

OVERVIEW of the Daf

1) Issuing a warning (cont.)

Dvei Chizkiya, Dvei R' Yishmael and Dvei Rebbi offer additional sources that a warning must be given before punishment can be administered.

The reason a total of four sources are needed to teach that a warning is necessary is explained.

The source that the transgressor must knowingly release himself to be killed is cited.

2) Zomemim of a betrothed na'arah

R' Chanan rules that zomemim witnesses of a betrothed na'arah are not executed since they could claim that they were merely trying to prohibit her to her husband.

After numerous unsuccessful challenges to this ruling the Gemara succeeds and forces a revision of the intent of his statement.

The Gemara searches for the circumstance in which a learned woman would not be executed according to R' Yosi the son of R' Yehudah.

The reason R' Chanan chose to discuss a betrothed na'arah rather than a married na'arah is explained.

3) Supplemental questions

R' Chisda presents one type of supplemental question that disqualifies the testimony and another that does not.

Numerous unsuccessful challenges to R' Chisda's ruling are presented.

4) Identifying Ben Zakkai

The Gemara searches for the identity of Ben Zakkai mentioned in the Mishnah.

The conclusion is that as a student he was referred to as Ben Zakkai and as a teacher he is referred to as R' Yochanan ben Zakkai.

5) Clarifying the Mishnah

R' Sheishes suggests one explanation why the Mishnah

(Continued on page 2)

Distinctive INSIGHT

Can the witness say, "I don't know" and still be valid?

א"ר חסדא אחד אומר בסייף הרגו ואחד אומר בארירן הרגו, אין זה נכון

Rav Chisda taught that if one set of witnesses says that the murder weapon was a knife, while the other reported that the weapon was a battle-ax, the testimonies contradict, and they are therefore invalid. Rabeinu Yona and Ran note that the reason the testimony of these witnesses is unacceptable is that they conflict. However, this suggests that if one of the sets did not answer this question regarding the murder weapon, the testimonies would not be discarded. Rabeinu Yona explains that it is reasonable to say that Rav Chisda would allow the witnesses to say "I do not know," as we find that the Mishnah clearly stated that if the witnesses respond to any question of the **בדיקות** (the supplemental questions) by saying that they do not know the answer, their testimony is still valid. Furthermore, if Rav Chisda actually held that if the testimony was disqualified with the witnesses saying they do not know, then Rav Chisda would have illustrated his case in this scenario, and not only in the more extreme case where the witnesses contradict.

Ran writes that this statement of Rav Chisda seems to disprove the ruling of Rambam (Hilchos Eidus 2:1) where he says that the testimony of witnesses is invalid if they say "I don't know" to any questions.

Sefer **קרית מלך רב** resolves the ruling of Rambam, as he explains that Rambam understood that not only would Rav Chisda say that the witnesses are not valid if they contradict each other regarding what weapon was used, but he would have also said that the testimony is dismissed if either witness says that he does not know what weapon was used. The main point of Rav Chisda was not regarding the nature of how the testimony becomes invalidated, but rather regarding his subsequent statement that the testimonies are acceptable if one witness says that the victim's clothes were black, and the other witness says that the victim's clothes were white. Because this information is not part of the essential matter of his being murdered, the fact that this information is not reported consistently can be ignored.

מרכבת המשנה explains that Rambam agrees that the testimony of the witnesses is acceptable if a witness says that he noticed that the weapon used was a sharp metal, but he is not sure if it was a knife or an ax. This is tantamount to saying "I don't know" for one of the **בדיקות**, which is allowed. When Rambam writes that saying "I don't know" is unacceptable, it is when the witness says that he has no idea at all what type of weapon was used. ■

REVIEW and Remember

1. Explain the requirement for the defendant to release himself for death?

2. What was R' Chisda's novel ruling related to witnesses that contradict one another?

3. Why is the witnesses' testimony not disqualified when they contradict one another in the **בדיקות**?

4. When is the latest time to recite Kiddush Levana?

HALACHAH Highlight

The earliest time to recite Kiddush Levana

א"ר יעקב בר אידי א"ר יהודה עד שבעה נהרדעי אמרי עד ששה עשר
R' Yaakov bar Idi in the name of R' Yehudah said until the seventh. Nehardea say until the sixteenth

The Gemara discusses the final time for reciting Kiddush Levana but does not mention the earliest time the beracha may be recited. Beis Yosef¹ cites two opinions about this matter. The first opinion maintains that it may not be recited until three days have passed since the appearance of the new moon. The reason is that it is necessary for one to be able to benefit from the light of the moon in order to make the beracha and the moon is too small for one to benefit from its light until the third day has passed. The second opinion writes based on kabbalistic sources that Kiddush Levana should not be recited until seven days have passed since the appearance of the new moon.

Bach² writes that our Gemara seems to support the first opinion recorded by Beis Yosef. Our Gemara discusses the latest time Kiddush Levana may be recited and R' Yehudah maintains that the last time is seven days after the appearance of the new moon. If R' Yehudah maintains that the last time to recite the Kiddush Levana is seven days after the appearance of the new moon obviously it must be possible to recite the beracha before seven days from the appearance of the new moon. Furthermore, it seems that Nehardea who allow a person to recite Kiddush Levana until the sixteenth of the month would agree with R' Yehudah regarding the earliest time the beracha may be recited. Therefore, Bach concludes, the beracha should be recited, weather conditions permitting, three days after the appearance of the new moon in accordance with the principle that when the opportunity to perform

(Overview...continued from page 1)

emphasized that even if two witnesses could not answer a question their testimony is nevertheless valid.

Rava rejects this approach and offers another explanation.

6) **The difference between standard and supplemental questions**

R' Kahana and R' Safra explain to Rami bar Chama why there is a difference between the standard questions and the supplemental questions.

7) **A discrepancy regarding the day of the month**

R' Yochanan rules that a discrepancy of a day is allowed only until most of the month has passed.

Rava suggests a proof to this ruling but it is rejected.

8) **Kiddush Levana**

R' Yochanan is again cited as ruling that Kiddush Levana may be recited until the cavity of the moon is full.

R' Yaakov bar Idi in the name of R' Yehudah maintains that this occurs on the seventh of the month whereas Nehardea assert that it refers to the sixteenth of the month. ■

a mitzvah presents itself one should not delay.

Shulchan Aruch³ follows the kabbalistic approach and rules that Kiddush Levana should not be recited before seven days passed from the appearance of the new moon. Mishnah Berurah⁴ writes that most later authorities disagree with Shulchan Aruch's ruling and rule that once three full days have passed from the appearance of the new moon the beracha may be recited. If the earliest time passed on a weekday there is a dispute whether one should wait to recite the beracha on Motzai Shabbos when one is more properly dressed for the event of greeting the Divine Presence. ■

¹ בית יוסף או"ח סי' תכ"ו ד"ה גרסינן במסכת.

² ב"ח שם.

³ שו"ע או"ח שם סעי' ד'.

⁴ מ"ב שם סק"כ. ■

STORIES Off the Daf

The Path of the Gadol

"מ' שנה למד ארבעים שנה לימד..."

Rav Dov Yaffe, shlit"א, once recounted a very practical and timely peshat of the Chazon Ish, zt"l. "There is a very interesting Gemara in Sanhedrin 41. There we find that Rabbi Yochanan ben Zakai spent forty years learning and then forty years teaching. This seems hard to understand. Why did he wait such a long time to start teaching? Was there

really no one who needed a teacher until four decades elapsed? This implies that the best path is to initially learn and become great. Only then should one teach. This is the best way, since in this manner one is more successful.

"This is the way of most of those who had the greatest impact on our nation. Just look at what the Chofetz Chaim, zt"l, did in his lifetime. But first he focused exclusively on learning Torah. Once he attained greatness he was able to transform the world in a relatively short time."

Once the Chazon Ish summoned

one of the busiest askanim and ordered him to go back to full-time learning. He explained, "Just like the body has various appendages and organs, each with a different purpose, the same is true of the Jewish people. The head cannot possibly do the work of the hands. Similarly, you were created to learn. Let somebody else do the askanus."

He once added, "One gadol who toiled in Torah can do more for the community than one thousand askanim!"¹ ■

1. מעשה איש, ח"א, ע' כ"ט-ל' ■

