A RUBEN SHAS KOLLEL PUBLICATION
DAF YOMI DIGEST
THE DAILY RESOURCE FOR THOUSANDS OF DAF YOMI LEARNERS WORLDWIDE
Shabbos, Nov 11 2017 ■ כ״ב חשון תשע״ח
מכות ו׳
CHICAGO CENTER FOR Torah & Chesed
בס״ד

OVERVIEW of the Daf

1) MISHNAH (cont.): The Mishnah concludes its presentation of why the Torah equates three potential witnesses with two witnesses.

2) Testimony of a hundred witnesses

Rava asserts that the testimony of a hundred witnesses is the same as two witnesses only if they testify within the time required for an utterance (תוך כדי דיבור).

R' Acha from Difti unsuccessfully challenges this ruling.

3) Clarifying R' Akiva's position

R' Pappa and Abaye discuss the ramification of R' Akiva's position until Abaye is left silenced without an explanation for R' Akiva's position.

Rava gave a more acceptable explanation for R' Akiva's position.

4) Clarifying Rebbi's position

Rava explains how we determine whether potential intended to serve as witnesses when they watched an incident.

The Gemara presents a dispute whether halacha follows R' Yosi or Rebbi.

5) MISHNAH: The Mishnah discusses the parameters for combining different groups of witnesses into a single set of witnesses.

6) Combining single witnesses to make a pair of witnesses

R' Zutra bar Tuvya in the name of Rav presents an exposition that teaches that isolated witnesses do not combine to become a pair of witnesses.

A Beraisa echoes the same exposition.

R' Pappa and Abaye discuss the need for the Beraisa's second ruling.

Rava rules that if there is someone giving a warning who can see the two witnesses or they can see him they combine to become a pair of witnesses.

A second ruling of Rava related to the person giving the warning is recorded.

R' Nachman asserts that isolated witnesses are acceptable for monetary cases.

Mar Zutra challenges this ruling and the matter is left unresolved.

7) The necessity to be warned

R' Pappa questions whether, according to R' Yosi, it is always necessary for a defendant to be forewarned.

Abaye resolves the contradiction by asserting that the second source reflects R' Yosi bar Yehudah's position.

8) Interpreters

An incident is recounted in which Rava used interpreters in Bais Din.

The Gemara explains that Rava understand the language of the witnesses and the interpreters were necessary because he did not know how to reply in that language. ■

Distinctive INSIGHT

Directly from the witnesses and not through an interpreter
שלא תהא סנהדרין שומעת מפי התורגמן

After the Mishnah teaches a disagreement regarding the process of who is required to issue a warning to a person about to commit a crime, the Mishnah concludes with a halacha with which everyone agrees. The verse which states, "By the mouth of two witnesses" teaches us that the Sanhedrin may not hear testimony through a translator. They must be able to understand the witness first hand. Many Rishonim learn that although the verse in the Torah which sets forth this rule is technically speaking about witnesses that must testify directly before the judges, without the need for a middleman who translates, the halacha is that this same requirement is necessary when the judges listen to the claims and counter claims of the two parties who are contending before the court. Ritva extends this same halacha to another law which is also derived from this verse. The rule is that a witness must testify from his personal recollection of the events he observed, and he may not rely solely upon reading from a written record of the event, even if he wrote the notes himself (Gittin 71a). Based upon this, we will also say that the litigants themselves must present their claims orally, and they may not present arguments based only upon written records of facts and details about which they have no mental recollection. The court must hear from them directly, and this refers to hearing from their mouths and not from their notes.

Ritva adds in the name of the בעל העיטור that this halacha only excludes the case where the witnesses or litigants send a letter to the court with their input, and the person himself is not present. However, if a witness or litigant hands a written record of his testimony or claim to the court, and he says that his position is as recorded in the document, this would be acceptable.

Ritva notes that there are other Rishonim (Ran, beginning of Shevuos Ch. 4; Meiri, here) who hold that the halacha only rules out witnesses from presenting their testimony in writing, but this halacha does not restrict the litigants from presenting their claims in writing to the court. It is only in reference to the witnesses that the Torah requires that the court hear from their mouths, and not through interpreters. Accordingly, the story of the foreign language people who came before Rava is a case

(Continued on page 2)

Today's Daf Digest is dedicated
By Mr. Leib Hoffman
לע״נ ר׳ משה בן ר׳ שמעון דוד

Today's Daf Digest is dedicated
By Mr. & Mrs. David Friedman
לע״נ מרת רבקה בת ר׳ שרגא פאטעל, ע״ה

HALACHAH Highlight

Listening to claim of litigants through a translator

הנהו לעוזי דאתו לקמיה דרבא וכו'

There were these foreigners who came before Rava etc.

The Gemara presents an exposition that Sanhedrin may not hear from a translator. An incident in which Rava utilized the services of a translator is cited and the Gemara explains that Rava utilized the translator only to communicate but he did not need the translator to assist in understanding what was being spoken. This ruling is recorded in Shulchan Aruch[1]. Radvaz[2] observed that it was common for Dayanim in Eretz Yisroel who did not speak foreign languages to use translators and he wondered about the permissibility of the practice being that it seems to violate the explicit ruling in our Gemara. He offers a number of explanations for this practice.

There is a disagreement whether our Gemara is addressing the use of a translator for the witnesses or the litigants. Rambam[3] writes that the restriction against using a translator applies even to the litigants. This is evident from the incident involving Rava cited in our Gemara in which the Gemara says אתו לקמיה – they came before him, and this language implies that it is discussing litigants. Ritva[4], however, cites authorities who maintain that the restriction against using a translator is limited to the witnesses since it is a pasuk regarding witnesses that is the basis for the Gemara's exposition. Radvaz proceeds to explain why it is logical to assume that the restriction is limited to witnesses. Witnesses must have the potential to be made into zomemim witnesses in order for their testimony to be acceptable. If we heard testimony through a translator they could not be made into zomemim since when that attempt is made they will claim that the translator misrepresented their words. It is likely that the Dayanim in Eretz Yisroel followed this opinion. Furthermore, continues Radvaz, even according to Rambam who prohibits judges from listening to someone translate the claims of the litigants, the restriction is Rabbinic in origin since the verse refers specifically to witnesses. As such, it is logical to assume that the restriction is in force only when there is an alternative but when there is no alternative the Rabbinic prohibition is not in force. ■

1. שו"ע חו"מ סי' י"ז סע' ו'.
2. שו"ת הרדב"ז ח"א סי' של"א.
3. רמב"ם פכ"א ה"ח.
4. ריטב"א ד"ה שלא תהא. ■

REVIEW and Remember

1. How do a hundred testify within the time required for an utterance?

   _____

2. How do we determine whether people had in mind to testify or not?

   _____

3. What halachos are derived from the phrase על פי שנים עדים?

   _____

4. According to R' Yosi, is a warning required to punish a transgressor?

   _____

(Insight...continued from page 1)

where the witnesses were the ones who could not speak the common language. The Gemara does not clearly note this to be the case, because it relied upon this detail as being obvious. ■

STORIES Off the Daf

Accidental death?

"השונא נהרג..."

We find on today's daf that one who kills his enemy receives capital punishment even if he was not warned.

Once, a man pulled out his gun on his enemy and after gloating that he was finally in his power, he pulled the trigger which made a great noise. Although the gun was not loaded, the enemy had a heart attack and died as a direct result of this scare. The perpetrator felt terrible and wondered if he was required to do teshuvah. After all, was it his responsibility that his enemy had not been in the best health? The gunman was certain that he would have certainly survived such a similar ordeal.

When the Chavas Da'as, zt"l, was consulted on this question he replied that a great repentance was required. "I once saw a similar case in a non-Jewish law book. They ruled that the person who scared the man to death should be put to death but the executioner was told to hit him with the sword, to do exactly what he had done, and the frightened man survived.

"Although the non-Jewish courts felt that this was enough punishment, from our point of view this is definitely not sufficient. After all, if one acts in a way that it is very natural to cause his enemy's death, he must surely atone for causing his death. Clearly this is no better than a man who sent his friend somewhere and the friend was killed. Just as that man would require repentance for causing another's death, the same is true in our case."

He concluded, "It is only in a case where one acted in a way that would startle but was very unlikely to cause another's death that a minimal teshuvah is sufficient."[1] ■

1. שו"ת חוות יאיר, סימן ק"ע ■

Daf Digest is published by the Chicago Center for Torah and Chesed, under the leadership of HaRav Yehoshua Eichenstein, shlit"a
HaRav Pinchas Eichenstein, Nasi; HoRav Zalmen L. Eichenstein, Rov ;Rabbi Tzvi Bider, Executive Director, edited by Rabbi Ben-Zion Rand.
Daf Yomi Digest has been made possible through the generosity of Mr. & Mrs. Dennis Ruben.