so he's exempt!

Answer #1: No, R. Shimon makes him swear even at 2! He used 3 in his example to show he disagrees with R. Akiva (who exempts him as someone returning a lost object).

Problem with Answer #1: Then why say "SINCE he admitted to part"? He should say "EVEN in this case he swears!"

Answer #2: R. Shimon really DOES exempt him at 2, even though Heilach is usually liable!

Two explanations why:

1. When he admits to 2, the document supports him, so he's exempt
2. When he admits to 2, there's already a property claim for that whole amount, and we don't make people swear about debts that have property claims

Testing the Two Opinions (Version #2 - Against Rav Sheshes):

Question: R. Akiva only exempts him because he's like someone returning a lost object. If he only admitted to 2, he'd be LIABLE, even though it's like Heilach!

Answer: No, even at 2 he'd be exempt. The case discusses 3 to show the argument:

- R. Shimon: Swear because he partially admitted
- R. Akiva: Exempt like someone returning a lost object

Proof this must be right: If R. Akiva makes him swear at 2, why exempt him at 3? People would just scheme to say 3 to avoid swearing!

Question: If R. Akiva exempts at 2, this proves Rav Sheshes is right and R. Chiya is wrong! (He's not returning a lost object at 2 - the exemption must be because of Heilach!)

Answer #1: At 2 he's exempt because the document supports him.

Answer #2: At 2 there's a property claim, and we don't swear about admissions involving property claims.

Suggestion: Even though he says Heilach (here, take these objects), he's still liable!

Answer: No! In a similar case with two types of objects, he's also exempt!

The reason the Mishnah discusses land and objects is to teach that when he partially admits to OBJECTS, he must also swear about the LAND.

Follow-up Question:

But another Mishnah already teaches this!

Mishnah #2: Property without Achrayus (movable objects that can't be used to collect debts if sold) forces you to swear about property WITH Achrayus (land that CAN be used to collect debts).

Answer: Mishnah #1 is the main place this law is taught. Mishnah #2 was teaching about land and objects anyway, so it just mentioned this law in passing.

Bottom Line: This section debates whether saying "Heilach" (here, take it back) exempts you from swearing about the rest of a claim, and whether the rules are different for objects vs. land.

Section 3: Swearing About Objects vs. Land

The Question (Mar Zutra):

Mishnah #1 says:

- Reuven claims objects (Kelim) AND land from Shimon
- Shimon admits to ONE and denies the OTHER → He's exempt from swearing
- If he partially admits about LAND → Exempt
- If he partially admits about OBJECTS → He must swear

The inference: He's exempt (when he admits to land and denies objects) only because we don't make oaths about land!

In a similar case with TWO types of objects (where the objects he admits to are right in front of him, like land), he'd be LIABLE!