



Daf In Review – Weekly Chazarah

Maseches Bava Basra, Daf לנ – Daf טנ

Daf In Review is being sent I'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen,

A"H vI'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

-----Daf לנ--53-----

- **Q:** The Mishna and Braisa said that building a fence or breaking open a fence even a small amount is considered to be a chazakah. How much is “a small amount”? **A:** It is like **Shmuel** said, that if one added to an existing fence and completed it to a height of 10 tefachim, or widened an opening so that one can enter and exit through it, it is a kinyan chazakah.
 - **Q:** What is the case of adding to the fence? If the fence could not be climbed over before his addition, then what exactly did his addition accomplish? If his addition now made it that it could not be climbed over, then he has done a substantially significant act!? **A:** Initially it was easy to climb over the fence, and with his addition it can only be climbed over with difficulty.
 - **Q:** What is the case of widening the opening in a fence? If initially one could pass through and after his widening one could also pass through, what exactly has his act accomplished? If initially one could not pass through, but after his widening one could, then he has done a substantially significant act!? **A:** Initially, one could have passed through with difficulty, and after his widening one could pass through easily.
- **R' Assi in the name of R' Yochanan** said, if one put a rock in a field and benefitted the field by doing so, or removed a rock from a field and benefitted the field by doing so, it would act as a kinyan chazakah.
 - **Q:** What is meant by “putting a rock in” or “removing a rock from”? If he put a rock there to prevent the flow of water from damaging a field, or removed a rock to allow flood waters out of the field, that is an obligation that one would have to do for another’s field and therefore cannot act as a kinyan!? **A:** Rather, he “put a rock in” to keep water in the field to irrigate it, or “removed a rock” to allow water to enter the field and irrigate it.
- **R' Assi in the name of R' Yochanan** said, regarding two neighboring fields of hefker with a boundary in between them, if a person makes a kinyan chazakah on one of them to be koneh only that field, he will be koneh only that field. If he intended to be koneh both fields with the act, he is only koneh the field on which the act was done. If he intended to only be koneh the other field, he is not koneh either field.
 - **Q: R' Zeira** asked, what if he intended to be koneh the field on which the act was done along with the border and the other field? Do we say that the divider belongs to both fields and therefore he can be koneh both fields, or do we say that the boundary is viewed as distinct from each field and the act of kinyan cannot serve to even be koneh the boundary (and certainly not the other field)? **TEIKU.**
 - **Q: R' Elazar** asked, what if the person made an act of kinyan on the boundary itself, with intent to be koneh both fields? Do we say that the boundary is considered to be a protection for each field (like the reigns are to an animal) and therefore he is thereby koneh both fields, or do we say the boundary is viewed as distinct from each field and therefore he is not koneh either of the fields? **TEIKU.**
 - **R' Nachman in the name of Rabbah bar Avuha** said, regarding a house with an outer apartment and an inner apartment (whose residents have the right to walk through the outer apartment), if a person makes a kinyan on the outside apartment with intent to be koneh that apartment, he is koneh it. If he intended to be koneh both apartments, he is only koneh the outside apartment. If he intended to be koneh only the inside apartment with his act on the outside apartment, he is not koneh either apartment. If he made a kinyan on the inside apartment with intent to be koneh it, he is koneh it. If he intended to be koneh both apartments with the kinyan, he is koneh both apartments (because the outside apartment is subordinated to the inside apartment, because of the right to walk through). If he intended to only be koneh the outside apartment with his act, he is not koneh either apartment.
- **R' Nachman in the name of Rabbah bar Avuha** said, if a person built a mansion on the land of a deceased ger and a second person then installed the doors on the mansion, it is the second person who is koneh the land. This

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is because the first person is considered to have “piled bricks” whereas the second person made an effective act of kinyan chazakah.

- **R’ Dimi bar Yosef in the name of R’ Elazar** said, if one finds a mansion on the property of a ger and he puts one swipe of lime in the mansion, or adds one design to the wall, he is koneh it.
 - **Q:** How much lime must he put? **A:** **R’ Yosef** said, one square amah. **R’ Chisda** said, the amah must be opposite the door.
- **R’ Amram** said, **R’ Sheishes** taught us a halacha and brought a proof from a Braisa. The halacha he stated was, if someone spreads out mats in the hefker field of a deceased ger, and then lies on them, he is koneh the field. He brought a proof from a Braisa. The Braisa says, chazaka is done as follows. If the eved removed the shoe for the master, or carried his keilim to the bathhouse, or undressed him, or washed him, or rubbed him with oil, or scraped his skin for him, or dressed him, or put on his shoe for him, or lifted him, the master has acquired the eved. **R’ Shimon** says, chazakah can’t be better than hagbaha, because hagbaha can be used as a kinyan in every place (even when standing in the reshus of the seller).
 - **Q:** What does **R’ Shimon** mean to say? **A:** The **T”K** said that if the eved lifts the master the master is koneh the eved, but if the master lifts the eved the master is not koneh the eved. To that, **R’ Shimon** said, that even in the second case the master would be koneh the eved, because hagbaha is koneh in every place.
- **R’ Yirmiya Bira’ah in the name of R’ Yehuda** said, if a person just throws a turnip into a crack in the ground (he thereby planted it, but did not dig or cover the turnip with earth) in the field of a deceased ger, it does not act as an effective kinyan chazakah. The reason is, that at the time he threw it into the ground it did not improve the field in any way (he did not dig, and nothing grew immediately at that time). When something eventually grows from his act, it is no longer considered to be from his action, but rather deemed to have happened on its own. Therefore, he is not considered to have made an act of kinyan.

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- **Shmuel** said, if one removes branches from a palm tree, if it is done to give food to his animals (which can be shown to be the case if he takes branches from only one side of the tree), it is not a kinyan. If it is done to help foster the tree’s growth (he takes branches from all sides of the tree), it is an effective kinyan.
 - **Shmuel** said, if one collects branches from a field, if he does so to use the wood (he only takes the larger pieces and leaves the smaller ones there), it is not a kinayn. If he does so to clear the land (by taking all branches), it is an effective kinayn.
 - **Shmuel** said, if one smooths out an area of land, if it is done to allow for his threshing needs, it is not a kinyan. If it is done to prepare the land for planting, it is a kinyan. The way to determine this is, if he takes dirt from a mound and it puts it next to the mound, or from a hole and puts it next to the hole, it shows he is preparing a small area for threshing. If he takes from a mound and puts it in a hole, it shows that he is preparing for planting.
 - **Shmuel** said, if one opens an access point of water and allows it to flow into a field, if he does so to catch the fish (which can be shown by opening an exit for the water to leave the field), it is not a kinyan. If he does so to water the field (there is no exit for the water), it acts as an effective kinyan.
 - There was a woman who ate dates from a tree by removing branches from one side of the tree for 13 years. A man then came and dug a little under the tree. They went to **Levi**, who said that the man made an effective kinyan and the tree therefore belongs to him. The woman complained, and **Levi** told her, there is nothing I can do for you, because you did not make a chazakah in the way that people normally do.
 - **Rav** said, if someone draws a picture on the property of a deceased ger, he is koneh the property. We see this from **Rav’s** action, when he was koneh the property of a deceased ger by drawing a picture on it.

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- We have learned, with regard to a field of hefker that has clearly demarcated borders, if a person simply puts the shovel into the ground anywhere in the field, **R' Huna in the name of Rav** said he is koneh the entire field, and **Shmuel** said he is only koneh the area where he put the shovel into the ground.
 - **Q:** How much would have to be done if the field did not have demarcated borders (according to **Rav**)? **A:** **R' Pappa** said, the field would have to be plowed for 2 full rows, from end to end.
- **R' Yehuda in the name of Shmuel** said, the lands of a goy that are sold to a Yid are treated like hefker property (like the desert). Whoever makes a kinyan chazakah on them is koneh them. The reason is, that as soon as the goy receives the money he loses ownership of the field, but the Yid is not koneh the field until the document of sale reaches his hand. Therefore, it is hefker like the desert, and anyone who makes a chazakah on it in the interim would be koneh.
 - **Q: Abaye** asked **R' Yosef**, could **Shmuel** have said that? **Shmuel** says that we must follow the law of the government, and the government says that one can only be koneh land with a document!? **A: R' Yosef** said, all I know is, that this exact situation once happened in a shepherd's village, and **R' Yehuda** gave possession of the field to the person who came along and made a kinyan chazakah on the field.
 - **Abaye** said that case is different, because those fields were not known to the government, and no one paid taxes on them, and the government says that whoever pays the tax acquires ownership of the field. Therefore, the goy never even legally owned that field.
 - **R' Huna** bought land from a goy, and another Yid came and dug a little in the field. They went to **R' Nachman**, who gave possession of the field to the person who dug. **R' Huna** asked, you are paskening that way based on the halacha of **Shmuel**. If so, you should also pasken like the other halacha of **Shmuel**, when he said that one who digs is only koneh the area of the digging, and not the rest of the field!? **R' Nachman** said, regarding that halacha I hold like you, who said in the name of **Rav**, that the digging is koneh the *entire* field.
 - **R' Huna bar Avin** sent, that if a Yid bought land from a goy, and another Yid came and made a kinyan chazakah on the field, we do not remove the field from the digger's possession. In fact, **R' Avin**, **R' Illa'ah** and all the **Rabanan** in EY agreed to this.

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- **Rabbah** said, **Ukvan bar Nechemya**, the Reish Galusa, told me these 3 things in the name of **Shmuel**: 1) the law of the kingdom is the law, 2) chazakah in Persia is when there has been occupancy for 40 years, and 3) when the wealthy people acquire land by paying the delinquent property taxes to the government, the acquisition is a valid acquisition.
 - The Gemara says that this is only true if the land was taken for payment of delinquent property tax. If it was taken for payment of a head tax, it would not be a proper acquisition, because head tax is a personal obligation to which one's land is not subject. **R' Huna the son of R' Yehoshua** said, even one's barley in a bottle is subject to the head tax (so certainly his land is as well).
 - **Q: R' Ashi** said, **Huna bar Nosson** told me that **Ameimar** asked, according to **R' Huna the son of R' Yehoshua**, every estate is in essence owned by the government until the deceased person's head tax is paid. The halacha is that a bechor only receives a double portion of the estate that is in his father's possession at the time of death. According to **R' Huna the son of R' Yehoshua**, since it is all subject to the tax, none of it is considered to be in the father's possession, and there would never be a bechor who gets a double portion based on this governmental law!? **A: R' Ashi** said, he should have the same question regarding the property tax. Rather, it is not a question, because the law of the double portion of the bechor will still apply when the father paid his property or head tax for the year and then died.
 - **R' Ashi** said, **Huna bar Nosson** told me that he asked **Rava's** scribes what the practice is in this case and they said that the halacha follows **R' Huna the son of R' Yehoshua**.

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- The Gemara says, in fact the halacha does not follow him, but the scribes of **Rava** had followed him and therefore said that the halacha follows him to substantiate their practice.
- **R' Assi in the name of R' Yochanan** said, a boundary or a chatzav plant (a plant whose roots grow straight down and are used to mark a boundary) divide a field with regard to being koneh it from the assets of a deceased ger, but do not divide with regard to pe'ah and tumah. **Ravin in the name of R' Yochanan** said that it even divides for purposes of pe'ah and tumah as well.
 - **Q:** What is the case of pe'ah? **A:** A Mishna says, the following things act as a separation in a field for purposes of "peyah" (and would require that peyah be left from both sides of the separation): a river, a shilulis (a water filled ditch), a public road and a private road, and a public or private path that is used all year round. Now, according to **Ravin**, a boundary or chatzav will even divide the field for purposes of pe'ah as well.
 - **Q:** What is the case of tumah? **A:** A Mishna says, when there are many adjacent, open fields, and one of them has a meis buried in it, and one enters the fields during the winter (when people are not allowed to enter other people's fields and it therefore has the status of a reshus hayachid) but is not sure whether he entered the field with the tumah in it, **R' Eliezer** says he is tahor, because when one is unsure whether he entered a place of tumah, he is tahor, and it is only when one is unsure whether he touched tumah that he is tamei. The **Rabanan** say he is tamei. Now according to **Ravin**, a boundary or chatzav will even divide the field for purposes of tumah as well.
 - **Rava** said, even **Ravin** would agree that a boundary and chatzav would not act to divide for purposes of Shabbos. A Braisa says, if one takes a half grogros and then takes out another half grogros, if it is done in one period of unawareness, he is chayuv. If done in 2 periods, he is patur. **R' Yose** says, even if done in one period he is only chayuv if it is taken out into one reshus harabim. If taken out into 2 separate ones, he is patur. **Rabbah** said on this Braisa, they are only considered separate if there is a reshus hayachid in between them. But if there is a karmelis in between, it is considered to be one reshus harabim. **Abaye** said, even a karmelis in between makes them into 2 separate places, but if there is only a block of wood in between them, they are still considered one. **Rava** said, even if there is a block of wood in between, they are considered 2 separate places. (**Rava** said this same concept by a "get", that a block of wood can separate a yard for ownership purposes).

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- **R' Yochanan** had said, that if there is a field of a deceased ger that has a boundary in it, a kinyan chazakah made on one part will acquire the field for the person up to the boundary. The Gemara now asks, what would the halacha be if there is no boundary? How much can a person be koneh with one act of kinyan? **R' Merinos** said that **R' Yochanan** would hold that he would be koneh any part of the field that is referred to by the name of the ger. **R' Pappa** explained, for example, when they refer to a field as "the field of so-and-so's watering bor".
- **R' Acha bar Avya** sat in front of **R' Assi** and said in the name of **R' Assi bar Chanina**, that the chatzav plant acts to divide the field of a deceased ger.
 - **Q:** What is the chatzav plant? **A:** **R' Yehuda in the name of Rav** said, Yehoshua used this plant to demarcate the boundaries in EY.
 - **R' Yehuda in the name of Rav** also said, the only cities listed in Sefer Yehoshua are the cities that are at the boundaries.
 - **R' Yehuda in the name of Rav** also said, any land that was shown to Moshe by Hashem (when He took him to the top of the mountain to see into EY) is chayuv in maaser. This comes to exclude the land of the Keini, the Knizi, and the Kadmoni.
 - A Braisa says, **R' Meir** said, these are the lands of Naftucha, Arva'ah, and Shalma'ah. **R' Yehuda** said, these are the lands of Har Sei'ir, Amon, and Moav. **R' Shimon** said, these are the lands of Ardiscis, Asya, and Aspamya.

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MISHNA

- If there were 2 witnesses who testified for the occupant that he used the property for 3 years, and other witnesses come and make the first set into zomeimim, these original witnesses must pay the value of the land to the owner.
 - If 2 witnesses testified that the occupant used the field for the first year, a second set of witnesses testified regarding the second year, and a third set testified regarding the third year, and all three sets were then proven to be zomeimim, they divide the value of the land between them and pay it to the owner.
 - If there are 3 brothers, and each one testified for a different year's use on behalf of the occupant, and an unrelated person testified along with each brother (this unrelated person testified regarding all 3 years), they are considered to be 3 distinct sets of witnesses and therefore are valid to establish a chazakah. Still, they are considered to be one testimony with regard to hazamah.

GEMARA

- Our Mishna does not follow **R' Akiva** based on the following Braisa. The Braisa says, **R' Yose** said that when his father Chalafta went to **R' Yochanan ben Nuri** to learn, **R' Yochanan ben Nuri** asked him, if an occupant of a field has one set of witnesses that he used the field in one year, a second set for the second year, and a third set for the third year, what is the halacha? **Chalafta** answered that it would establish a chazakah. **R' Yochanan ben Nuri** said, I also hold like that, but **R' Akiva** argues, because he says that the pasuk of "davar" teaches that testimony is only valid when it establishes the "entire matter", and in this case each set is testifying on less than the entire matter.
 - **Q:** What do the **Rabanan** darshen from the word "davar"? **A:** They use it to teach a case where witnesses were trying to establish a girl as being an adult, and one witness saw a hair on her knuckle and the other witness saw a hair on her stomach. The pasuk teaches that these two cannot combine for a set of witnesses that saw two hairs.
 - **Q:** That case does not even need the pasuk, because each is only testifying to one hair, meaning that there is no full testimony to even half the "matter"! **A:** The pasuk teaches that if 2 witnesses say they saw one hair on her knuckle and 2 others say they saw one hair on her stomach, they cannot combine for a full testimony.
- **R' Yehuda** said, if one witness says the occupant used the land for 3 years to produce wheat and another witness says he used the land for 3 years to produce barley, they establish a chazakah. **R' Nachman** asked, this would mean that they are testifying regarding different years. Are you saying that if one witnesses testifies to occupancy during years one, three, and five, and another witness testifies regarding years two, four, and six, that it would be a chazakah!? **R' Yehuda** said, when one testifies regarding wheat and the other regarding barley, the case is that they are both testifying regarding the same years, and since it is difficult to see the difference between growing wheat and barley, one is mistaken. Since they are testifying regarding the same years, they establish a chazakah.

SHLOSHA ACHIN V'ECHAD MITZTAREF IMAHEN...

- There was a loan document on which there were two witnesses signed. One of the witnesses died. When the lender wanted to certify the document by proving the signatures, he was able to bring the one living witness to testify on his own signature, and for the other signature he brought a set of witnesses, one of which was a brother to the remaining live witness. **Ravina** thought this is like the case of our Mishna, where the Mishna said that although there are 3 brothers, they can testify regarding the same case as long as they are testifying on different parts of the case. **R' Ashi** told him, the cases are very different. In the case of the Mishna, the combined testimony of the brothers only accounts for half of what is needed to establish the chazakah. In the case with the document, the combined testimony of the brothers accounts for ¾ of the testimony needed to certify the document. That is why it would not be allowed.

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MISHNA

- These are the things (the activities) for which a chazakah can be established, and these are the things (activities) for which a chazakah cannot be established. If a person would keep his animal in a chatzer of someone else, or he kept a tanur oven, millstones, or kirayim oven, or if he raised chickens there, or put his manure there in the chatzer, it does not establish a chazakah (even if he did so for three years without protest by the owner of the chatzer). However, if he made a mechitza 10 tefachim high for his animal, or for his tanur, his kirayim, or his millstones, or if he brought chickens into the owner's house, or if he made a place 3 tefachim deep or 3 tefachim high for his manure, it would establish a chazakah (if this was done for 3 years without protest by the owner).

GEMARA

- **Q:** Why is it that only if he builds a mechitza does a chazakah become established? **A:** **Ulla** said, any act that would create a kinyan in the field of a deceased ger can establish a chazakah when done in someone else's field. Something which could not create a kinyan in the field of a deceased ger could not create a chazakah in another's field. Therefore, these listed activities without making the mechitza could not create a chazakah.
 - **Q:** **R' Sheishes** asked, is this an absolute rule? If one plows the ger's field he would be koneh it, and yet plowing cannot establish a chazakah!? Also, eating produce can establish a chazakah, but cannot be koneh the field of the ger!? **A:** Rather, **R' Nachman in the name of Rabbah bar Avuha** said, the Mishna is discussing a chatzer owned in partnership, and the listed activities were done by one of the partners of the chatzer. Other members of the chatzer are not particular about someone placing a removable item in their chatzer, and that is why that list of activities cannot establish a chazakah. However, they are particular about someone building a mechitza in the chatzer. Therefore, when one is built, it does establish a chazakah.
 - **Q:** A Mishna says that if partners make a neder not to benefit from each other, they may not even enter their jointly owned chatzer. Now, entering would not be assur if people are not particular about others standing in their chatzer without permission!? If so, just placing the items in the chatzer should act as a chazakah!? **A:** Rather, **R' Nachman in the name of Rabbah bar Avuha** said, the Mishna is discussing doing these activities (placing these items) in the jointly owned backyard of the houses. In that area, people are not particular about allowing someone to place things there, but are particular about someone building a mechitza there. **A2:** **R' Pappa** said, both Mishnayos are discussing a chatzer owned in partnership. Some people are particular about allowing one of the partners to place things in the chatzer and some people are not. Therefore, in our Mishna we must assume that these partners allowed him to place the items there, which results in him not being able to establish a chazakah. Regarding the making of a neder, we must assume that the partner is particular about his entering, and therefore it is assur for him to do so. **A3:** **Ravina** said, really people are not particular about someone entering or placing things in the jointly owned chatzer (which is why no chazakah is established in our Mishna). The Mishna regarding the neder is following the view of **R' Eliezer**, who says in a Braisa, that even a benefit that one would grant to every person becomes assur to do for one to whom he is assur with a neder.
- **R' Yochanan in the name of R' Bina'ah** said, residents of a jointly owned chatzer can prevent each other from doing any activity in the chatzer that would get in the way of the other residents, except for washing clothes (which must be allowed), because it is not proper for Jewish girls to embarrass themselves by washing clothes out in the public (i.e. outside the chatzer).
 - **R' Chiya bar Abba** darshened the pasuk that praises "one who closes his eyes from seeing evil" as referring to one who doesn't look at women while they are washing clothes.
 - **Q:** What is the case of the pasuk? If there was another way for him to go (without having to even pass by the women) then he is a rasha for taking that path by the women, even if he closes his eyes!? If there is no other way to go, then he is an oneis (and how can he be asked not to

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look)!? **A:** The case is that there is no other way, and the pasuk is praising the person who goes there and controls himself not to look.

- **R' Yochanan** asked **R' Bina'ah**, how long should the shirt of a talmid chachom be (this “shirt” was a tunic that covered the entire body)? He answered, it should be long enough that no skin should be seen at all. **R' Yochanan** then asked, how long should his talis be? **R' Bina'ah** answered, long enough so that only less than a tefach of the shirt is visible. **R' Yochanan** asked, how should the table of a talmid chachom be arranged? He answered, two thirds of it should be covered by a tablecloth and one third should be left exposed, and the plates and vegetables should be put on the exposed part, and the ring (from which the tabletop was hung when not in use) should be on the outside of the table, away from where the one who is eating is sitting.
 - **Q:** A Braisa says that the ring should be on the inside!? **A:** When there is a child there it is to be placed on the outside. The Braisa is discussing where there is no child there. **A2:** When there is a waiter there it should be placed on the inside (which is the case of the Braisa). **A3:** Even if there is a waiter, it only needs to be placed in the inside when the meal is taking place at night (which is the case of the Braisa).
- **R' Bina'ah** continued and said, the table of an ahm haaretz is like a fire with pots all around it. He then said, how does the bed of a talmid chachom look? It has nothing underneath it except for sandals during the summer (these were his winter shoes that he stored there during the summer) and his summer shoes during the winter. The bed of an ahm haaretz has a messy storeroom underneath it.

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- **R' Bina'ah** would mark graves to prevent people from becoming tamei. When he reached the cave where Avrohom is buried he found that Eliezer, the servant of Avrohom, was standing in front of it. **R' Bina'ah** asked him, what is Avrohom doing now? Eliezer said, he is lying in Sarah's arms, and she is looking at his head. **R' Bina'ah** told Eliezer to tell Avrohom that “Bina'ah is here at the entrance”. Avrohom said “enter, it is well known that there is no yetzer harah in this world”. **R' Bina'ah** went in, looked at the cave and left (he was now able to properly mark the cave). When he reached the cave of Adam Harishon, a bas kol called out and said “you have already looked at the likeness of My image, do not look at My image itself!” **R' Bina'ah** said, “I need to mark the kever”. The bas kol said “the inside cave is the same size as the outside cave (of the avos, which you've already measured, so there is no need for you to enter)”. According to the view that the double cave of the Mearas Hamachpeila was a double level, the bas kol said “the measurement of the lower cave is the same as the measurement of the upper”. **R' Bina'ah** later said, “I saw the two heels of Adam Harishon, and they looked like two glowing suns”.
 - The glow of any other person compared to Sarah is like a monkey compared to a person. The glow of Sarah compared to Chava is like a monkey compared to a person. The glow of Chava compared to Adam is like a monkey compared to a person. The glow of Adam compared to the Schechina is like a monkey compared to a person.
 - We have learned that the beauty of **R' Kahana** is a sample of the beauty of **R' Avahu**, which itself was only a sample of the beauty of Yaakov Avinu, which itself was only a sample of the beauty of Adam Harishon.
 - There was a person who practiced kishuf, who would dig up the dead and take their clothing. When he reached the grave of **R' Tuvi bar Masna**, **R' Tuvi** grabbed him by the beard and did not let him go. **Abaye** came and asked **R' Tuvi** to please release the person. The next year the person again came to this grave and was again grabbed by the beard and not let go. **Abaye** again came and asked that he be released, but he would not release him. **Aabye** had to get scissors and cut off the beard of this person.
- There was a man on his deathbed who told his sons, “I give one of you a barrel of earth, another one of you a barrel of bones, and another one of you a barrel of cotton”. They didn't know what he was talking about. The went to **R' Bina'ah**, who explained to them that the earth refers to the father's real estate, the bones refers to the father's animals, and the cotton refers to the father's blankets and textiles.

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- There was a man who overheard his wife telling their daughter, “Why are you not discreet when you do improper things? I have 10 children and only one of them is from your father!” When this man was dying he said he wants all his possessions to go to his one son. They didn’t know which son was the one son. They went to **R’ Bina’ah**, who told each son to go and hit the grave of this man until he rises and tells them which one of you is the real son. They all went to do so, but the true son did not go (he could not bring himself to dishonor his father). **R’ Bina’ah** said, this one is the true son. The others went and told the king on **R’ Bina’ah**. They said, “there is a Jewish man who takes money from people without proof!” The king had **R’ Bina’ah** imprisoned. His wife went with a plan and said to the king’s people, “I had a slave, and robbers came and cut off his head, skinned him, ate his flesh, and would draw water for the students with the skin, and they have not paid me or given me rent for this slave!” The people said that they don’t understand and must summon **R’ Bina’ah**, who is wise, to come and explain this. He explained to them that she was referring to a bottle made of animal skin. The people said, if he is so smart, we should have him be a judge by the king’s court. He saw an inscription that said, that any judge against whom a monetary claim is made, cannot be a true judge. **R’ Bina’ah** said, that is unfair, because a frivolous lawsuit would make a judge unfit!? Rather, the rule should be that if a judge has a monetary claim made against him, and he loses the case, then he should not be allowed to be a judge. The people thereby added to the inscription as follows, “however, the Jewish elders say, that if a judge has a monetary claim made against him, and he loses the case, he may not be a judge”. He then saw another inscription that said, “at the head of all death am I, blood; at the head of all life am I, wine”. He asked, if someone dies from a fall off a roof or a tree, can we say that too much blood killed him? Also, if someone is about to die, if he drinks wine will he live!? Rather, the inscription should be, “at the head of all illness am I, blood; at the head of all cures am I, wine”. The people thereby added to the inscription as follows, “however, the Jewish elders say, that at the head of all illness am I, blood; at the head of all cures am I, wine. In a place where there is no wine, one will have to use herbs to achieve a cure”.
 - At the entrance to Kaputkiya there was an inscription that said, “anpak, anbag, antal” (which was meant to show that these three measurements were actually one and the same).
 - **Q:** What is the measure of an antal? **A:** It is the amount of a revi’is that is mentioned in the Torah.

MISHNA

- A leader (which takes the water from the gutter and deposits it on the ground) does not establish a chazakah (i.e. if it was depositing water into a neighbor’s yard), but its place does establish a chazakah. A gutter does establish a chazakah.
- An Egyptian ladder does not establish a chazakah. A Tzuri ladder does establish a chazakah. An Egyptian window does not establish a chazakah, but a Tzuri window does.
 - What is an Egyptian window? Any window that is so small that a person cannot stick his head through it.
 - **R’ Yehuda** said, if the window has a frame, then even if it is so small that a person cannot stick his head through it, it can establish a chazakah.

GEMARA

- **Q:** What does the Mishna mean that “a leader does not establish a chazakah, but its place does establish a chazakah”? **A:** **R’ Yehuda in the name of Shmuel** said, the Mishna means to say that a leader doesn’t establish a chazakah to be placed on one particular side of the gutter, but it does establish a chazakah to be placed on one of the sides of the gutter, whichever is preferred by the neighbor. **A2:** **R’ Chanina** said, when the Mishna says that a leader has no chazakah, it means that its length has no chazakah, and the neighbor may shorten it, but the Mishna then says its place has a chazakah, meaning that if the neighbor wants to remove it entirely, he may not do so. **A3:** **R’ Yirmiya bar Abba** said, when the Mishna says that a leader has no chazakah, it means that if the neighbor wants to build underneath it, he may do so, but the Mishna then says its place has a chazakah, meaning that if the neighbor wants to remove it entirely, he may not do so.
 - **Q:** The Mishna said that a gutter does have a chazakah. According to the first two explanations this would make sense, and means that the gutter may not be moved. However, according to the last

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explanation, why would the neighbor not be allowed to build under the gutter? Why is it different than building under the leader? **A:** The Mishna is discussing a gutter that is built with stone, and building underneath it will compromise the integrity of the stone structure.

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- **R' Yehuda in the name of Shmuel** said, if a leader belonging to one person flows water into his neighbor's property, and the owner of the roof attached to the leader wants to seal the leader to prevent the water flow, the neighbor can prevent him from stopping the flow by saying, "Just as you acquired a right to have your water flow into my property, I have also acquired a right to the water of your roof".
 - We learned, **R' Oshaya** said, the owner of the chatzer can prevent the owner of the leader from sealing the water flow, and **R' Chama** said he cannot prevent him from doing so. They went and asked **R' Bissa**, who told him that he can prevent him from doing so.

SULAM HAMITZRI EIN LO CHAZAKAH

- **Q:** Why is it that the Tanna does not explain what an Egyptian ladder is, but he does explain what an Egyptian window is? **A:** He did so, because he wanted to mention that **R' Yehuda** argues regarding the Egyptian window.
- **R' Zeira** said, a Tzuri window which is placed within 4 amos of the ground can establish a chazakah, and the neighbor may protest such a window. A Tzuri window that is put higher up cannot establish a chazakah, and the neighbor cannot protest such a window. **R' Illa'ah** said, even if it is above 4 amos it cannot establish a chazakah, and the neighbor can protest it.
 - **Q:** Maybe we can say that the machlokes is whether we force people to allow benefit for others when it involves no loss on their part? **R' Zeira** would hold that we force this, which is why we don't allow him to protest, and **R' Illa'ah** says we do not force it, which is why he may protest? **A:** It may be that all agree that we would force one to do so. This case is different, because the neighbor can say "There may be times when a bench is near the window, and you will stand on it and look into my chatzer!" That may be why he is allowed to protest in this case.
 - There was a person who was trying to prevent his neighbor from opening a window above 4 amos. **R' Ami** sent the person to **R' Abba bar Mamal** and told **R' Abba** to pasken like **R' Illa'ah**.
- **Shmuel** said, if the window was installed to provide light for the house, then even if it is a tiny window, it can establish a chazakah.

MISHNA

- If the end of a beam sticks out into the neighbor's chatzer at least a tefach, it can establish a chazakah, and the neighbor may protest its placement there. If it is less than a tefach, it does not establish a chazakah, and the owner may not protest it.

GEMARA

- **R' Assi** (or **R' Yaakov**) in the name of **R' Mani** said, if a person establishes a chazakah for a beam sticking out one tefach, he has established a chazakah for 4 tefachim.
 - **Q:** What does this mean? **A: Abaye** said, he means to say that if one established a chazakah for a width of one tefach and a length of 4 tefachim, he also establishes a chazakah for a width of 4 tefachim.

PACHOS MITEFACH EIN LO CHAZAKAH...

- **R' Huna** said, the Mishna means that the owner of the beam may not protest the use of the beam by the neighbor in whose chatzer the beam is sticking into. However, the owner of the chatzer may protest against the owner of the beam for having it protrude into his chatzer. **R' Yehuda** said, even the owner of the chatzer cannot protest.
 - **Q:** Maybe we can say that they are arguing in the concept of "hezik re'iyah", where **R' Yehuda** would hold it is not considered true damage and **R' Huna** would hold that it is? **A:** It may be that all agree that it is considered to be true damage. This case is different, because the beam has a limited use to be used for hanging things on it. Therefore, the beam owner would not risk using it for looking into the neighbor's

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chatzer. **R' Huna** would hold, that there may be a time when the beam owner stands on the beam, and out of fear of falling will fail to turn away from looking into the neighbor's chatzer. Therefore, the neighbor may protest.

MISHNA

- A person may not open windows into a jointly owned chatzer.
- If a person bought a house in a chatzer, he may not open the house into a different jointly owned chatzer.
 - If a person builds an attic, he may not have it open up into a jointly owned chatzer. If he wants, he may build a room in his house or build the attic on top of his house, and have it open into his house.

GEMARA

- **Q:** Why does the Mishna only say it may not be done into a jointly owned chatzer? The same would be true for doing so into someone else's privately owned chatzer!? **A:** The Mishna means to say, surely it may not be done into someone else's privately owned chatzer (because that would surely be hezek re'iyah), but it even may not be done in a jointly owned chatzer, where the one opening the window can tell his partner, "You must anyway conceal your activities from me if you don't want to be seen". The Mishna teaches that the partner can respond, "Without the window there, I only need to conceal myself when you are in the chatzer. Now that you have the window, I must even conceal myself when you are in your house!"
- A Braisa says, it once happened that a person opened a window into a jointly owned chatzer and **R' Yishmael the son of R' Yose** said that the person thereby established a chazakah since no one protested. The person then went to **R' Chiya**, who told him that he must seal the window.
- **R' Nachman** said, if the owner builds a wall to seal the window, the neighbor establishes an immediate chazakah to disallow the window if the owner of the window does not protest, because one does not allow for his light to be blocked without permission while remaining quiet.

LAKACH BAYIS B'CHATZER ACHERES...

- The reason he may not do so, is because it increases the foot traffic in that chatzer.
 - **Q:** Why does the Mishna allow the building of an attic if he opens it to his house? There too, he increases the foot traffic!? **A:** **R' Huna** said, when the Mishna allows the building of a room, it means it allows for the dividing of a larger room into two smaller ones, and when it allows the building of an attic, it means to allow the splitting of a room in its height.