



OVERVIEW of the Daf

1) The dispute between Rabanan and R' Ilai (cont.)

Rava continues to note a number of mitzvos where the term "your" is utilized and nonetheless it applies to partnerships.

Rava's teaching with regards to priestly gifts is challenged and subsequently revised.

Two unsuccessful challenges to Rava's explanation of R' Ilai are presented.

Abaye presents numerous challenges to Rava's gezeirah shavah but Rava successfully defends his position.

2) Observing first shearings outside of Eretz Yisroel

R' Nachman bar Yitzchok notes that the world has adopted the lenient positions of three elders, one of which is R' Ilai's position that the obligation of first shearings does not apply outside of Eretz Yisroel.

3) Contrasting different priestly gifts

The Gemara wonders why the Mishnah didn't also relate the stringency that first shearings must be brought from a tereifah, unlike the gifts of the foreleg, jaws and abomasums, which are not given from a tereifah.

Ravina answers that the Mishnah follows R' Shimon who exempts a tereifah from the obligation of first shearings.

The rationale behind R' Shimon's position is explained.

This explanation is successfully challenged and another explanation for R' Shimon is suggested.

The source that tereifah animals are exempt from tithing is cited.

An alternative source is suggested that would obligate tereifah animals in tithing is suggested but rejected.

The rejection of this suggestion is unsuccessfully challenged. ■

REVIEW and Remember

1. What is the source that a garment owned by partners is obligated in tzitzis?
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2. What is the point of dispute between Abaye and Rava?
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3. What are the three lenient rulings that we follow according to R' Nachman bar Yitzchok?
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4. What is the source that tereifah animals are not subject to tithing?
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Distinctive INSIGHT

Tzitzis and a garment owned by partners

אע"ג דכתב רחמנא כסותך, דידך אין דשותפות לא, כתב רחמנא על כנפי בגדיהם לדורותם

On 135b, R' Ilai said that a sheep that is owned jointly between a Jew and a non-Jew is exempt from the mitzvah of the first shearings. The reason is based upon the verse (Devarim 18:4) which states that this mitzvah applies when wool is shorn from "צאנך—your sheep." This word is written in the singular form, indicating that any partnership between a Jew and non-Jew is reason for exemption from this law. In fact, R' Ilai also learns that a sheep owned jointly between two Jews is also exempt from the mitzvah of the first shearings.

The Gemara then presents several examples of halachos which R' Ilai agrees are not exempt when partners own something. One of the examples is tzitzis. The verse (Devarim 22:12) states that tzitzis are placed on the four corners of "כסותך — your (singular) garment," which is written in the singular form and which might have suggested that a garment which is owned by two or more people would be exempt. Nevertheless, a different verse (Bamidbar 15:38) describes the mitzvah more generally: "Tzitzis must be placed on the corners of 'בגדיהם' their garments for all their generations." Therefore, a garment owned by partners is obligated to have tzitzis put on it. The previous verse which seemed to suggest that this halacha only applies by an individual's garment is understood to teach the halacha of R' Yehuda, who says that a borrowed tallis is exempt from the mitzvah of tzitzis.

In the Responsa of R' Akiva Eiger (1:#66:14) there is a question about the Gemara's conclusion. Why does the Gemara say that a garment owned by two people is obligated in the mitzvah? Perhaps the lesson is that beside a garment owned by one person; we also include in the mitzvah a situation when two people wear a garment together, because in this case they are using the garment together as one. But, perhaps a garment owned by partners but being worn by only one of them would be exempt.

While it is true that partners are obligated in mitzvos such as the first shearings, challah and bechor, even where neither partner owns enough of an item to be obligated on his own, the explanation is that the Jewish people is referred to as a single entity, the respective verses teach that these partners join to be as one. In these cases, each per-

HALACHAH Highlight

Giving the first shearings nowadays outside of Eretz Yisroel ר' אלעאי אומר ראשית הגז אינו נוהג אלא בארץ

R' Ilai says that the mitzvah of first shearings applies only in Eretz Yisroel

R' Nachman bar Yitzchok reports that the Jewish People conduct themselves in accordance with the opinion of R' Ilai that the obligation of first shearings applies only in Eretz Yisroel and not outside of Eretz Yisroel. Rashi¹ writes that although customarily one is not obligated to give the first shearings to a kohen outside of Eretz Yisroel, one who gives his first shearings to a kohen will certainly be rewarded. He explains that R' Nachman bar Yitzchok does not rule in accordance with R' Ilai, he merely reports that the custom follows his opinion. This indicates that the halacha is not in accordance with his opinion and the obligation is in force even outside of Eretz Yisroel. Tosafos² disagrees with this position and asserts that when R' Nachman bar Yitzchok reported that the custom is in accordance with R' Ilai the intent was that halacha follows his opinion and as such there is no obligation whatsoever to give a kohen the first shearings outside of Eretz Yisroel.

Maharshal³ cites Rashi's opinion that would indicate that there is room for one to be stringent and give a kohen the first shearings outside of Eretz Yisroel. He then notes that it seems that Rosh did not subscribe to this position. Rosh⁴ writes that even though R' Nachman bar Yitzchok reported that the custom is in accordance with R' Ilai and

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son has an obligation to perform these mitzvos, and his portion of the wool, the dough or the first-born animal contributes to the mitzvah. However, tzitzis is a personal obligation only when wearing the four-cornered garment, and when only one is wearing it, the other owner and his portion do not contribute to the mitzvah.

While the lesson of the Gemara remains intact, this particular point is left unresolved. ■

the obligation to give the first shearings to a kohen is not in force outside of Eretz Yisroel, nevertheless, since we find that some Rishonim elaborated on the details of the mitzvah it is possible that it is because there are places that had the custom to give the first shearings to a kohen outside of Eretz Yisroel because they were not one of the places referenced by R' Nachman bar Yitzchok that followed R' Ilai. This implies, comments Maharshal, that the Rishonim felt compelled to explain the halachos of the first shearings for those places that did not accept R' Ilai's position but for those of us who did accept his position if someone goes ahead and gives a kohen the first shearings anyways he is called a **הדיוט**. On the other hand, Chasam Sofer⁵ was of the opinion that one could fulfill the obligation to give the priestly gifts to a kohen outside of Eretz Yisroel and he himself was accustomed to fulfill the mitzvah before each Yom Tov. ■

1. עי' מרדכי פ"י רמ"ז תשל"ו.
2. תוס' ד"ה כ"ר אלעאי.
3. ים של שלמה סי' י"א.
4. רא"ש סי' ג'.
5. שו"ת חת"ס יו"ד סי' ש"א. ■

STORIES Off the Daf

An Unusual Garment

טלית שאולה פטורה מן הציצית

Hospital gowns are not the most modest garments available. They cover the patient but are open enough so that they don't hamper treatment. Everyone is required to wear this gown before treatment, without exception.

A certain person needed surgery and checked himself into the hospital. When they gave him a hospital gown to put on, he was appalled to see that it had four corners and was definitely

mostly open. Since, as we find in Shulchan Aruch, a four-cornered garment that is mostly open requires tzitzis, the patient didn't know what to do. Should he put the gown on without tzitzis or should he try to attach tzitzis on the garment?

When this question reached Rav Yitzchak Zilberstein, shlit"א, he ruled that the gown could be worn without tzitzis. "On a simple level it appears that this is obvious since a borrowed garment does not require tzitzis as we find in Chullin 136. Yet the person who checks himself into the hospital has a right to be there and his treatment is paid for. It seems clear that he is like a

person renting his space and also the garment he wears, in which case he is obligated to put tzitzis on the garment.

"Although it seems clear that the garment is not really acquired to him since the hospital can theoretically replace it with a different garment at any time, there is an eitzah which will circumvent any possible halachic complication with wearing this garment. He should declare his portion in the garment hefker. Since from Shabbos 131 it is clear that one can declare even the garments he wears hefker, declaring this garment hefker removes the problem."¹ ■

1. ברכי נפשי, ויקרא, ע' תר"ג. ■