



## OVERVIEW of the Daf

### 1) "Here, it is yours" - הילך (cont.)

R' Sheishes continues to defend his position from the challenge from the Baraisa.

### 2) The testimony of witnesses for half the claim (cont.)

The Gemara presents an unsuccessful challenge to R' Chiya's first ruling that a defendant who denies a claim entirely and witnesses testify that he owes half the money must pay half and swear regarding the remainder.

The exchange between R' Chiya and the father of R' Aftoriki who cited the Baraisa is presented.

A related incident is presented and R' Zeira and

Abaye disagree whether R' Chiya's position could be applied to this case.

### 3) The oath of the Mishnah

R' Huna explains the rationale behind the wording of the oath mentioned in the Mishnah.

R' Yochanan suggests that the oath of the Mishnah is to deter people from grabbing their friend's items and claiming it for themselves.

The assumption that one who is suspected of stealing could take an oath is challenged.

The Gemara makes numerous unsuccessful attempts to demonstrate that the principle **מגו דחשוד על ממונה חשוד** על שבועתא is not correct. ■

## REVIEW and Remember

1. Why doesn't R' Chiya back down when a Baraisa is presented that disagrees with his position?

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2. Explain **מודה ממין היענה**.

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3. Why is the oath of the Mishnah phrased in such an unusual fashion?

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4. What is the prohibition of coveting another's property?

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Today's Daf Digest is dedicated  
 In memory of  
**ר' בערל בן ר' יחיאל**

## Distinctive INSIGHT

### *The parameters of the sin of coveting (לא תחמוד)*

לא תחמוד לאינשי בלא דמי משמע להו

Our Gemara discusses whether a person who is suspect of taking money illegally would willfully take a false oath. The Gemara brings a proof from a statement of Rav Huna to show that a person is trusted regarding an oath even if he is suspect of taking money illegally. The case is where a person was given an item to watch, and when the time comes to return it, he claims that the object was stolen, but that he is willing to pay for it. Rav Huna says that even if he will pay, we suspect that he might be concealing the object to keep for himself, and that he is willing to pay for it to cover his true intent to steal the item. Therefore, Rav Huna rules that an oath is administered to this watchman, and he must affirm that the object is not his possession. We therefore see that even though we suspect that he is retaining an item illegally, we can give him an oath to keep him honest. Even though he might be deceptive regarding money, we assume he will certainly not take a false oath, which he considers to be a more serious sin.

The Gemara replies that the watchman in this case is not truly suspect of stealing the object, because, after all, he is paying for it, and people think that the sin of coveting (**לא תחמוד**) only applies when an item is taken without any payment.

Ritva writes that the wording of the Gemara suggests that people are mistaken in their understanding of the sin of **לא תחמוד**—do not covet. People believe that this violation is only in effect when an item is taken without paying for it. Even if an item is taken from its owner forcefully, most people understand that they are not in violation of the Torah's guidelines if money is given, and anyone who does this is not a thief in his own mind and not **חשוד אממונה**. This is also the understanding of Tosafos (Sanhedrin 25b) in its second answer.

In its first answer (ibid.), Tosafos explains that the truth is that the violation of **לא תחמוד** is only in effect when money is not given. People's impression of the definition of this law is correct. Our Gemara reports that anyone who takes an object, albeit forcefully, knows that he is not a sinner as long as he pays for it. If he would be under the impression that he is doing something wrong,

(Continued on page 2)

# HALACHAH Highlight

## Transgressions that disqualify a person from testifying

לא תחמוד לאינשי בלא דמי משמע להו

People think that "Do not covet" is violated only if they do not pay for the item

**S**hulchan Aruch<sup>1</sup> writes that if witnesses testify that a person committed a transgression, even if he was not warned, he is disqualified from serving as a witness. An important qualification to this halacha is that one becomes disqualified only when he transgresses a prohibition that is well-known. When it comes to transgressions that people do not even realize are transgressions they do not become disqualified as witnesses unless they are pre-warned that this act will disqualify them from testifying. For example, if a person tied or untied knots on Shabbos he is not disqualified from submitting testimony unless he is explicitly warned that he is engaging in a prohibited activity that will disqualify him from giving testimony. The source for this halacha is our Gemara that relates that a person who violates the prohibition against coveting is not disqualified from taking an oath since people mistakenly think the prohibition is violated only when one does not give money but not if one pays for the item that he coveted.

Based on this, Rav Akiva Eiger<sup>2</sup> ruled leniently concerning those who shave their beards with a razor. Since, unfortunately, many people shave with a razor and don't realize that they are violating a prohibition, they do not

(Insight. Continued from page 1)

he would be categorized as a חשיד אממונא, even if he would technically not be in violation of the sin.

Tosafos here notes that if people think that the sin of coveting only applies when money is not given, why would the sin of coveting be any different than outright theft, which is the sin of תגזול? Tosafos answers that people think that the Torah is warning against stealing in two manners. ■

become disqualified from giving testimony because they violated that prohibition. The same sentiment is expressed by Teshuvos Beis Shlomo<sup>3</sup> where he writes that many people think that not shaving with a razor is reserved for those who are pious and they are ignorant of the fact that five possible prohibitions could be violated when using a razor to shave their beard. Nevertheless, since people do not realize the prohibitions involved they do not become disqualified from testifying just because of this particular transgression. Aruch Hashulchan<sup>4</sup>, however, adopts a more stringent definition. He writes that as long as people know that it is prohibited, even if people commonly transgress the prohibition they are disqualified from testifying. Thus, although it is common for people to shave their beards with a razor, since they know that they are violating a prohibition they are disqualified from testifying. ■

1. שו"ע חו"מ סי' ל"ד סע' כ"ד
2. שו"ת רעק"א מהדו"ק סוף סי' צ"ו
3. שו"ת בית שלמה אה"ע סי' ס"א
4. ערוך השלחן שם סע' ה' ■

# STORIES Off the Daf

## "Thou shall not covet"

לא תחמוד

**O**n today's daf we find the prohibition against coveting that which belongs to another.

One Rosh Hashanah, a certain man davened in a very worthy minyan and wished to purchase an aliyah. He bid a respectable price for it but his friend outbid him.

After Rosh Hashanah he was shocked to find that he still harbored

a feeling of jealousy toward his friend who had procured the aliyah. He immediately wrote to Rav Chaim Kanievsky, zt"l, to ascertain if he had violated the prohibition against coveting.

"It depends," Rav Kanievsky replied. "If you are jealous because of the spiritual advantage that your friend attained by getting the aliyah on Rosh Hashanah, you did not violate the prohibition. But if you are jealous of the honor that was bestowed on your friend, it is quite possible that you have violated the prohibition."<sup>1</sup>

The Chofetz Chaim, zt"l, warned against a circumstance in which many people violate this prohibition. "This prohibition is often violated by chasanim who impose on their unwilling prospective in-laws by asking for material goods that were not agreed upon during the t'naim. Even though the in-laws give these articles as a gift to the new couple, the chasan still violates the prohibition of תחמוד לא when he employs pressure to secure material benefits for himself that were not part of their original agreement."<sup>2</sup> ■

1. דרך שיחה ח"ב ע' ק"ח
2. ספר המצוות הקצר חלק הלא תעשה מצוה מ'