



Oil and Jugs

The *Mishnah* records several debates between *Admon* and the *Chachamim*. One of these (13:4) is where one person claims his friend has jugs of oil in his possession and the friend admits that he was entrusted with empty jugs only. The issue is whether this constitutes a partial admission – *modeh be'miktzat* – such that the friend would be required to make a *shevuah* that that is indeed all that he was entrusted with. *Admon* maintains that the original claim included the jugs. Consequently, this case is one of partial admission. The *Chachamim* however argue that the original claim was only regarding the oil, with the jugs a reference to the quantity. Even though monetarily it might be a partial admission, the admission is regarding a different type to what was claimed. This would then be similar to a case where the claim was that he owed wheat, and the admission was that he owed barely. Such cases are not considered *modeh be'miktzat*.

The *Mishnah* ends with *Rabban Gamliel* stating that he sees the logic in *Admon's* position. The *Tosfot* (*Shevuot* 40a) however finds the position taken by *Rabban Gamliel* difficult. This is because *Rabban Gamliel* maintains that the partial admission need not be of the same type as the claim. *Rabban Gamliel* would require a *shevuah* even if the claim was for wheat and the admission was for barely. Consequently, whether in our *Mishnah* the claim for barrels of oil included the barrel is not important for *Rabban Gamliel* since even if it did not, he would require a *shevuah*. Why then was *Admon's* logic important to *Rabban Gamliel*?

The *Tosfot* answer that it would be important in the case where the claim was for ten barrels of oil, and the admission of for five. *Admon's* position is that “barrels of wine” also implies the barrels. Consequently, the admission for five barrels of oil, even after the *shevuah*, would obligate this person to return not just that quantity of oil, but barrels also.

Tosfot R' Akiva Eiger (*Shevuot* 6:3) however finds this explanation difficult. Granted the according to *Admon* we can accept that the claimant's intention was to include the

barrels in order to obligate him to make a *shevuah*. Nevertheless, to say with certainty that that is the intention to obligate the other party in his admission to return the barrels as well, is not so clear.

The *Tosfot R' Akiva* therefore suggests that it is important for the case where the claim was for ten barrels of oil, and the admission was for a quantity of oil that fills ten barrels. According to *Admon* since the claim also implied barrels, then this would qualify as a case of *modeh be'miktzah* since it is a partial admission. According to the *Chachamim* however it would be a full admission since the claim never implied the barrels.

The *Tosfot R' Akiva* provides another case where the position of *Admon* is important for *Rabban Gamliel*. That is, whether the jugs were of equal value to their contents. The claim was once again regarding jugs of oil, whereas the admission was only to having jugs. According to *Admon* there is a partial admission. According to the *Chachamim*, the value of the admission was equal to the value of the claim. Consequently, it would not be considered a case of *modeh be'miktzat*.

The *Shitah Mekubetzet* (108b, s.v. *ve'hiksha*) explains that *Rabban Gamliel* also requires the admission to be part of the claim. In the case where the claim was for wheat and the admission for barley, he obligates a *shevuah* since the claim for wheat does not discount barely. Even if it was only barely that was really taken, the claimant may not have been discerning with the type of grain when making his claim, since he was dealing with grain and more focused on the value. Returning to our case however, according to the *Chachamim*, since the claim does not imply the barrels, it is as if the claim explicitly excludes the jugs. Consequently, even *Rabban Gamliel* would agree that according to the *Chachamim's* understanding, it is not a case of *modeh be'miktzat*. According to *Admon* however, since the claim included the barrel, *Rabban Gamliel* would require a *shevuah*.

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Revision Questions

כתובות י"א ג' – י"ג ר'

- Explain the debate regarding a case where a widow had sold part of her *ketubah* and her ability to sell part of the estate to support herself. (י"א: ג')
- Explain the debate regarding a case where the widow sold part of the estate that was more than the value of her *ketubah*. (י"א: ד')
- Explain the debate regarding a case where *beit din* sold property of the *yetomim* at a value that was tantamount to *ona'ah*? (י"א: ה')
- When does an *aylonit* have a *ketubah*? (י"א: ו')
- Does a divorcee that marries a *kohen* have a *ketubah*? (י"א: ז')
- Can a woman make a condition with her husband that he provide her daughter with food for five years? (י"ב: א')
- Does the condition hold if she divorces and marries another and makes the same condition? (י"ב: א')
- What happens if, within the five year period: (י"ב: ב')
 - the daughter gets married?
 - The husband dies?
- How would *pikchim* word such a condition? (י"ב: ב')
- What is the law regarding an *almanah* that does not want to leave her late husband's house? (י"ב: ג')
- What is the law regarding an *almanah* that returns to her father's house? (י"ב: ג')
- Explain the debate regarding the time within which an *almanah* can collect her *ketubah* if: (י"ב: ד')
 - She is living in her late husband's house.
 - She is living in her father's house.
- What were the two *halachot* that were disputed between *Chanan ben Avishalom* and the *bnai kohanim gedolim*? With whom did *Rabbi Yochanan Ben Zakkai* side? (י"ג: א'-ב')
- Explain the debate regarding how the sons and daughters are supported when there is a very small *yerusha*? (י"ג: ג')
- Explain the debate between *Admon* and the *Chachamim* regarding a case where:
 - One party claims he is owed jugs of oil and the other party admits he only owes him empty jugs. (י"ג: ד')
 - The father reneges on his promise for a dowry just prior to *nisuin*. (י"ג: ה')
 - One party claims that his field was stolen from him yet his own signature is on the sale contract that is in the hands of the other party. (י"ג: ו')

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Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
18 February ט' אדר	19 February י' אדר	20 February יא' אדר	21 February י"ב אדר	22 February י"ג אדר	23 February י"ד אדר	24 February ט"ו אדר
Ketubot 13:7-8	Ketubot 13:9-10	Ketubot 13:11 - Nedarim 1:1	Nedarim 1:2-3	Nedarim 1:4-2:1	Nedarim 2:2-3	Nedarim 2:4-5

