

OVERVIEW of the Daf

1) Advocating for an acquittal in capital cases (cont.)

The Gemara presents the exchange between R' Yosi bar R' Yehudah and Rabanan as to whether a witness may advocate for an acquittal.

2) Changing one's position

Rav asserts that although during deliberations one who argued for acquittal may not change his position, nevertheless, when it comes time to vote he may change his position.

Numerous unsuccessful attempts are made to refute Rav's position.

3) One teaching from two sources

Abaye cites pesukim to prove that one verse can produce many teachings but one teaching would not come from many pesukim.

A similar teaching is presented by D'vei R' Yishmael.

R' Zevid suggests one example of one teaching from different verses.

This example is rejected and R' Pappa suggests another example.

This example is rejected and R' Ashi suggests another example.

R' Ashi's example is unsuccessfully challenged.

4) Concluding a monetary case at night

R' Chiya bar Pappa cites the source that monetary cases may be concluded at night.

This exposition is unsuccessfully challenged.

It is noted that the Mishnah's allowance for a monetary case to be concluded during the day does not follow R' Me-

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Distinctive INSIGHT

The parable of the hammer and the stone

וכפטיש יפוצץ סלע - מה פטיש זה מתחלק לכמה ניצוצות אף מקרא אחד יוצא לכמה טעמים

A Baraisa was taught in the yeshiva of R' Yishmael to teach that a single verse can teach several lessons. The verse (Yirmiyahu 23:29) states: "And like a hammer that a rock shatters." Rashi explains that when a hammer strikes a rock, it causes the rock to explode into many fragments which fly up. So, too, according to the parable, one verse can be expounded to teach many lessons.

Tosafos (ד"ה מה) points out that if the lesson was as Rashi states, the Baraisa should have understood in the verse that the stone breaks into many pieces, rather than the hammer. Therefore, Rabeinu Tam in Tosafos understands the parable in the Baraisa as referring to a scenario mentioned in a Midrash where someone took a sapphire stone and placed it upon an anvil. When he took a hammer to break the stone, both the hammer and the anvil split, while the stone remained intact.

Rabeinu Eliyahu Mizrahi (to Shemos 6:9) responds to explain Rashi's understanding of the verse and of the Baraisa. The verse (ibid.) begins with the prophet declaring that Torah is compared to fire, "Are not My words like fire?" says Hashem." It then compares Torah to the smashing of a hammer against a rock. The parable, therefore, is to the sparks which fly as the hammer impacts the stone. Just as a hammer causes many sparks to fly as it strikes the rock, so, too, is Torah, which can teach many lessons from one verse.

The commentators note that the sparks actually fly from the hammer as a result of its striking the stone. Although the verse seems to say that the stone is smashed by the hammer, it is actually the reverse that occurs. Nevertheless, it is common for verses to be interpreted in this manner.

Maharsha notes that in our Gemara, the Torah is compared to the hammer which strikes the stone, while the Gemara in Kiddushin (30b), a drasha from the yeshiva of R' Yishmael compares the yetzer hara to the hammer. There, we learn from this verse that if a person is confronted by the yetzer hara, he should make his way to the beis medrash in order to vanquish his desires. "If it is as stone, it will melt, and if it is as metal, it will explode."

Alternatively, Maharsha notes that the word סלע in the drasha in Kiddushin may not refer to a stone, but rather to a coin which is made from metal. The lesson is that a person is compared to a coin, in that a coin has an image engraved

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REVIEW and Remember

1. If someone initially argued for an acquittal, is he permitted to change his position?

2. What is the rationale for the principle that two pesukim would not teach the same lesson?

3. What is the point of dispute between R' Yishmael and R' Akiva?

4. Why did R' Yochanan permit a blind man to adjudicate monetary cases?

HALACHAH Highlight

When the judges that comprise the majority disagree with one another about the rationale

אמרו שנים טעם אחד משני מקראות מהו אמר ליה אין מונין להן אלא אחד

If two judges give one reason from two different pesukim what is the law? He responded that they count as a single vote

Rema¹, based on a ruling of Maharik², rules that a decision of Beis Din will always follow the majority opinion. Even if two judges agree about the verdict but disagree about the reasoning for that verdict they are still counted as two votes for the same verdict and would constitute a majority in a Beis Din of three judges. Shach³ disagrees with Rema's ruling and wrote that Maharik never intended to issue a final ruling based on this approach, he was merely offering a rationale for a particular unusual practice.

In another place Shach⁴ retracts his earlier opinion and agrees with Rema that we follow the majority opinion even if they disagree about the rationale. The explanation he offers for this approach is that we do not have a source that indicates that the judges who comprise the majority opinion have to agree with one another. He also suggests that our Gemara is proof to this principle. The Gemara explains that someone records the rationales of those who vote to exonerate the defendant so that if it turns out that two judges based their conclusions on different pesukim they would only count as a single vote since two pesukim do not contain the same teaching and one of them is wrong. From the fact that the Gemara is

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ir's opinion recorded in a Baraisa.

An incident is cited in which R' Yochanan allowed a blind man to adjudicate.

The rationale for this allowance is explained.

A discussion about the dispute between Rabanan in our Mishnah and R' Meir is recorded.

5) Capital cases must be completed during the day

R' Shimi bar Chiya cites the source that capital cases must be completed during the day.

Tangentially, R' Chisda explains how we know that the term הוקע means to hang. ■

not concerned with the possibility that two judges would give two different reasons for the same conclusion from two pesukim it is evident that they would constitute two separate votes even though they disagree with one another's rationale. Sefer Hamei'ir La'olam⁵ explains the rationale to this approach as follows. When three judges convene to adjudicate their charge is to arrive at a decision of guilt or innocence. It is not necessary for the judges to agree about the rationale for their decision. Therefore, as long as a majority of judges agree about the verdict a decision can be rendered and it is irrelevant that the judges do not agree about the rationale for the verdict. ■

1. רמ"א חו"מ סי' כ"ה סעי' ב'.
2. מהרי"ק שורש מ"א וע"ע בסוף שורש נ"ב.
3. ש"ך יו"ד סי' רמ"ב פלפול בהנהגת איסור והיתר.
4. ש"ך חו"מ סי' כ"ה ס"ק י"ט.
5. המאיר לעולם ח"א סי' ג. ■

STORIES Off the Daf

"Three who entered to visit the sick"
 "שלושה שנכנסו לבקר את החולה..."

On today's daf we find a case of three people who visited a sick man.

Once, a group of people encountered Rav Chaim Chizkiyahu, zt"l, the illustrious Sdei Chemed, walking under the beating sun on a hot summer's day. The people asked him where he was headed and, knowing how careful he was never to waste a moment, they were surprised by his reply.

He said, "I am going to visit so-and-so who is sick and lives not far from here."

The group immediately pointed out that the sick man did not deserve this distinction since he was a well known sinner. The Sdei Chemed disagreed.

He argued, "First of all, our sages tell us that even the sinners of Israel are filled with merit like a pomegranate is filled with seeds, so he is certainly worthy of the visit in his own right. Secondly, we learn from the verse that the Shechinah is above the head of a sick person. So even if he were not to deserve a visit, we are not only going to visit him, we are also going to visit the Shechinah which is with him."

The group was so moved by the words of the Sdei Chemed that they decided to accompany him to the sickbed. When the group was ushered in to the

patient, he girded himself and sat up in their honor. A few days later he walked the streets, completely healed. From that day on, this man turned over a new leaf and left his bad ways behind. No fault was ever found in him again.¹ ■

1. אור החמה, ע"ר י"ט ■

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upon it. When the image on a coin is old or invalidated by the government, although the coin in its current form cannot be used, it can be reformed and remolded with a fresh face. So, too, if a person has been affected by the yetzer hara, the Torah, which is compared to fire or to a hammer can fix and transform the person by refreshing his previous, sinful form and renew it. ■