



OVERVIEW DAF 5

Section 1: Does "Heilach" Exempt You From Swearing?

Question for Rav Sheshes:

Remember, Rav Sheshes said "Heilach" (here, take it back) exempts you from swearing.

Problem: According to Rav Sheshes, why do we need a Bible verse to exempt LAND from oaths? Every admission of land is "Heilach" anyway! (Land is always right there, you're always giving it back.)

Two Answers:

Answer #1: We need the verse for when he DAMAGED the land and has to pay. That's not "Heilach" because he's not returning the actual land.

Answer #2: We need the verse for when someone admits to objects (not Heilach) but denies owing land.

Rami bar Chama's Teaching:

The four types of guardians (people watching stuff for others):

1. Free guardian (watching for free)
2. Paid guardian (getting paid to watch)
3. Borrower (borrowed it)
4. Renter (renting it)

Rule: They only swear when they partially deny and partially admit to the claim.

Question: What's the case?

First suggestion: He said "Heilach - here's what you left with me."

Rejection: No! Here's the real case:

- Reuven: "I left three cows with you, and they all died because you were careless!"

- Shimon: "You only left two. One died from an accident (not my fault), the other died from my carelessness. I owe you for that one."

This is NOT "Heilach" because he's not returning the actual cows.

Challenge to R. Chiya's Earlier Teaching:

Beraisa #1 says:

- Reuven: "You owe me \$100!"
- Shimon: Denies everything
- Witnesses: He owes \$50

Maybe he should swear about the rest?

The Beraisa says NO: The Bible says "that he will say 'this is it'" - you swear because of YOUR OWN admission, not because of witnesses!

How does R. Chiya deal with this? R. Chiya is a Tana (an expert teacher) who disagrees with Beraisa #1!

Question: But there's a Bible verse supporting Beraisa #1!

Answer: That verse actually teaches that you only swear when you PARTIALLY admit to the claim.

Different interpretations:

- **Tana #1** (Beraisa #1): Learns TWO things from "this is it"
 1. You swear only for your own admission (not witnesses)
 2. You swear only for partial admission
- **R. Chiya:** Learns TWO DIFFERENT things:
 1. You swear only for partial admission
 2. Your admission must be the same TYPE of thing as the claim

Note: Tana #1 follows R. Gamliel, who says the admission doesn't need to be the same type:

- **Example:** Reuven claims wheat, Shimon admits to barley
- **Regular rule:** Exempt (different types)
- **R. Gamliel:** Must swear!

Section 2: Can Shepherds Swear?

The Case:

Reuven is a shepherd. Usually people give him animals WITH witnesses. One day they gave him animals WITHOUT witnesses.

- He denies receiving them
- Witnesses saw him eat two of the animals

R. Zeira's Opinion:

If we follow R. Chiya's first law, Reuven must swear about the rest (the animals he didn't eat).

Abaye Objects:

He's a THIEF! We can't let a thief swear!

R. Zeira Clarifies:

I meant that BECAUSE he can't swear, the people claiming from him can swear and collect from him!

Another Question:

Even if we DON'T follow R. Chiya's law, he should have to swear because of Rav Nachman's law!

Rav Nachman's teaching:

- **Mishnah says:** If someone denies a claim completely, no oath needed
- **Rav Nachman added:** We make him swear "Shevu'as Heses" (an oath designed to make him confess - this was added AFTER the Mishnah was written)

Answer: Shevu'as Heses is a rabbinical rule. We don't apply one rabbinical rule (if he can't swear, the claimant swears and collects) to another rabbinical rule (Shevu'as Heses).

Why Did Abaye Say He's a Thief?

Question: Actually, NO shepherd can swear!

Rav Yehudah taught: A regular shepherd (we don't know much about him) is disqualified from testifying and swearing.

Answer: That refers to shepherds who tend their OWN animals (they let them graze in other people's fields - stealing grass).

Someone who tends OTHER PEOPLE'S animals isn't suspected of this.

Proof: If all shepherds were suspected, we couldn't give animals to shepherds to guard! That would violate "don't put a stumbling block in front of a blind person" (don't cause someone to sin)!

General principle: There's a natural human tendency - people don't sin just to benefit someone else.

Section 3: The Exact Words of the Oath

What Does the Mishnah Say?

Mishnah: "Reuven swears that he does not own less than half..."

Problem: He should swear about what he DOES own, not what he DOESN'T own!

Rav Huna's Answer: He swears TWO things:

1. He owns PART of it
2. He doesn't own LESS than half

Another Question: Why not swear he owns ALL of it (like he claimed)?

Answer: That would look weird - if he owns it all, why is the court only giving him half?

Another Question: Why not just swear he owns half?

Answer: That sounds like he's backing down from his claim that he owns it all!

Another Question: The Mishnah's version ALSO sounds like backing down!

Final Answer: The actual oath is longer: "It's all mine. Since you don't believe me about this, I swear that I own part of it, and I don't own less than half."

Why Do They Need to Swear at All?

Question: Since each person is already HOLDING half (possession), why do they need to swear?

Answer (R. Yochanan): The oath in our Mishnah is a rabbinical rule to stop people from grabbing other people's stuff and claiming it!

Section 4: People Suspected of Stealing

The Big Question:

If we suspect someone is trying to steal, shouldn't we worry they'll swear falsely?

Answer: Just because we think someone might try to steal doesn't mean we think they'll lie under oath!

Proof: If we thought this, then someone who partially denies a claim shouldn't be allowed to swear either!

Counter: With partial denial, we DON'T suspect stealing. He just wants extra time to pay, like Rabah taught!

Support for this: Rav Idi bar Avin taught:

- Denying a LOAN → Not disqualified (we assume he needs time to pay)
 - Denying a DEPOSIT → Disqualified! (If he planned to return it, he'd do it now!)
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Question About the Guardians:

Remember Rami bar Chama's teaching that the four guardians swear when they partially deny and admit?

Question: Why don't we say that since he's denying a deposit (suspected of stealing), he's suspected of swearing falsely?

Answer: He's NOT suspected of stealing! He just wants time to find the thief (if stolen) or find the animal (if lost).

Follow-up: Then why IS someone who denies a deposit disqualified from testifying?

Answer: He's only disqualified when witnesses prove that when he denied it, he KNEW it was in his house or was holding it!

Question About a Guardian Who Wants to Pay:

Rav Huna taught: If a guardian says "It was stolen, but I want to pay for it," he must swear it's not in his house (we suspect he wants to keep it by paying for it).

Question: Since we suspect him of stealing, shouldn't we worry he'll swear falsely?

Answer: He doesn't think he's stealing! He justifies it to himself because he's paying for it.

Rav Acha mi'Difti objects: But he's violating "do not covet" (the commandment against coveting)!

Ravina answers: People think that commandment only applies when you try to take something WITHOUT paying.

Bottom Line: This section explores when people suspected of stealing can still be trusted to swear oaths, and examines the exact wording of oaths to make sure they're fair and accurate.