

OVERVIEW of the Daf

1) A child of uncertain paternity

A Baraisa presents a dispute between Tanna Kamma and R' Yehudah concerning the liability of a child for cursing or hitting two people, one of which is his father.

Another Baraisa presents a contradictory version of R' Yehudah's position and the Gemara concludes that there are, indeed, two versions of R' Yehudah's position.

R' Chanina explains the view that even if the child hits both men at the same time he is exempt from liability.

The Gemara clarifies that the child who does not know which of two kohanim is his father is compelled to serve in the Beis Hamikdash to avoid disgracing the two משמרות.

It is clarified that the child who does not know which of two kohanim is his father receives a portion only if the two kohanim were from the same משמר and the same בית אב.

הדרן עלך נושאים על האנוסה

2) MISHNAH: The Mishnah describes the Beis Din that oversees the chalitzta as well as the shoe that is used for chalitzta.

3) Clarifying the Mishnah

The Gemara explains why the Beis Din are characterized as "judges" when they could even be laymen.

A supporting Baraisa is cited that also contains a dispute between Tanna Kamma and R' Yehudah whether three or five judges are needed.

4) The number of judges needed to preside over a chalitzta

The lengthy exchange between the two Tannaim arguing their positions is recorded.

Rava in the name of R' Nachman rules that chalitzta only requires three judges since there is an anonymous Mishnah that follows that perspective.

Rava notes that according to R' Nachman's reasoning a panel of three judges should be necessary for מיאון.

After a number of failed attempts to explain his ruling R' Nachman offers another rationale for ruling in accordance with Tanna Kamma that only three judges are necessary for chalitzta.

5) The chalitzta Beis Din

Rava rules that the Beis Din has to establish the place where the chalitzta will take place.

R' Pappa and R' Huna the son of R' Yehoshua required five judges in order to publicize the matter.

Two related incidents are recorded.

6) Converts serving as judges

R' Yehudah declares the profound trust that he has in R' Shmuel bar Yehudah even though, as a convert, he is disqualified from serving as a judge for chalitzta. ■

Distinctive INSIGHT

The verses on the throne

כולך יפה רעיתי ומום אין בך

The Gemara uses the verse from Shir Hashirim as a basis to teach us that a judge should not have any blemishes.

The Kli Yakar quotes the Midrash that describes the throne of Shlomo Hamelech. This exquisite and unique seat had six steps leading up to the seat. Each one of the steps had a verse from the Torah written upon it. The first step featured the verse "Do not pervert justice." Written on the second step was the verse "Do not show preference in judgement." On the third the verse cited was "Do not accept bribery." The fourth step had written upon it "Do not plant an asheira tree near the altar of Hashem." The fifth step featured the verse "Do not construct a multi-stone altar for the service of Hashem." Finally, the sixth and final step had written upon it, "Do not offer to Hashem any ox or sheep that has a blemish."

Kli Yakar notes that the throne of the king was used in judgement. We can understand the theme of the verses inscribed upon the first three steps. These are admonitions regarding how to judge fairly. What was the reason the upper three steps had upon them verses dealing with details of the construction of the altar? Kli Yakar answers that our Gemara declares that a judge should not have a blemish. How, though, can we learn a halacha from a verse in Shir Hashirim? Is this a Torah law, and if so, where is there an indication in the Torah

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REVIEW and Remember

1. What is the rationale to exempt a person who hit the two men who may be his father simultaneously?
2. Why does the Mishnah use the term דיינים if qualified judges are not necessary?
3. What exposition teaches that one should give good advice concerning shidduchim?
4. What function do people other than the judges serve at a chalitzta?

Today's Daf Digest is dedicated

In memory of our mother

מרת זלדה בת סיגמונד, ע"ה

By Mr. and Mrs. Elchonon Margolis

HALACHAH Highlight

Deciding monetary matters based upon circumstantial evidence

מפיקנה סלקא דעתך והא על פי שנים עדים אמר רחמנא

Do you think he would collect money? Doesn't the Torah say, "According to the word of two witnesses."

Rambam¹ rules that a judge, who has a strong sense of how a case should be decided, may decide monetary cases according to that sense even though there are no witnesses. What then is the purpose of witnesses if judges can decide cases even in the absence of witnesses? Answers Rambam, the testimony of witnesses is necessary for cases where the judge is uncertain. In such circumstances the Torah writes that the testimony of the two witnesses should be used to decide the case. Our Gemara, however, seems to undermine this ruling. The Gemara indicates that money can only be taken from one party to be given to another party when there are two witnesses. How then, could Rambam rule that a judge may decide the matter on his own sense of what is correct?

The Nesivos HaMishpat² answers that Rambam is, in fact, consistent with our Gemara and the only validity he assigns to the judges' assessment of the evidence is that the judge can effectively undermine the credibility of a suspicious contract but as far as taking money from one party to give to another even Rambam agrees that the judge does not have that power. The only circumstance where it would be allowed is when the evidence is

(Insight. Continued from page 1)

itself to teach this? The answer is that the verses on Shlomo's throne are all found in consecutive order, at the beginning of Parashas Shoftim (Devarim 16:19-22 and 17:1). The juxtaposition of the verses teaches that the laws of judging are parallel to the laws of the altar. Therefore, just as a blemished animal is disqualified for the altar, so too is a judge ineligible if he is blemished. ■

obvious to anyone what the outcome should be but in cases that are dependant upon the discretion and opinion of the judge it is unacceptable.

Ramban³ disagrees with Rambam on this matter and maintains that monetary cases may not be decided without witness testimony under any circumstances. Even what appears to be very strong circumstantial evidence is unacceptable. Shulchan Aruch⁴, in theory, rules in accordance with Rambam on this matter but in practical terms accepts the qualification to this halacha mentioned by Rambam himself. Rambam⁵ writes that this allowance for judges to decide monetary matters according to their assessment of the circumstantial evidence applied only in earlier generations but nowadays since there is a greater prevalence of corruption and concern for an abuse of power it was agreed that matters would no longer be decided in this fashion. ■

1. רמב"ם פכ"ד מהל' סנהדרין ה"א
2. נתיבות המשפט סי' ט"ו סק"ב
3. רמב"ן בהשגותיו לספר המצוות ל"ת ר"צ
4. שו"ע חו"מ סי' ט"ו סע' ה'
5. רמב"ם שם ה"ב ■

STORIES Off the Daf

The Anpilayos of Alexander the Great

חלצה במנעל חליצתה כשרה, באנפיליא חליצתה פסולה

The Midrash Rabbah recounts the following anecdote that also appears in the third chapter of Megillas Taanis:

Alexander the Great wanted to ascend to Yerushalayim, but the Kusim tried to instill enmity within him against the Jews. They said to him, "Be warned! The Jews will never allow you to enter their Kodesh HaKodashim!"

Givah ben Kosem heard their slander and prepared two אנפילין (slippers or socks), which he adorned with two jewels that were worth a fortune. When the Macedonian ruler arrived at Har HaBayis accompanied by Givah, his companion

feared to ask Alexander the Great to remove his shoes for halachic reasons. "Surely he will think that this is a just a pretext to keep him out of the Kodesh HaKodashim as the Kusim had warned him," Givah reasoned.

So Givah said instead, "Your majesty should remove his shoes and put on these אנפילין since the floor of the Mikdash is slippery." The monarch complied and they entered the Mikdash together.

When the Minchas Yitzchak, zt"l, told over this Midrash, he commented, "Although it is forbidden to enter the Mikdash with shoes, we can see that אנפילין are permitted. How do we know that they are not really considered shoes? The Gemara in Shabbos 66 implies that one may enter the Mikdash wearing any footwear considered invalid for chalitzah. Since in Yevamos 101 the Mishnah states that אנפילין are unsuitable for chalitzah,

one may enter the Mikdash while wearing them.

The Midrash continues: "When they came to the Kodesh HaKodashim, Givah, himself a kohein, said, 'Until here we have permission to enter. But it is forbidden for us to go any further.'

Alexander the Great said in anger, "When I leave here, I am going to diminish you!"

Since Givah was very tall, he acted as if the king was saying that he would reduce him to average height instead of threatening to punish him. Givah quipped, "If your majesty can do that, he will be considered an expert physician and I will pay him very much indeed!"

Alexander the Great wanted to force his way into the Kodesh Kodashim anyway, but a snake came and bit him. The great ruler grew suddenly ill and had to turn back! ■