

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah concludes relating the incident involving a dispute between R' Gamliel and R' Yehoshua regarding the acceptance of testimony and the controversy that ensued.

2) Clarifying R' Gamliel's position

A Baraisa explains the tradition that led R' Gamliel to accept the testimony of the witnesses despite the indications that it was false.

R' Yochanan cites the source for the tradition that the speed of the moon is not uniform.

A related incident is presented.

A Baraisa records an incident in which R' Gamliel applied another tradition regarding the moon.

3) Clarifying the Mishnah

The Gemara questions whether it was R' Akiva or R' Yehoshua who was troubled.

It is demonstrated that it was R' Yehoshua who was troubled.

A Baraisa further develops the drosha of R' Dosa ben Horkynos that teaches that one must pay attention to the judges that are available in his day.

A Baraisa recounts what happened when R' Yehoshua appeared before R' Gamliel in submission to R' Gamliel's authority.

A detail regarding R' Gamliel's statement is clarified.

הדרן עלך אם אינן מכירין

4) **MISHNAH:** The Mishnah discusses two procedural issues related to Beis Din declaring the start of the new month.

5) Clarifying the Mishnah

The Gemara explains why the first case of the Mishnah discusses a circumstance in which Beis Din and the rest of the Jewish people saw the new moon.

The necessity of the case involving the interrogated witnesses is explained.

The source that Kiddush HaChodesh proceedings may not take place at night is identified.

R' Zeira explains the reason two judges who saw the new moon must submit testimony. It is because they saw the moon at night during which time they could not declare Rosh Chodesh, since Kiddush HaChodesh proceedings may not be conducted at night.

The next case of the Mishnah teaches that three judges are essential to have the authority to declare Rosh Chodesh, and even an expert may not declare Rosh Chodesh on his own.

6) Making a potential witness into a judge

The Mishnah's ruling that a judge could potentially serve as a witness is initially seen as inconsistent with the position of R' Akiva as recorded in a Baraisa. ■

Distinctive INSIGHT

The long path and the short path of the moon

פעמים שבא בארוכה ופעמים שבא שקצרה

Sometimes [the moon] comes on a long path, and sometimes it comes on a short path.

The Gemara refers to the irregular orbit of the moon.

Sefer **די שמיא** explains. As a result of the irregular orbit, the intervals between one **מולד** and the next are not always equal. Rebeinu Obadiah of Bertinoro explains that Rabban Gamliel accepted the witnesses based upon his calculation that regarding the month in question, the moon was visible earlier than usual because the **מולד** was earlier. On the other hand, Rabbi Yochanan ben Nuri apparently used the average **מולד** which was later, and he therefore disqualified the witnesses.

Several factors are involved in determining whether the moon will be visible earlier or later in any given month. (See **Daf Diagram** to accompany details). The main factor is the elliptical orbit of the moon. The moon orbits the earth 360° in 27.321661 days relative to the stars, and during this time the earth has moved about 27° around the sun (taking the moon with it). The new moon will arrive at a **מולד** when this 27° differential is corrected (approximately two days later). This is completed when the moon travels 30° to correct this differential because the earth keeps moving. As the moon moves 27°, the earth has moved almost three more degrees. The time it takes to make up this 30° fluctuates, as a result of the following factors.

The moon's orbit around the earth is elliptical, not circular. When the moon is closest to earth in its monthly orbit it is said to be in perigee (approx. 230,000 miles) and when it is at its farthest distance from earth, it is said to be at apogee (approx. 251,000 miles from earth). A month measured from perigee to perigee is an anomalistic month, averaging 27.55 days.

The moon distances itself from the sun faster at perigee than at apogee. Although the anomalistic month is approximately 27.55 days, the synodic month (from **מולד** to **מולד**) varies by several hours, averaging 29.530589 days, the two extra days are due to the factors indicated above. This variation is largely dependent upon whether the **מולד** occurs near perigee (when the month will be shorter) or apogee (when the month will be longer). This is the short or long path in the Gemara. ■

HALACHAH Highlight

Holding Beis Din proceedings at night

דתן דיני ממונות דנין ביום וגומרין בלילה

As we learned in a Mishnah (Sanhedrin 32a) "Monetary cases may be adjudicated by day and completed at night."

Shulchan Aruch¹ rules in accordance with the Mishnah cited by the Gemara that proceedings that began during the day may be completed at night, but it is prohibited to begin proceedings at night. There is a dispute regarding the validity of proceedings that were held at night. According to Rav Moshe Isserles², the Rema, they are binding **בדיעבד**, whereas according to Rav Shabsai HaKohen³, the Shach, they have no force whatsoever.

Rav Yehoshua Falk Katz⁴, the S"ma, explains that the problem with holding proceedings at night is that the people cannot see one another. If, however, for example, a candle was lit so that the participants could see one another the shortcoming of ruling at night no longer exists and the proceedings could be held at night. The Shach⁵ disagrees with this conclusion and maintains that lighting a candle does not alleviate the restriction. A second reason to permit adjudicating at night is that the two parties could agree to hold proceedings at night⁶. Once the two parties agree, it is permitted, similar to the halachah that allows the litigants to agree to have a relative or other disqualified judge hear their case. Rav Yaakov of Lisa⁷, the Nesivos HaMishpat, disagrees and maintains that in cases that require a Beis Din, the agreement of the parties is not sufficient to permit proceedings at night. ■

1. ש"ע חו"מ סי' ה' סע' ב'
2. רמ"א שם
3. ש"ך שם סק"ה
4. סמ"ע שם סק"ז
5. ש"ך שם סק"ד
6. ע' סמ"ע שם סק"ז וש"ך שם סק"ד
7. נתיבות המשפט שם ביאורים סק"א ■

REVIEW and Remember

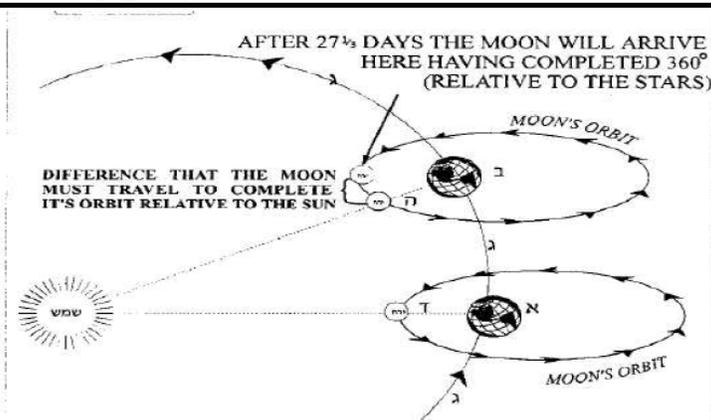
1. What message did R' Dosa ben Horkynos share with R' Yehoshua?

2. Is there ever a reason the declaration of Beis Din regarding Rosh Chodesh would be ignored?

3. How did R' Gamliel react when R' Yehoshua appeared before him after the controversy?

4. Is the testimony of witnesses necessary to declare Rosh Chodesh?

Daf DIAGRAM



Key:

- א—Earth's position at the time of מולד תמוז
- ב—Earth's position for the time of מולד אב
- ג—Earth's yearly orbit around the sun
- ד—The moon's position at the time of מולד אב

STORIES Off the Daf

Rabbi Yehoshua's purse

גורני עליך שתבוא אצלי במקלך ובמעוטיך

When Rabbi Yehoshua differed with Rabban Gamliel regarding the calculation of the Chodesh, Rabban Gamliel commanded Rabbi Yehoshua to appear before him on "his" Yom Kippur carrying his walking staff and purse. This would be a sign that Rabbi Yehoshua submitted his own opinion to the authority of Rabban Gamliel's opinion.

Once, a young man with a long list of distinguished ancestors came to Rav Yechezkel of Kozhmir, zt"l. Rav Yechezkel said to

him, "I would like to give you a blessing: may you always bring a lot of money when you come to me to learn how to be a good Jew!"

The young man asked the Rebbe, "Why did you mention money specifically?"

The Rebbe responded immediately with a proof from today's daf: "On Rosh HaShana 25, we find that Rabban Gamliel ordered Rabbi Yehoshua to appear before him with his staff and his money. Since the actual forbidden activity demanded of him there is carrying on Yom Kippur, isn't the part about the money redundant? The staff alone should suffice for this purpose. One way to explain it is that Rabban Gamliel was telling Rabbi Yehoshua to bring money for expenses because he wasn't about to pay for

anyone else's keep!"

This is similar to an exchange between Rav Nosson Sternhartz of Nemirov, zt"l, and his son. After Rav Yitzchok, zt"l, had married and learned for several good years with his father's support, Rav Nosson told him that the time had come for him to fend for himself. "The number of years that I committed to support you are over, and I cannot carry the load of you and your family any longer," he said.

When Rav Yitzchok asked why, his father explained, "I have enough bitachon for myself and my own family, but I can't work on bitachon for you and your growing family as well. That is for you to do!" ■

