

OVERVIEW of the Daf

1) Lashon Hara (cont.)

The Gemara clarifies that Rav meant that people violate the prohibition against avak lashon hara rather than actual lashon hara on a daily basis.

R' Yehudah in the name of Rav enumerates three sins that some or many people have a tendency to violate.

Again the Gemara clarifies that the reference to Lashon hara referred to avak lashon hara.

2) Clarifying the dispute in the Mishnah

R' Ashi explains the point of dispute between Tanna Kamma and R' Shimon ben Gamliel.

Abaye presents a list of three Tannaim who subscribe to the position that instructions are interpreted as a way of showing the agent how to do it but not that it must be done in that manner.

3) One witness

Abaye suggests that the Mishnah's teaching that one witness on an open document is invalid is directed at the case where another witness orally confirms what the witness signed on the document relates.

Ameimar disagrees and maintains that when a single witness orally confirms what is contained in a document that has only one witness the document is valid.

R' Ashi unsuccessfully challenges Ameimar's position.

Ameimar explains the Mishnah introduced to the discussion by Abaye and then cites a ruling from earlier Amoraim that supports his position.

R' Ashi rejects the proof from the Amoraic ruling.

Mar bar Chiya presents a third version of the Amoraic ruling.

Ravina offers a fourth version of the Amoraic ruling.

4) MISHNAH: The Mishnah discusses the halachos of a document that contains vague or contradictory clauses.

5) Vague clauses

A Baraisa discusses other cases of vague clauses.

R' Elazar clarifies a ruling in the Baraisa.

R' Pappa further clarifies this ruling.

Another Baraisa is cited.

R' Elazar clarifies a ruling of the Baraisa. ■

Distinctive INSIGHT

Two witnesses where one witness testifies before each court

שנים שהעידו אחד בבית דין זה ואחד בבית דין זה מהו שיבואו בית דין אצל בית דין ויצטרפו

The Gemara inquired regarding the halacha of the Mishnah that a plain document with only one witness is not valid. What is the novelty of this ruling? Abaye explained that the lesson is that even if we have one witness who is testifying orally, he cannot join together with the one witness whose signature is recorded in the document to comprise the two necessary witnesses for the event recorded in the document. Ameimar contends that one witness who testifies orally may join with the one witness signed on the document, and the novelty of the ruling in our Mishnah is that just as one witness cannot testify, and his disqualification is from the Torah, so too, the two witnesses in a sewn document, when there should be three, are disqualified on a Torah level.

Ameimar proves his position based upon a question which was asked of R' Yirmiya, who responded that one witness who testifies orally may join to comprise complete testimony together with a single witness whose signature appears in writing.

Rav Ashi rejected this proof of Ameimar, because he had a different version of the question sent to R' Yirmiya. Rav Ashi reports that the question was where two people testify, one in front of one beis din, and the other testifies in front of a different beis din. The question is whether the two sets of judges can join together and rule based upon the testimony of a combined set of two witnesses who testified before the two courts. The Gemara also clarifies that the question was only posed according to the opinion of R' Nosson who holds that two witnesses may testify one after the other before one court, and the testimonies will be joined. Does this apply to proce-

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REVIEW and Remember

1. How many people violate the prohibition against theft?

2. Why was it necessary for the Mishnah to teach that a document with one witness is invalid?

3. What did R' Yirmiyah do to be allowed back into the Beis Midrash?

4. Which part of the document is authoritative; the beginning or the end?

Today's Daf Digest is dedicated
In honor of the anniversary of our children
Shoshana and Chanan Liss

HALACHAH Highlight

Writing that one of the judges is no longer present

אלא כך דעת תלמידכם שצריכין למכתב במותב תלתא הוינא וחד ליתוהי

But this is the opinion of your student: It is necessary to write, "We sat as a group of three and one is not here."

Different explanations are given for why it is necessary for the two remaining judges to emphasize that they convened as a group of three judges but one of them is no longer there. Rashbam¹ explains that this point is emphasized so that the judges do not appear to be lying. The document says that three people convened to certify the document and there are only two signatures. So that no one should be suspicious it is emphasized that one of the three is no longer here. Rashi² is concerned that if someone sees the certification signed by only two judges he could be misled into thinking that only two judges are needed to certify a document. In order to assure that no one will draw this erroneous conclusion it is necessary to emphasize that there were three judges who convened to certify the document. Meiri³ adds that if this clause is not included the document is invalid since there is the concern that it was only certified by two judges.

Rosh⁴ also elaborates on the necessity of both clauses, 1) "we sat as a group of three" and 2) "one is not here." If the clause, "we sat as a group of three" was omitted one could be misled into thinking that it is acceptable to certify documents with only two judges since that is the number of signatures that are affixed to the bottom of the document. Once the clause, "we sat as a group of three" is included it is correct to also mention "one is not here" since if that is not mentioned one could

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dures in front of one court only, or can we allow these two individuals to join even when they testified before two different courts? R' Yirmiya responded that R' Nosson would allow these two witnesses to join even where they testified before two different courts.

Rabeinu Yona notes that even according to the conclusion of the Gemara that we allow two courts to join in order to combine the testimony of the two individual witnesses, this is only when one entire court meets together with the other entire court. However, it would not be adequate for two out of the three members of one court to sit with one or two out of the three members of the other court, even though we would then have three judges presiding. It is not enough to have two members of a court to represent their former grouping, as we need the court itself to join with the second court. It is only in this case that each court can present the testimony it received before the other. (30:#8) **נתיבות המשפט** actually rules that while one member of each court cannot represent his former grouping, two members of each court can join together and the testimonies can combine. ■

erroneously conclude that a Beis Din of three is not necessary to certify documents. The fact that it mentions that they sat as a group of three could be misunderstood as simply relating how many people gathered to certify the document but not that a Beis Din is necessary. It is important to note that Rosh holds that the phrase "and one is not here" is *correct* to write but it is not essential to the validity of the document. ■

1. רשב"ם ד"ה וחד.
2. רש"י לכתובות כ"ב. ד"ה צריכין.
3. מאירי ד"ה שלשה.
4. רא"ש כתובות פ"ב סי' כ"ב. ■

STORIES Off the Daf

Important safeguards

"רוב בגזל..."

Once, when Rav Yisrael Salanter, zt"l, visited a very wealthy man, he was ushered into the wealthy man's well-appointed office. In it stood a large safe that was sitting ajar, and it contained a fortune in bills of high denomination. The wealthy man was obviously in the middle of counting out some money, perhaps to set aside for investment.

Shortly after Rav Yisrael sat down, the wealthy man had another visitor whom he wished to meet outside. He got up and left

the room, but he trusted Rav Yisrael so much that he did not even bother to close the safe. But a moment after he left the room Rav Yisrael left also.

When the wealthy man returned he was surprised to see Rav Yisrael waiting patiently outside his office. When questioned about his strange behavior, Rav Yisrael explained that being alone with such large sums of money is no different than the issur of yichud. Just as we must be careful of promiscuity, we must also place safeguards on ourselves to ensure that we are not tempted to steal.

Rav Yisrael Grossman, zt"l, explains the source for Rav Yisrael's practice. "On Bava Basra 165 we find that while the minority of people have relations with those

forbidden to them, most people do steal to some extent or another. The prohibition of yichud is a safeguard so that people will avoid slipping into licentiousness, even though only the minority transgresses such sins. How many fences and safeguards must we erect to ensure that we do not fall into theft in some way! This explains why our sages teach that one must not collect communal funds alone, even if one's moral record is absolutely impeccable. He must still discharge his obligation to fulfill the verse, 'והייתם נקיים מה' ומישראל' — And you shall be clean before Hashem and the Jewish people!"¹ ■

1. לב ישראל, ע"י קצ"א ■