

This month's Daf Digest is dedicated in memory of
 Mr. Israel Gotlib of Antwerp and Petach Tikva and Yisrael Tzvi ben Zev.
 By Mr. and Mrs. Manny Weiss

OVERVIEW of the Daf

1) The disqualification of an **עד זומם** (cont.)

The practical difference, between two explanations regarding when an **עד זומם** is disqualified, is identified.

After citing accounts of Amoraim disagreeing whether the halacha follows Abaye or Rava the Gemara declares that halacha follows Abaye on this matter.

Abaye's position is unsuccessfully challenged.

It is suggested that the dispute between Abaye and Rava is also a dispute between Tannaim.

After the Gemara clarifies R' Yosi's position in the Baraisa the Gemara explains why it thinks that the dispute between the Tannaim is related to the same dispute of Abaye and Rava.

This suggested explanation is rejected and an alternative explanation of R' Yosi's opinion is offered.

This explanation is unsuccessfully challenged.

2) Contradiction is the beginning of **הזמה**

Rava asserts that witnesses that are contradicted and then made **זוממים** are killed because contradiction is the beginning of **הזמה**.

Rava cites and explains a Baraisa to support his ruling.

Abaye rejects the proof. ■

REVIEW and Remember

1. What are the six cases where we follow the ruling of Abaye over Rava?
2. What led the Gemara to think that Rabanan and R' Yosi disagree about whether the **עד זומם** is disqualified retroactively or only from this point forward?
3. What is the difference between a student greeting a rebbi and a rebbi greeting a student?
4. How does Rava demonstrate that contradiction is the beginning of **הזמה**?

Distinctive INSIGHT

A student greeting his rebbe

שלום עליך רבי

There are two time frameworks which are defined as immediate. They are referred to "within the amount of time to speak". One is the short interval it takes for a Torah teacher to greet his student, where no formal expression of honor or status need be mentioned. The teacher would simply say, "Hello to you- **שלום עליך**." There is a slightly longer formula, used for a student who is addressing his teacher, where he must add a title of honor by saying, "Hello to you, my Rebbe— **שלום עליך רבי ומוי**."

In general, if two sets of witnesses testify one after the other, but within this immediate short interval of **תוך כדי דיבור**, they are legally considered to be one unit of testimony, such that if one of them becomes disqualified, or it found to be discredited, both sets become invalid. If the testimony of the second set was not registered within this immediate time framework following the first set, the two set of witnesses are independent of each other. If something would discredit one set, the other would be still good. Rabbi Yose considers the shorter period of time to be the critical one in this context, that of the teacher greeting the student.

Therefore, Rabbi Yose would say that, for example, if a testimony regarding a theft of an animal and another testimony of its slaughter were delivered beyond that shorter time frame, even if it is within the time of a student who greets his rebbe (which is the time it takes to say the lengthier formula of **שלום עליך רבי ומורי**) the testimonies are distinct. Even if we were to discredit the testimony of the slaughter of the animal, this would not affect the testimony of the theft, even retroactively.

Sefer **גבורת ארי** notes a discrepancy between the text of our Gemara and that of the Gemara in Makkos (6b) regarding the precise nature of a greeting of a student to his rebbe. Our Gemara reports that the formula has the four words, **שלום עליך רבי ומורי**, whereas the Gemara in Makkos reports it simply as the three words **שלום עליך רבי ארי**. **גבורת ארי** concludes that the text in the Gemara in Makkos is correct, and that the extent of the expression is only three words (i.e., not including the word **ומורי**), and not four.

גבורת ארי explains that the time interval indicated by these words is not a function of how many words are spoken, but rather how many letters can be said. In other words, **כדי שאילת** **תלמיד לרב** is the time it takes to pronounce eleven letters.

דברי יחזקאל discusses precisely how to measure this time framework. Is it measured for each person individually, whereby someone who speaks slowly would have a bit extra time before

HALACHAH Highlight

Disqualifying witnesses

They testified [about the theft and the slaughtering] at one time and became זוממים

Tosafos¹ explains that when witnesses testified in one statement that Reuven stole and slaughtered an animal and are found to be זוממים עדים regarding the slaughtering their testimony regarding the theft is also rejected since they testified about both actions at the same time. This explanation is at odds with a seemingly parallel ruling in Shulchan Aruch. Shulchan Aruch² rules that a loan document that was drawn up that includes interest payments is still a valid document and the lender will be able to collect the principal of the loan based on this document. S"ma³ is troubled by this ruling since witnesses who sign on a loan document that includes interest payments have also violated a prohibition, accordingly, they should be categorized as disqualified witnesses and even their testimony regarding the principal of the loan should be disqualified since the document was not signed by valid witnesses. S"ma answers that the witnesses do not become disqualified from testifying about a loan with interest since they do not realize that they are committing a transgression. This is similar to the halacha that someone who buries a person on the first day of Yom Tov is not disqualified from giving testimony even though he violated a Biblical prohibition since people are unaware that it is prohibited⁴.

Ketzos Hachoshen⁵ offers an alternative explanation why the testimony of the witnesses to a loan with interest does not disqualify them as witnesses whereas being convicted as זוממים does

שהעידו בבת אחת והוזמו

(Insight...continued from page 1)

this time elapsed, or is it determined in some standard manner? He concludes that this time is based upon a standard using the speech patterns of an average person. The proof he offers is a case when a person hears about a relative who died, and he rends his clothing. He then heard that the information was inaccurate, and his relative was still alive, but suddenly, the relative actually dies a moment later. If the time of שאילת תלמיד לרב has not elapsed, the earlier rending of his garment can be valid for the new news. We see, he notes, that this time frame is not a function of actual speaking, but of some objective standard. ■

disqualify them. He asserts that there are two categories of witnesses that are disqualified from giving testimony. One group is the liars or suspected liars and the second one is people that are Biblically disqualified from giving testimony for reasons unrelated to being liars. Once someone is suspected of being a liar all his testimony is dismissed because he has undermined his reliability. Thus once a witness is convicted as an עד זומם all his testimony is disqualified since he has demonstrated that he is a liar. Someone who signed on a document that includes interest has not demonstrated that he is even suspected of lying. His disqualification is due to the fact that the Torah refers to him as a רשע. Such a person is disqualified only when he does the wicked act. In the case of the loan he becomes a רשע only after he signs his name but while he was signing his name he was still a fit witness and thus his testimony regarding the principal of the loan remains in force. ■

1. תוס' ד"ה שהעידו בבת אחת
2. שר"ע חר"מ סי' נ"ב סע' א'
3. סמ"ע שם סק"א
4. שר"ע חר"מ סי' ל"ד סע' ד'
5. קצה"ח סע' נ"ב סק"א ■

STORIES Off the Daf

An unfortunate pause

תוך כדי דיבור כדיבור דמי

When a certain man had finally found his basherte there was much rejoicing and joy. He made a gala wedding and invited all his friends.

In that district, many grooms would choose the witnesses from among the most religious and knowledgeable of his guests. Unfortunately for the choson, his witnesses were people who had never actually learned the halachos of kiddushin yet considered themselves learned in these complex issues. As the choson said, "הרי את מקודשת" the witnesses chimed in, "You don't have to say לי." But although the groom was silent as

they spoke, he immediately rejected their advice by retorting, "I do say לי! With that, he placed the ring on his wife's finger.

The presiding rabbi was very confused regarding this strange event and wondered whether the kiddushin had actually taken effect. While failing to say the word, לי was a serious halachic problem in and of itself, the groom had said this very important word תוך כדי דיבור of the witnesses' interruption. In Bava Kamma 73 and many other places we find that תוך כדי דיבור דמי—speaking nearly immediately after the pause is considered as if there had been no interruption. On the other hand, his added words were not uttered within the requisite time in relation to his own first words, but rather merely to those of the witnesses. Perhaps in this case this was insufficient and the kiddushin must be re-

enacted?

The rav consulted with the Chasam Sofer, zt"l, regarding this halachic dilemma. He answered, "As far as the timing is concerned, since it was definitely more than תוך כדי דיבור in this instance, it is as if the groom did not say לי. Although the Ramah rules that one must repeat the marriage if he failed to say לי, he contradicts this ruling later in Darkei Moshe, and the Chelkas Mechokek permits and even says that the original Ramah is publication error.

He concluded, "Although it seems to me that your honor can rely on those who permit without לי, I do not wish to rule in this case for various personal reasons. His honor will have to come to a conclusion himself..."¹ ■

1. שו"ת חתם סופר אבה"ע ס' פ'