

OVERVIEW of the Daf

1) The dispute between Chachamim and R' Meir (cont.)

R' Ashi suggests that the dispute between Chachamim and R' Meir is related to the dispute whether twenty-three judges are needed for cases of lashes.

Ravina maintains that the dispute between Chachamim and R' Meir is related to the dispute between R' Yosi and Rabbi whether a third disqualified witness renders the entire set of witnesses invalid.

According to a seventh explanation the dispute relates to whether the warning must be given by one of the witnesses.

A final explanation relates the dispute to a dispute about whether witnesses who contradict one another regarding trivial details invalidate their testimony.

2) Zomemim witnesses to an adulterous affair

R' Yosef issues a ruling about the punishment for zomemim witnesses who accused a woman of an adulterous affair.

R' Yosef issues another ruling about the punishment for the zomemim witnesses who falsely accused the first pair of witnesses as being zomemim.

3) Disqualifying witnesses

R' Yosef presents guidelines when a person is believed to testify against someone even though he was involved in a transgression.

Rava disagrees with the premise that a person could render himself a sinner through his own admission. ■

REVIEW and Remember

1. According to R' Akiva, why does the Torah mention three witnesses?

2. What is the point of dispute between R' Akiva and R' Yosi?

3. What is the issue disputed by R' Yosi and Rabanan?

4. What is the difference between בדיקות and חקירות?

Distinctive INSIGHT

Divided credibility

רבא אמר אדם קרוב אצל עצמו ואין אדם משים עצמו רשע

Rav Yosef and Rava disagree regarding a case where Reuven testifies that Shimon sodomized him with his consent. Rav Yosef rules that with this statement, Reuven has declared himself to be a sinner, and therefore he is disqualified from testimony. We cannot accept his testimony regarding Shimon, and he cannot join with another witness who testifies about this event. Rava notes that a person does not have the legal ability to disqualify his own self and to declare himself as a sinner, and his testimony regarding Shimon is acceptable. Reuven's statement is divided into two – פלגינן דיבורא. He is believed regarding Shimon, and he and another witness may combine to be two witnesses to put Shimon to death for this crime, while at the same time we do not consider Reuven's testimony credible regarding himself.

Rashi explains that the reason a person does not become a רשע based upon his own words is that everyone is related to his own self – אדם קרוב אצל עצמו, and a person is disqualified from testifying for a relative. The same testimony as it applies to Shimon is not compromised, and it is acceptable. Rabeinu Yona explains that testifying about a relative is testimony, but it is unacceptable. However, when one testifies about his own self, this is not "testimony" which is disqualified, but it is instead not even considered testimony at all.

The תומים (87:27) points out that Rava states that the testimony of Reuven and the testimony of a third party can combine to condemn Shimon. Yet, even according to Rava, it seems as if these testimonies are not compatible. The testimony of Reuven is that although Shimon committed this act of sodomy, he did not do it with him, but with some other, unspecified person. The testimony of the third party is that Shimon committed this act with Reuven. How can these statements be reconciled to be one consistent testimony?

Nesivos (31:1) explains that the case is where the third party also testified that Shimon sodomized someone, but he did not identify the victim. Now, both testimonies match, as neither identified the victim. The ח"ג explains that contradictory testimony only applies when a witness has his words accepted in court. Here,

HALACHAH Highlight

Guests at a siyum

על אחת כמה וכמה שישלם שכר את הניטפל לעושה מצוה כעושה מצוה

All the more will He reward those who join others doing a mitzvah like those who are actually performing the mitzvah

Teshuvos Mishnah Halachos¹ was asked whether someone attending a siyum is permitted to read the Hadran together with those who actually finished the massechta. He responded that generally it is difficult to respond to questions that cannot be traced back to the Gemara or Poskim but nevertheless he would respond to this inquiry. It would seem that those who attend a siyum should be categorized as those who attach themselves to those who are fulfilling a mitzvah. Our Gemara presents the position of R' Akiva who maintains that when a third witness comes to testify we treat him with all the stringencies of the other witnesses and he would be punished if the group proves to be zomemim even though his testimony was unnecessary. If we see that someone who joins sinners is treated the same as them all the more so when someone joins people who are performing a mitzvah do they get credited as though they are performing the mitzvah. Perhaps this is the reason the Hadran paragraph was

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when Reuven speaks about himself his words are disqualified and are therefore not testimony at all, so the issue of the third party's words being contradicted is not an issue. ■

composed in the plural to include those who join the celebration of the siyum.

This question is an important matter to consider on erev Pesach when a siyum is held to permit first-borns to eat or during the nine days when people make a siyum in order to eat meat. Do we consider the guests as participants who are permitted to take part of the festive meal or not? Mishnah Berurah² writes that the custom is to be lenient and allow first-borns to partake of the siyum even if they did not personally complete a massechta. Teshuvos Maharam Brisk³ adopts a somewhat more strict approach. He agrees that all firstborns who are present at the siyum are permitted to eat but there will be a difference between the one who completed the massechta and the guests after the siyum. Only the one who finished the massechta is permitted to eat during the remainder of the day but those who were merely guests must fast for the remainder of the day. ■

1. שו"ת משנה הלכות ח"י"א סי' תמ"ט.
2. משנה ברורה סעי' ת"ע סק"י.
3. שו"ת מהר"ם בריסק סי' קל"ג. ■

STORIES Off the Daf

Kosher witnesses

"פסול מנין שעדותן בטלה"

In Shabbos 119 we find that one who davens on Friday night and says ויכול is accompanied by two ministering angels who proclaim, "Your sins should be removed and your transgressions should be atoned."

The Torah Temimah, zt"l, clarified this teaching of the sages by way of a statement on today's daf. "We say ויכול to testify that Hashem made the heavens and the earth. For this

reason we recite this prayer while standing. Yet in Sanhedrin 9 we find that if a wicked person testifies with kosher witnesses, he disqualifies even the testimony of the kosher witnesses. This means practically that if someone in the community is wicked, even if his only blemish is that his theology is confused, he would invalidate the recital of the entire congregation. To avoid such unpleasantness, he is afforded a short period of atonement through the declaration of the angels. In this manner, he is a kosher witness when he makes this declaration, and he does not disqualify anyone's testimony."¹

Eliyahu Rabbah, zt"l, adds, "Just

as we find that witnesses who are slated to sign a גט must do teshuvah before signing to ensure that they are valid, every person should do teshuvah before reciting ויכול."²

Interestingly, Rav Shlomo Zalman Auerbach, zt"l, points out that this is not like real עדות at all. "How can a father and son say it at the same time? And what possible proof is required for this assertion? But the custom is to stand, since our declaration testifies to the fact that we believe that Hashem created the heavens and the earth."³ ■

1. תוספות ברכה, בראשית, ב: א
2. אליהו רבה, סימן רס"ח
3. הליכות שלמה, ח"א, פ' י"ד, דבר הלכה, אות ט' ■