



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

Sanhedrin Daf Chuf Tes

MISHNA

- How do they examine the witnesses? They bring them into the room and scare them. They then send out everyone from the room, except for the most prestigious of the witnesses, and they say to him, "Tell us how you know that this one owes money to that one". If he answers, "He told me that he owes the money" or that "Ploni told me that that person owes the money", the testimony is worthless, until he says, "The defendant admitted to the plaintiff in front of us that he owes him the money".
 - We then bring in the second witness to examine him. If the two statements are found to agree, the judges then discuss and deliberate. If two judges say he is not chayuv to pay and one says he is, he is not chayuv to pay. If two say he is chayuv and one says he is not, he is chayuv to pay. If one says chayuv and one says not chayuv, or even if two say chayuv or two say not chayuv, and the third says "I don't know", we add judges to the court.
 - When they have completed the deliberation they bring the litigants back into the room, and the chief judge says, "Ploni you are not chayuv" or "Ploni you are chayuv". How do we know that when the judges leave the room they should not tell the litigant, "I found you not chayuv, but the others said you were chayuv, and there was nothing I could do because they were the majority"? Regarding this the pasuk says, "holeich rachil migaleh sohd".

GEMARA

- **Q:** What do we tell the witnesses to scare them? **A: R' Yehuda** said, we quote a pasuk in Mishlei which tells how dishonest monetary gain causes lack of rain in the world.
 - **Q: Rava** asked, a witness may be a craftsman and therefore feel that he would not suffer from lack of rain, so he would not be scared by that!? **A: Rava** therefore said, that we quote a pasuk in Mishlei that says that false testimony causes plague and death to come onto the world.
 - **Q: R' Ashi** asked, this may also not scare him, because he will believe that a person does not die before he is supposed to have died anyway!? **A:** Rather, **R' Ashi** said, **Nosson bar Mar Zutra** told me, we tell them that false witnesses are even looked down upon by the people who have hired them, as can be seen in a pasuk.

IHM AMAR HU AMAR LI...

- This supports **R' Yehuda in the name of Rav**, who said that for an admission to be effective the borrower must appoint the witnesses to serve as witness to the admission.
 - **R' Chiya bar Abba in the name of R' Yochanan** said this concept as well. A Braisa says this as well. The Braisa says, if someone admits to having borrowed money without having appointed people to serve as witnesses to the admission, he can later claim that he was joking. Moreover, if the lender planted witnesses behind a fence to listen to the admission and the lender asked the borrower if he wants those people to be witnesses, and he says he does not, because he does not want to be dragged to court, he can later say that his admission was a joke and would be patur. However, we do not make this case for one who convinces others to serve avodah zarah.
 - **Q:** Why did the Braisa bring in the concept of the convincer of avodah zarah? **A:** The Braisa should be understood as saying, if a borrower doesn't say that he was only joking, we don't assume that for him. However, in capital cases, even if a defendant doesn't make a claim, we claim it for him to save him from being chayuv. However, we do not make any such claim for a convincer of avodah

zarah. **R' Chama bar Chanina** in the name of **R' Chiya bar Abba** explained, this is because the pasuk says we should not have mercy on a convincer.

- **R' Shmuel bar Nachman in the name of R' Yonason** said, we learn from the snake in Gan Eden that we do not make a claim for a convincer. The snake could have had claims to save himself, and yet Hashem did not make the claims for him, showing that we do not help a convincer (the snake convinced Chava to rebel against Hashem). The snake could have claimed that when one is told to do something by a rebbi and is told to do something else by a talmid, he must listen to the rebbi, and therefore Chava should not have listened to him.
 - **Chizkiya** said, we learn from Chava that when one adds to what Hashem said, it actually takes away from it. Chava said that Hashem said not to touch the tree, and that was not true, and is what caused the downfall and her eventual eating the fruit of the tree. **R' Mesharshiya and R' Ashi** each learn this concept from measurements given in the Torah, where the addition of one letter totally changes the amount of the measurement. We see that adding even one letter can significantly change a mitzvah.
- **Abaye** said, the only time an admission is not valid without the witnesses having been appointed is where the borrower later said, "I was joking". However, if he later said, "I never made an admission", he is a proven liar and he can no longer claim that he was just joking. **R' Pappa the son of R' Acha bar Ada** said in the name of **Rava**, people do not remember meaningless statements that they make, and therefore it is possible that he truly did forget about an admission that he made in jest.
- There was a lender who hid witnesses behind a curtain and then got his borrower to admit to owing money. The lender asked, do you allow the people who are awake and those that are sleeping to be witnesses? The borrower said, "no". **R' Kahana** said, the borrower did not agree to the witnesses and therefore the admission is not valid.
- There was a lender who hid witnesses in a cemetery and then got his borrower to admit to owing money. The lender asked, do you allow the people who are dead and alive to be witnesses? The borrower said, "no". **R' Shimon** said, the borrower did not agree to the witnesses and therefore the admission is not valid.
 - **Ravina or R' Pappa** said, we see from here that it is only when the borrower says "no" that the witnesses are not considered to be appointed and the admission is therefore not valid. However, if the lender asks for the witnesses to be accepted and the borrower remains silent, the witnesses can testify regarding the admission and it would be valid.
- There was a person who was referred to as "a kav of debt" (people would say that he has many outstanding loans against him). Wanting to rid himself of this reputation he announced that he only had two claims against him, and proceeded to detail the two. Those two lenders took him to **R' Nachman** to collect based on this admission. **R' Nachman** said, people sometimes say that they have loans against them so that they not appear to be wealthy, and therefore this admission is meaningless.
- There was a person who was known as being a miser. Before he died he said that there were two monetary claims against him, and proceeded to detail the two. After he died the lenders in the admission went to **R' Yishmael the son of R' Yose** to collect from the miser's heirs. **R' Yishmael** said, we only need to be concerned that a person fabricates claims for the sake of not seeming wealthy when it is during his lifetime. There is no concern for this after death, and therefore a deathbed admission does not have this concern. The heirs paid half the amount of the claim. The lenders then went to **R' Chiya** to collect on the

remaining half. **R' Chiya** said, there is a concern that a person fabricates a claim even at death so that he not seem wealthy to his children, and therefore that admission was not valid. The lenders asked whether they have to return the half that they already collected. **R' Chiya** told them, **R' Yishmael** paskened that you can collect, so you do not have to return what was already collected.

- If a borrower admitted to a debt in front of witnesses and made a kinyan to that effect, the witnesses may write this into a document without asking for permission to do so. If he did not make a kinyan, they may not do so unless told to do so by the borrower. If he admits in front of 3 witnesses but does not make a kinyan, **Rav** says they may write the admission into a document and **R' Assi** says they may not. When this happened in practice, **Rav** paskened like the view of **R' Assi**.
 - **R' Adda bar Ahava** said, regarding an admission in front of 3 witnesses, if the 3 people were sitting there and the borrower then admitted to them, they may not write it without his permission. If he went and pulled together the 3 people, they may write it without his permission. **Rava** said they may not write it unless he told them “be judges over me”. **Mar bar R' Ashi** said, even then they may not write it, unless they establish a Beis Din and send him a summons to come to the Beis Din and he then makes the admission there.
- If the borrower admits to an obligation of moveable property in front of witnesses, then if he makes a kinyan they can write it, and if he does not they may not. If he admitted regarding real property and did not make a kinyan, **Ameimar** said they may not write it down and **Mar Zutra** said that they may (land is considered to be in the possession of the owner, and since he admitted to who the owner is, it is considered to immediately revert to the true owner). The Gemara paskens that they may.
 - **R' Dimi bar R' Huna of Damharya** asked **Ravina**, what if he admits to moveable property and that property is still in his possession? **Ravina** said, that would be like real property and therefore it may be written into a document. **R' Ashi** said, since it must still be collected (and in that way is unlike real property) it may not be written into a document.
- There was a document of admission that did not say “the debtor told us to write this note, sign it, and give it to the creditor”. The question became, do we assume that the permission was given but just not written into the document? **Abaye and Rava** both said, this is similar to **Reish Lakish's** view, that we presume that a witness would not sign unless he was an adult. Here too, we presume that they would not have signed unless they were told to do so.
 - **R' Pappi or R' Huna the son of R' Yehoshua** asked, we find that many judges do not know this halacha that permission must be given, so how can we assume that the sofrim would not write without having gotten permission? The Gemara says, they asked the sofrim of **Abaye** and of **Rava**, and they knew the halacha.
- There was a document of admission that used the verbiage as if written by a Beis Din, but was only signed with two signatures, and did not have the verbiage that would normally accompany a document of Beis Din where one of the judges died before being able to sign. **Ravina** thought to say it was valid based on the halacha of **Reish Lakish**. **R' Nosson bar Ami** said to him, in this case **Rava** has said that we must be concerned that Beis Din made a mistake and acted with only two judges. **R' Nachman bar Yitzchak** said, if in the document they refer to themselves as a Beis Din, we can safely assume that there were truly 3 judges, because 2 people would not refer to themselves as a Beis Din.
 - **Q:** We have learned that **Shmuel** said that 2 people who judge are considered to be a Beis Din with chutzpah, but the decision is valid, so maybe this document referring to a Beis Din was done by only two people!? **A:** The case is that the document referred to them as the “Beis Din of **R' Ashi**”, where surely they knew that the halacha is that we don't pasken like **Shmuel**.
 - **Q:** Maybe these judges held like **Shmuel**? **A:** It was written “and **R' Ashi** told us to write this document”. Therefore, we can be sure that there was a Beis Din of 3.