

OVERVIEW of the Daf

1) Denials

A Baraisa presents different opinions of how to determine whether a defendant made one all-inclusive denial or multiple denials.

Shmuel and R' Yochanan disagree about R' Meir's position.

It is suggested that Shmuel bases his explanation on an inference from the Baraisa whereas R' Yochanan drew his explanation from an inference from a Mishnah.

Shmuel and R' Yochanan debate Shmuel's inference from the Baraisa.

R' Yochanan and Shmuel discuss R' Yochanan's inference from the Mishnah.

A number of unsuccessful attempts are made to refute Shmuel's position.

2) Denial of grains

R' Yochanan teaches that when a person's denial of different grains equals a perutah collectively he is liable.

R' Acha and Ravina disagree whether R' Yochanan meant for each grain separately or even for all the grains collectively.

Both positions are unsuccessfully challenged.

Rava inquires whether a denial to one person followed by the words, "and not to you and not to you, etc." are considered one denial or multiple denials.

A Baraisa is cited that proves that they are considered separate denials.

3) Clarifying R' Shimon's position

Rava offers a parable to explain R' Shimon's position in the Mishnah that one who swore falsely that he did not seduce a

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REVIEW and Remember

1. What is the point of dispute between R' Yochanan and Shmuel concerning R' Meir's position?

2. Does the phrase לא לך ולא לך ולא לך constitute separate oaths?

3. What Rava's parable to explain R' Shimon's position in the Mishnah?

4. What is the precedent that is cited for the oath of judges?

Distinctive INSIGHT

Combining many items of less than a peruta each

אמר רבי יוחנן פרוטה מכולם מצטרפת

The Mishnah (36b) teaches the halacha where Reuven confronts Shimon with many claims, and Shimon denies the claims and takes an oath to support his denial. For example, Reuven claims that Shimon is in possession of a deposited item, a loan, an item stolen from him and an item which Reuven had lost. If Shimon denies these claims with a single oath, if he is lying, he is liable to bring a separate offering for each denial.

In our Gemara, R' Yochanan notes that if the value of Shimon's denials only accumulates to a total of one peruta, which is the minimum amount for which a person is liable for an offering, even though any one item does not equal a peruta, the multiple denials accumulate and join to a grand total of a peruta.

The halacha is that if a person steals an item which is valued at less than a peruta, the thief does not have to return it. There is no obligation to fulfill the mitzvah of "והשיב את הגזילה" - to return a stolen object," unless the act of "והשיב" can be done.

שער המשפט (#6) notes that from R' Yochanan's words it seems that if someone stole less than a peruta, and he later stole another item which was less than a peruta, that the amounts should accumulate. If the combined total is now more than a peruta, the thief would be obligated to return everything he stole, including the first amount for which he was initially exempt. שער המשפט notes that this is difficult based upon a Gemara in Sanhedrin (57a) which says that the reason a thief does not pay for less than a peruta is that the owner forgoes this small amount (מחילה). If the owner has already concluded that he will not collect the first amount which was stolen, how could the second episode of theft join with the first and enable the amounts to combine, as R' Yochanan taught?

Similarly, the Tur (C.M. 262) writes that if someone finds a lost item which is worth less than a peruta, he may keep it. There is no mitzvah to seek the owner to return it. The item is ownerless and is now acquired by the one who found it. This is true even if the finder already had other items which belong to the found item's owner which he is in the process of returning. This new find which is worth less than a peruta is הפקר, and there is no obligation to return it, even if it can theoretically be combined with the other items of value which were found earlier.

שער המשפט answers that our Gemara is speaking about a case where Shimon had two items belonging to Reuven. One was a stolen object worth a peruta, and the other was a found item worth a peruta. Shimon returned half of each item. Shimon certainly has an obligation to return these remaining items. When Reuven asks for them, Shimon denies and takes a false oath. In this case, R' Yochanan holds that the remaining two items of a half peruta each combine for a full peruta of denial. ■

HALACHAH Highlight

Combining two half perutahs for the mitzvah of tzedaka

אמר ר' יוחנן פרוטה מכולם מצטרפת

R' Yochanan states that a perutah from all the different items combine

Teshuvos Torah Lishma¹ posed the following question. A person made a pledge that he would give money to tzedaka. He then went and took half a perutah and gave it to a poor person and then took another half-perutah and gave it to the same poor person. Do the two half-perutah donations combine to constitute the fulfillment of his pledge or not? It is clear that one who makes a pledge to donate money to tzedaka without specifying the amount does not fulfill his obligation if he gives less than a perutah since less than a perutah is not considered money. An example of this halacha is found in Shulchan Aruch² where he states that one is not obligated to return an object worth less than a perutah. The question here is whether the two half-perutahs combine.

He asserts that the two halves would combine and offers the following rationale for his position. The only circumstance in which we find that there is a requirement for two halves to be combined within a certain period of time is when eating related matters. In order to fulfill a mitzvah or to be liable for punishment one must eat two halves of a k'zayis within k'dei achilas pras. Concerning tzedaka we don't find a time frame that needs to be met in order for two halves to be able to be combined. Therefore, why shouldn't we combine the half perutah that was given in the morning with the half perutah that was given in the evening or even the next day? He then cites our Gemara as proof to this assertion. R' Yochanan discusses a case of a claimant who mentions multiple items in his claim and rules that the laws of oaths of deposit apply as long as the composite of all the

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woman is not liable to pay.

Abaye rejects this parable and offers his own parable.

Ravin in the name of R' Yochanan identifies the point of dispute between R' Shimon and Rabanan in the Mishnah.

R' Pappa explains the rationales behind their respective positions.

הדרן עלך שבועת הפקדון

4) **MISHNAH:** The Mishnah presents different cases of claims and denials and rules on each case as to whether it is considered a case of partial admission.

5) **Administering the oath of judges**

R' Yehudah in the name of Rav teaches that the defendant swears with the oath that is recorded in the Torah of the slave of Avrohom, meaning, by the name of Hashem.

Ravina notes that this seems to follow R' Chanina bar Idi that one must swear using the name of Hashem.

R' Ashi maintains that it could even follow Rabanan and the comparison to the slave of Avrohom is that the defendant must hold a sacred object while taking the oath. ■

claimed items is worth a perutah. Even though the defendant did not receive the objects at the same time, as long as their composite value is a perutah the oath of deposit applies. Similarly, as long as the poor person ends up with a perutah the mitzvah is fulfilled regardless of how long it took for the benefactor to give what amounted to a perutah. The only qualification he adds to this is that when the second half-perutah is given the first half-perutah must still be intact. If, however, the first half-perutah was already spent the second half-perutah has nothing with which to combine and the mitzvah would not be fulfilled. ■

1. שו"ת תורה לשמה סי' רמ"א.

2. חו"מ סי' רס"ב סעי' א'.

STORIES Off the Daf

Abusing a Gift

"שבועת הפקדון... שבועת הדיינין"

Today's daf discusses the laws of various oaths.

The Binah L'itim, zt"l, illustrates the ungratefulness of one who swears falsely with the following parable: "The king's messengers are not wealthy or considered to have much status. They are merely messengers who travel and read the king's proclamations in the places in the kingdom where they apply.

"One young man, the son of a penni-

less messenger who was following in his father's footsteps, found favor in the king's eyes and was elevated by the king for his exceptional service. Due to his dedication, the king raised him up far above one of his station, giving him a royal gem-encrusted sword to show how beloved he was to the king. No other person in the kingdom was permitted to display such a royal weapon. Who does not know that this sword may only be used to serve the king?

"Now, if this young man happened to fall in a momentary evil mood and used this very sword to threaten the king, thereby making a mockery of the king with the very distinction granted on him by the

unearned generosity of the king, what punishment could possibly right this wrong? Obviously, there is no retribution which would suffice.

"This is exactly the same in the case of a person who swears falsely. Every human being was formed from dirt and has no claim to any distinction. Nevertheless, Hashem gave us the power of speech as a completely unearned gift to lift mankind above all other creatures. If, chas v'shalom, we use our speech against Hashem by swearing falsely and denying Hashem's great gift to us, how can we possibly atone for this?"¹ ■

1. מובא בראשי אבות (חיד"א), פ"ה, משנה ט' ■