



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Sanhedrin Daf Chuf Gimmel

PEREK ZEH BORER -- PEREK SHLISHI

MISHNA

- Monetary cases are judged by a Beis Din of 3. **R' Meir** says, each litigant chooses one for himself and the two litigants together then choose a third. The **Chachomim** say it is the two judges who together choose the third.
 - **R' Meir** says each litigant may disqualify the judge chosen by the other litigant. The **Chachomim** say this is only if the litigant brings proof that the judge is a relative or is otherwise passul. However, if they were valid judges or certified as experts by another Beis Din, he cannot disqualify them.
 - **R' Meir** says each litigant may disqualify the witnesses of the other litigant. The **Chachomim** say this is only if the litigant brings proof that the witnesses are relatives or are otherwise passul. However, if they were valid witnesses, he cannot disqualify them.

GEMARA

- **Q:** The Gemara understood the Mishna to mean that each litigant chooses a panel of 3 judges, and the 2 panels then choose a third, bringing to a total of 9 judges. The Gemara therefore asks, why are so many needed? Three judges should be sufficient!? **A:** The Mishna means, if one litigant chooses a particular Beis Din, and the other litigant rejects that Beis Din and chooses a different one which the first litigant then rejects, the two litigants must then together choose a third Beis Din (but certainly only 3 judges are needed).
 - **Q:** How could the Mishna say that any litigant can reject a Beis Din, when we have learned that **R' Elazar** says that a debtor cannot reject the creditor's choosing the local Beis Din and instead insist that they find a Beis Din elsewhere!? **A:** We can answer as **R' Yochanan** answered a different question, that our Mishna is discussing where the creditor chose a secular court. In that case, even a debtor may reject the court in favor of a qualified Beis Din elsewhere. However, if the creditor chooses the local expert Beis Din, the debtor could not reject it. **A2: R' Pappa** said the Mishna can even be discussing where the creditor chose a local Beis Din, and the case is where there is more than one local Beis Din. In that case, the debtor may reject that Beis Din in favor of another local Beis Din, since it does not require the creditor to travel to another city.
 - **Q:** The Mishna said that the **Chachomim** say that it is the two judges who together choose the third. Now, if this is as we said, that it is the two rejected courts that choose the third court, how can it be that after a court has been disqualified by the litigants it can be involved in choosing a court in which the litigants would have to bring the case? Further, what does the Mishna mean when it says that each litigant chooses one for himself, which suggests that each litigant *must* choose one for himself, which would mean that he *must* reject the selection of the other litigant!? **A:** Rather, the Mishna means that if they decide to put together a Beis Din, one litigant should choose one judge, the other litigant should do the same, and the two together then choose a third. In EY in the name of **R' Zeira** they said that by following this selection process, we will arrive at the correct decision of the case.

VACHACHOMIM OMRIM...

- **Q:** Maybe we should say that they argue regarding the shifah of **R' Yehuda in the name of Rav**, who said that a witness should only sign on a shtar once he knows who else will be signing along with him. Maybe **R' Meir** doesn't hold of this and therefore doesn't require that the 2 judges agree to the third judge, and the **Rabanan** do and therefore require the judges to agree to the

third judge? **A:** It may be that all agree with **R' Yehuda in the name of Rav**, and all agree that the judges must consent to the 3rd judge. The machlokes is only whether the litigants must consent to the third judge as well – **R' Meir** says that we need the consent of the litigants, and the **Rabanan** say that we do not.

- The Gemara brings a Braisa that supports **R' Yehuda in the name of Rav**, and says that the pure minded people of Yerushalayim would not sign unless they knew who else was signing along with them, would not agree to be a judge unless they knew who else was going to be a judge along with them, and would not join a seudah unless they knew who else would be eating along with them.

ZEH POSEL DAYANO...

- **Q:** Why can he simply disqualify the choice of his opponent? **A:** **R' Yochanan** said, the Mishna is discussing where a litigant chose a non-Jewish judge. In that case the other litigant has the right to arbitrarily disqualify him.
 - **Q:** If an expert judge was chosen **R' Meir** would say that the litigant could not disqualify him? The Mishna says that the **Chachomim** say that the litigant can only disqualify a judge when he proves that the judge is a relative or otherwise passul, but if the judge is valid or is an expert he cannot be disqualified. This suggests that **R' Meir** holds that even an expert can be disqualified!? **A:** The **Chachomim** mean to say to **R' Meir**, if the chosen judge is not an expert but is not passul, then he becomes like an expert in that he may not be disqualified by the opposing party.
 - **Q:** A Braisa says, the **Chachomim** told **R' Meir**, a litigant is not believed to disqualify a judge who is publicly accepted as an expert. This suggests that **R' Meir** holds that such a judge may be disqualified!? **A:** Say that the **Chachomim** said, a litigant is not believed to disqualify a judge who is not an expert, but who has been accepted by the public to act as an expert.
 - A Braisa supports **R' Yochanan**. The Braisa says that **R' Meir** says, a litigant may continue to reject his opponent's choices until he accepts a choice in front of a Beis Din of experts. This shows that when dealing with experts he would also not be able to reject them.
 - **Q:** Witnesses are similar to expert judges with regard to their capacity to testify, and yet **R' Meir** says that a litigant may simply disqualify the witnesses of his opponent!? **A:** We have learned that **Reish Lakish** said this cannot be what **R' Meir** meant, rather he meant that if a litigant brings a *single* witness, the opponent may disqualify him.
 - **Q:** What is the case? If it is a single witness in a monetary case brought to make the opponent pay, it is the Torah that disqualifies him! If he is brought to make the litigant swear, the single witness is believed like two witnesses! **A:** The case is that the single witness was brought to make the opponent pay, and was initially accepted by the opponent with the credibility of two witnesses. **R' Meir** holds that the opponent can still decide to reject this witness and the **Chachomim** say that he can no longer do so.
 - **Q:** We have already learned in a Mishna that **R' Meir** holds that an acceptance of an otherwise passul judge, like the litigant's father, may be retracted and the **Chachomim** hold that it may not be retracted!? **A:** We would think that it is only in that case that the **Chachomim** argue, because the father is qualified for any other case (where he has no relationship) and therefore the consent cannot be retracted, but in a case of accepting one witness as two, where the witness is not qualified for other cases, maybe they would agree with **R' Meir** that the consent can be retracted. And, if we only had the case of the single witness we would say that **R' Meir** only holds that way there, but would agree with the **Chachomim** in the case of the consent to the father.
 - **Q:** In the beginning the Mishna discusses "his judge" (in the singular) and later discusses "his witnesses" (in the plural), which shows that when it uses the plural it does so intentionally, and therefore can't be said to referring to a single witness!?

- **R' Elazar** said, when **R' Meir** says that a litigant can disqualify the other's witness it is referring to a case where the litigant came along with another witness to disqualify the other litigant's witness.
 - **Q:** The litigant is "nogeya b'eidus" and therefore can't testify against a witness!?
A: R' Acha the son of R' Ika said, the case is that the litigant is claiming that the witness are disqualified to testify in every case, not just this one, and therefore he is not considered to be nogeya b'eidus.
 - **Q:** What claim did the litigant make? It can't be that he says the witness is a gazlan, because that would be helping him win this case and he would be a nogeya b'eidus!? **A:** Rather, he is claiming a blemish in his lineage (saying that he was a descendant of slaves). **R' Meir** says this is considered testimony of the litigant on the witness, and therefore he is not nogeya b'eidus. The **Rabanan** hold that at the end of the day it dismisses the witness' testimony and the case against the litigant, and therefore the litigant is considered to be nogeya b'eidus.
- **R' Dimi in the name of R' Yochanan** said, the case is where the litigant said he has two sets of witnesses to prove his case, but has only produced one set. **R' Meir** holds that he would have to back up his claim and produce both sets in order to win his case. Therefore, if the other litigant disqualifies the first set he is not considered to be nogeya b'eidus (if the second set is not produced, this one set could not win the day anyway, and if the second set is produced, the second set alone could win the day). The **Rabanan** hold that the litigant would not have to produce the second set in order to win his case, and therefore the disqualification of the first set is essential to the case and the other litigant is therefore considered to be a nogeya b'eidus. However, if the litigant never claimed to have more than one set of witnesses, all would agree that the other litigant could not disqualify them. **R' Ami and R' Assi** asked, what if after disqualifying the first set, the second set also becomes disqualified. Do we now say that the litigant who was involved in disqualifying the first set is nogeya and therefore the disqualification no longer stands? **R' Yochanan** said, since he disqualified at a time when he was not nogeya, the disqualification stands.
 - **Q:** Maybe we can say that this is the same as the machlokes in a Braisa. The Braisa says, if the possessor of a piece of land has his ownership challenged by a previous owner of the land, and the possessor says he can prove his claim with witnesses to chazakah that he has established and with a deed, **Rebbi** says we decide based on the deed and **R' Shimon ben Gamliel** says we decide based on the chazakah. The Gemara there explained that **R' Shimon** means to say, he can prove with either the shtar or with chazaka, and the machlokes is whether a person must produce all methods of proof that he claimed to have – **Rebbi** says he does and **R' Shimon** says he does not. **A:** According to **R' Shimon ben Gamliel** even **R' Meir** would agree that the litigant need not produce the second set of witnesses. The machlokes would be according to **Rebbi**. **R' Meir** holds like **Rebbi**, and the **Rabanan** would say that **Rebbi** only holds that way regarding a deed and chazaka, because chazaka only comes about through possession of a shtar. But, in our case, one set of witnesses has nothing to do with the other, and therefore he would not say that all sets must be produced.
- **Ravin in the name of R' Yochanan** said, our Mishna is discussing where the litigant and another witness combined to claim that the judges and witnesses of the other litigant should be disqualified. The first part of the Mishna discusses where the claim against the witnesses were confirmed but the claim against the judges was not. **R' Meir** holds that since the litigant was believed regarding the witnesses, he is also believed regarding the judges. The next part of the Mishna discusses where the claim against the judges was confirmed but the claim against the witnesses was not. **R' Meir** holds that since the litigant was believed regarding the judges, he is also believed regarding the witnesses.
 - **Q: Rava** asked, we can understand that he holds that way in the first case, because he can easily find another Beis Din to go to. However, how can he hold that way in the second case? These may be the only two witnesses he has to

prove his case, so how can we dismiss them like this!? **A:** The case would be where he claimed to have another set of witnesses to prove his case.

- **Q:** If he doesn't claim to have a second set the witnesses wouldn't become disqualified? This is essentially the same thing that **R' Dimi** said!? **A:** The difference between them is that **Ravin** holds of "miguy" ("since") and **R' Dimi** does not.