



OVERVIEW DAF 6

Section 1: People Suspected of Stealing (Continued)

More Questions About Trusting People to Swear:

If someone suspected of stealing is also suspected of swearing falsely, why do we allow these three oaths?

Three examples:

1. **Rav Nachman:** Someone who completely denies a claim must still swear "Shevu'as Heses"
2. **R. Chiya's teaching:** Both the grocery store owner AND the workers swear and collect money from the employer
3. **Rav Sheshes:** A free guardian (someone watching something for free) who says it was stolen must make THREE oaths:
 - He wasn't careless
 - He didn't use it for himself
 - It's not in his house

Answer: Even if we suspect someone might steal, we DON'T think they'll swear falsely!

Abaye's Different Explanation:

Second Answer (to why they swear in the garment case):

Even though each person is holding half, they must swear because we're worried one of them grabbed the cloak to collect an old debt (the owner forgot about the debt and denies it).

Problem: If he really IS owed money, why not just give him half without making him swear?

Correction: Actually, we're worried he grabbed it to collect a debt he's NOT SURE about (a "Safek" debt). Since HE'S not even sure, he shouldn't collect.

Next Problem: If we suspect he'd grab property when he's unsure, shouldn't we also suspect he'd swear an oath when he's unsure?

Rav Shisha brei d'Rav Idi's Answer: People won't swear when they're unsure, but they WILL grab property anyway.

Why the difference?

Answer: If you grab property and later realize your mistake, you can give it back. But you can NEVER take back a false oath!

Section 2: What If Someone Grabs the Garment?

R. Zeira's Question:

In our Mishnah (about two people holding a garment), what if Reuven GRABS it in front of the court?

First confusion: What's the situation?

- If Shimon stays quiet → That means he admits it's Reuven's!
- If Shimon protests → What else could he do? Of course he'd protest!

Clarification: The case is:

- Shimon was SILENT first
- THEN he protested

The question:

- Does his initial silence count as admitting Reuven is right?
- OR does his later protest show that he was only quiet because the court SAW what happened, so he didn't need to say anything?

Rav Nachman's Answer from a Beraisa:

The Beraisa says: The case is when BOTH are holding it. If only ONE holds it, the rule is "ha'Motzi me'Chavero Alav ha'Re'ayah" (whoever wants to take it from the person holding it must bring proof).

Question: Well, obviously! If one person is holding it alone, of course it's his (unless someone proves otherwise)!

Answer #1: The Beraisa must mean: Both WERE holding it, then Reuven grabbed it in front of the court (and Shimon was silent, then protested).

Two Rejections (Different Explanations):

Rejection #1 (Answer #2):

No! Here's what happened:

- Both were holding it
- Court said "split it"
- They left
- They came back with Reuven holding it
- Reuven says: "Shimon admitted it's mine!"
- Shimon says: "I rented my half to him!"

Why don't we believe Shimon? He's claiming Reuven is a thief. He definitely wouldn't rent to a thief without witnesses!

Rejection #2 (Answer #3):

When they came to court:

- Reuven was holding the actual garment
- Shimon was only holding onto the FRINGES (the strings hanging off the edge)

Even Sumchus (who usually splits things) agrees that holding just the fringes doesn't count as holding the garment!

Section 3: Making Disputed Property "Hekdesh" (Holy)

What's "Hekdesh"?

"Hekdesh" means declaring something holy and dedicated to God/the Temple. Once something is Hekdesh, it belongs to the Temple, not to you.

The Legal Questions:

Question 1: Let's say when Reuven grabs the garment in front of court, we take it back and give Shimon half.

If Reuven declares it "Hekdesh," does it become holy?

- Maybe Shimon's half (or the whole thing) is NOT Hekdesh because Reuven doesn't own it

Question 2: Let's say when Reuven grabs it in front of court, he KEEPS it.

If Reuven declares it Hekdesh WITHOUT grabbing it, does it work?

Two possibilities:

- YES: Declaring something Hekdesh is like acquiring it (taking ownership), so it's like grabbing it
- NO: Since he didn't physically grab it, it's not in his possession ("Reshus"), so he can't make it Hekdesh

Bible source: "If a man will make his house Hekdesh" - just like his house is in his possession, you can only make Hekdesh things you actually possess. This excludes a disputed garment!

A Real Case:

Two people (Reuven and Shimon) were fighting over a bathhouse. Both said "It's mine!"

Reuven declared it Hekdesh.

Result: R. Chananya, R. Oshaya, and ALL the wise rabbis stopped using it! (They were worried it really WAS Hekdesh and using it would be wrong.)

R. Oshaya asked Rabah to ask Rav Chisda about it.

Rav Hamnuna's Answer:

There's already a Mishnah that teaches the law!

About firstborn animals:

Mishnah says: If there's a doubt whether an animal is a firstborn (which belongs to a Kohen - priest):

"Ha'Motzi me'Chavero Alav ha'Re'ayah" - whoever wants to take it must bring proof.

Beraisa adds: You can't shear or work with a doubtful firstborn.

Also: If a Kohen TOOK a doubtful firstborn, we don't force him to return it (because maybe it really IS a firstborn and belongs to him).

But even if he didn't take it, you still can't shear or work it!

Rabah's Objection:

Maybe we DO force the Kohen to return a doubtful firstborn!

The reason you can't use a doubtful firstborn is because "Kedushas Bechor" (firstborn holiness) happens AUTOMATICALLY - it doesn't need the owner to declare it.

But with a bathhouse, someone can only make it Hekdesh if it's IN HIS POSSESSION!

Section 4: Ma'aser (Tithing) of Animals

Background:

Every tenth animal born must be given as "Ma'aser" (like a tax to the Temple).

R. Chananya's Support for Rabah:

From a Beraisa: Doubtful animals (maybe they're exempt from Ma'aser, like if they belong to a Kohen) are tithed together with other animals.

The argument: If a Kohen who took a doubtful animal can KEEP it, how could a regular person use it as Ma'aser? He'd be fulfilling HIS obligation with the KOHEN'S property!

Abaye's Objection:

Maybe the Kohen DOES have to return it!

The case is: there are only 9 other animals. Either way it works:

- If the doubtful animal belongs to the regular person → It CAN be Ma'aser
- If it belongs to the Kohen → The regular person has NO obligation to tithe it anyway!

Abaye Takes It Back:

Abaye's retraction: I was wrong. A doubtful animal is NOT tithed!

Proof from a Mishnah: If an animal that was already counted during tithing jumps BACK into the pen and mixes with the uncounted animals, they're ALL exempt.

Why this matters: If doubtful animals COULD be tithed, we could still tithe without any problem:

Scenario: 10 animals leave the pen:

- If NONE were counted before → The 10th is truly Ma'aser
- If ONE was already counted → The 10th isn't really Ma'aser, BUT all are exempted because of "Minyan ha'Ra'uy" (proper counting - they were counted when there were 10 animals that needed tithing)

Rava's principle: "Minyan ha'Ra'uy" exempts animals even if Ma'aser isn't actually taken (like if the 10th animal dies before being called Ma'aser).

Conclusion: The Torah requires a DEFINITE tenth animal for Ma'aser.

A doubtful animal (maybe it was already counted) can't be Ma'aser (even if it really wasn't counted before).

Also, a doubtful animal (maybe it belongs to the Kohen) can't be Ma'aser (even if it really belongs to the regular person)!

Bottom Line: This section explores what happens when someone grabs disputed property, whether you can dedicate disputed property to the Temple, and the rules about tithing doubtful animals - showing that doubts matter a lot in Jewish law!