

OVERVIEW of the Daf

1) Contradictory testimony (cont.)

Nehardei rules that the testimony of witnesses who disagree about the color of the wallet can be combined.

The Gemara searches for the Tanna who is the basis for Nehardei's opinion.

An incident is retold in which R' Ami allowed testimony from witnesses who contradicted one another about the contents of a barrel.

The Tanna that is the basis of this ruling is sought.

A similar incident involving R' Chanina is recorded.

2) Revealing how the judges voted

A Baraisa echoes the Mishnah's ruling regarding the prohibition against revealing how the judges voted.

A related incident is recorded.

3) MISHNAH: The Mishnah rules that new evidence can overturn a verdict. Three possible exceptions to this principle are discussed.

4) The disputes in the Mishnah

Rabbah bar R' Huna rules in accordance with R' Shimon ben Gamliel and not like Chachamim regarding a court-imposed time limit.

The reason it was necessary to emphasize that the halacha does not follow Chachamim is explained.

Rabbah bar R' Huna in the name of R' Yochanan rules in accordance with Chachamim that once a litigant states he has no further evidence he may not introduce additional evidence and not like R' Shimon ben Gamliel who maintains that addi-

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REVIEW and Remember

1. What prohibits a judge from sharing with the litigants how he and the others voted?

2. Why was it necessary for R' Yochanan to stress that the halacha does not follow R' Shimon ben Gamliel?

3. At what point is a litigant restricted from bringing new witnesses to Beis Din?

4. What is the beis havaad?

Today's Daf Digest is dedicated

In memory of

אבי מורי שמואל יצחק בן אריה Shmuel Yitzchak Backenroth ZT"L,
 sponsored by his children

Distinctive INSIGHT

Combining testimony of different witnesses

ובית הלל אומרים יש בכלל מאתים מנה

The Torah requires that witnesses be cross-examined when they come to testify in court. They must be asked חקירות, investigations, to verify the precise time and date of the event they witnessed. The witnesses are also asked בדיקות, verifications, which are details regarding the case itself. Here, we ask both relevant and irrelevant information, just in order to make sure the witnesses did not fabricate their story. Technically, we require this extensive process to be done whether the witnesses are coming to testify about a capital case, or whether they are coming to tell us about a monetary dispute. The sages dispensed with the investigations and verifications in monetary cases, as we are concerned that the lender will have a difficult time finding witnesses who can withstand the process, and he would not be able to retrieve his money. If we are too demanding of the lenders, they would be reluctant to lend, and they would close their doors in the face of borrowers (נעילת דלת).

If the witnesses are cross-examined, and a contradiction emerges between them, the Rishonim discuss whether their testimony must be rejected or whether it is still valid.

The Gemara brings the opinion of Nehardai (i.e., Rav Chama, see 17b) who says that if one witness says that the money lent was a black מנה, while the other witness says that the money lent was a white מנה, the two testimonies can be joined, resulting in two witnesses that the loan took place. This is despite the fact that the two witnesses conflict with each other regarding the currency which was lent, which seems to be an essential fact. The Gemara concludes that the basis for this opinion is found in a Baraisa where Beis Hillel holds that where one said that the loan was for one hundred zuz and the other witness says that the loan was for two hundred zuz, that the two witnesses agree on the basic amount of one hundred, and they join to form a unified testimony for a one hundred zuz loan.

The Gemara in Shvu'os (47b) teaches that if two sets of witnesses contradict each other, both sets are suspect of being liars. If one member of the first set and one member of the second set come to testify about a different issue, the beis din knows that one of the two is certainly a liar, and the testimony of this pair is not acceptable. The Rishonim ask, therefore, that here, where one witness says that one hundred zuz was borrowed, and a second witness says that two hundred zuz was borrowed, one of them is certainly lying, and the testimony should not be allowed. Why, then, does Beis Hillel allow them to testify together?

Rabeinu Yona explains that both witnesses agree regarding the first one hundred zuz. They disagree regarding the second hundred, but that is considered to be a separate testimony. ■

HALACHAH Highlight

The prohibition against revealing secrets

אפקיה רב אמי מבי מדרשא אמר דין גלי רזיא

R' Ami removed him from the Beis Midrash and explained that this person reveals secrets

The Gemara relates that there was a rumor that a particular student had revealed a secret that had been discussed twenty-two years earlier and R' Ami had him expelled from the Beis Midrash. Rabbeinu Yonah¹ writes that a person is obligated to keep secret all information that a friend shared in private even if it doesn't entail tale-bearing (רכילות). The reason divulging secret information is prohibited is that it is considered damage to the one who originated the secret. Chofetz Chaim² writes that the source for Rabbeinu Yonah's position is our Gemara.

Sefer Dvar Avrohom³ takes note of the fact that the pesukim Rabbeinu Yonah quotes are from Sefer Mishlei and questions whether revealing a secret is prohibited from the Prophets (איסור) (מדברי קבלה) or does it represent bad character traits or perhaps it is Rabbinically prohibited. Rambam⁴ mentions the prohibition against speaking lashon hora and rechilus but does not mention the prohibition against revealing a secret except when he discusses the halacha of the prohibition that judges may not reveal who voted innocent or guilty. Magen Avrohom⁵, however, writes that one who reveals a secret violates the prohibition against lashon hora even if the original statement was made in public. He proves this from our Gemara where a student revealed a "secret" matter that was discussed in the Beis Midrash. The fact that Magen Avrohom refers to this as lashon hora could be understood according to Rambam's general definition of lashon hora. He writes⁶ that one who relates something that will cause another person distress or will frighten them violates the prohibition against lashon hora and revealing a friend's secret has the potential to frighten them or cause distress.

Teshuvos Halachos Ketanos⁷ was asked whether there is any force to the practice of writing "ופגיין" on a letter which stands

STORIES Off the Daf

The Yeshiva's honor

"אפקיה רב אמי מבי מדרשא..."

Rav Simcha Zissel Broide, zt"l, the head of Chevron Yeshiva, would say that one must be very vigilant to respect the Torah, its teachers, and the institutions where it is studied. "We are all obligated to take care that we should never say anything which can cause a lowering of the esteem of the yeshiva in the eyes of those who hear about

it. I once heard from Rav Epstein, zt"l, that one must relate to the honor of his yeshiva like one would to a 'Rosh Kol Bnei HaGolah'—a Torah luminary who is accepted by the majority of Jews. When a person says something which is detrimental to the yeshiva this weakens the strength of Torah.

"In Sanhedrin 31 we find that when a certain student in Rav Ami's yeshiva spoke of a scandal that had happened in the yeshiva twenty-two years earlier, Rav Ami expelled him because he could not keep a secret. This story is very revealing. A senior student at the yeshiva who was surely a

great man in his own right was ousted because he said something detrimental. As the Gemara says, he only said this to ascertain if it was halachically lashon hara—this was why he told it over in the beis midrash. Nevertheless, when this student disclosed a secret of the yeshiva in a manner that ensured that it would be publicized, even though this was not his intention, he was immediately cast out."

He concluded, "From here we see how seriously Rav Ami took the honor of the yeshiva!"¹¹ ■

1. נסיד ממלכות התורה, ע' 294 ■

(Overview...continued from page 1)

tional evidence may be introduced.

The reason it was necessary to emphasize that the halacha does not follow R' Shimon ben Gamliel is explained.

An incident is cited related to bringing in evidence after stating there was no evidence.

Two versions of an incident involving R' Nachman are presented.

The second version of R' Nachman's ruling is challenged.

R' Dimi cites a ruling in the name of R' Yochanan related to bringing in new evidence.

This ruling is successfully challenged and another version of R' Yochanan's ruling is presented.

5) Choosing a venue for a din Torah

R' Dimi quotes R' Yochanan's ruling that one of the litigants could demand that the case should be heard in the Beis havaad.

R' Elazar and R' Safra disagree and maintain that one litigant cannot force the other to travel to the Beis havaad.

Tangentially, R' Safra mentions that a yevama must travel to the yavam for chalitzah.

Ameimar rules that a litigant could be forced to travel to the Beis havaad and explains when R' Elazar's logic applies and when it does not.

A related incident is presented and analyzed. ■

הדרן עלך זה בורר

for "ופורץ גדר ישכנו נחש" – One who breaches the fence should be bitten by a snake. He answered that it is unnecessary since reading other people's correspondence is prohibited under the general prohibition against tale bearing - רכילות. ■

1. שערי תשובה שער ג' אות רכ"ה.
2. חפץ חיים רכילות כלל ח' סעי' ה'.
3. דבר אברהם ומובא דבריו במתיבתא פניני הלכה לסוגיין.
4. רמב"ם פ"ז מהל' דעות.
5. מג"א סי' קנ"ו סק"ב.
6. רמב"ם פכ"ב מהל' סנהדרין ה"ז.
7. שו"ת הלכות קטנות ח"א סי' רע"ו. ■