



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

Sanhedrin Daf Vuv

- We have learned that **R' Avahu** said, if a Beis Din of 2 dayanim decide a monetary case, all would hold that the verdict is not valid.
 - **Q: R' Abba** asked **R' Avahu**, a Mishna says, if a judge decided a case wrongly, causing a party to lose money, the decision stands but he must pay the damaged party for the loss. We see that the verdict is valid!? **A:** This case is talking about where the parties accepted the single judge upon themselves to judge the case.
 - **Q:** If that is true, why does he have to pay if he made a mistake? **A:** They can tell him that we accepted you to decide correctly, and since you did not, you must pay.
 - **R' Safra** said to **R' Abba**, in what way did the judge make a mistake that he is required to pay? It can't be that he made a mistake in a halacha that is an explicit Mishna, because **R' Sheishes in the name of R' Ami** said that if a judge makes such a mistake the decision is not valid (and he therefore would not have to pay)!? Rather, it must be that he made a mistake in weighing the different factors to arrive at his decision. **R' Pappa** explained, this would be a case where two Tanna'im or two Amora'im argue about a certain matter, and the halacha was never established like either side, but the consensus is to follow one view and this judge decided like the other view.
- **Q:** Maybe we should say that the machlokes between **Shmuel and R' Avahu** is like a machlokes between Tanna'im in a Braisa. The Braisa says, **R' Meir** says that a compromise must be done by a Beis Din of 3, and the **Chachomim** say it can even be done by a single judge. Now, they thought to say that compromise is like deciding based on strict law, and therefore the machlokes would seem to be that **R' Meir** would share the view of **R' Avahu** while the **Chachomim** would share the view of **Shmuel**!? **A:** It may be that all agree that a decision based on strict law must be made by a Beis Din of 3 and the machlokes between them is whether we compare compromise to strict law.
 - **Q:** Shall we say that there is a 3 way machlokes when it comes to making a compromise – **R' Meir** says we need 3, **R' Shimon ben Gamliel** of an earlier Braisa says we need 2, and the **Rabanan** say even one is enough!? **A: R' Acha the son of R' Ika** (or **R' Yeimar bar Shlemya**) said, **R' Shimon** would hold that one is enough. The reason he suggests that we have 2 is so that there be witnesses to the compromise.
 - **R' Ashi** said, we can learn from here that a kinyan is not needed to make a compromise effective, because if it is based on a kinyan there would be no reason to require there to be 3 dayanim.
 - The Gemara paskens that a compromise needs a kinyan to become binding.
- A Braisa says:
 - Just as a decision based on law needs a Beis Din of 3, so too a compromise must be made in a Beis Din of 3. Once a decision is reached in a case, the dayan may no longer work out a compromise.
 - **R' Eliezer the son of R' Yose Haglili** said, it is assur for a judge to make a compromise and one who does is a sinner. Moreover, anyone who praises a judge who makes a compromise is considered to be a blasphemer – based on the pasuk of “uvotzeya beireich ni'eitz Hashem”. Rather, a judge must decide based on strict law. Moshe Rabbeinu would also say to rule according to strict law, but Aharon, who loved peace and pursued peace, would reach the litigants before they reached Beis Din so that he could try and make a compromise (at that point it is allowed).

- **R' Eliezer** darshens the pasuk of “uvotzeya beireich ni'eitz Hashem” to teach that one who stole wheat, ground it, baked it and took challah cannot make a bracha on that, because it would be tantamount to blasphemy to do so.
 - **R' Meir** darshens the pasuk of “uvotzeya beireich ni'eitz Hashem” to teach that one should not praise Yehuda for saving Yosef's life by advising the brothers to sell him to Mitzrayim (because had he told them to simply save him they would have listened to him).
 - **R' Yehoshua ben Korcha** said it is a mitzvah to make a compromise, based on the pasuk of “emes umishpat shalom shiftu b'shareichem”. Now, if there is peace there is no judgment, and if there is judgment there is no peace!? Rather, this refers to compromise, which accomplishes judgment and peace. We see from a pasuk that says that Dovid did judgment and tzedakah, that he too would make compromises.
 - **R' Eliezer the son of R' Yose Haglili** would understand the pasuk regarding Dovid to mean that he judged by law, but if he saw that this resulted in a poor man having to pay money he would pay it for him. This was judgement in the sense that the winner was paid and tzedaka in the sense that the poor man was not made to pay. **Rebbi** said this cannot be right, because the pasuk says he did this for “his whole nation”, and based on this the tzedaka was for the poor people!? Rather, he says that it was judgment for the winners and tzedaka for the losers in the sense that they were made to give back any money that was improperly in their hands.
 - **R' Shimon ben Menasya** said, when litigants come for a case: before the judge has heard the arguments, or even if he has already heard them but has not yet decided which way to lean, he may tell them to go out and compromise. However, once he is already leaning one way he may no longer tell them to compromise. **R' Shimon ben Menasya** darshens a pasuk to teach this as well.
 - **R' Yehuda ben Lakish** said, when litigants come for a case, and one of the litigants is an argumentative person who will be badger the judges: before the judge has heard the arguments, or even if he has already heard them but has not yet decided which way to lean, he may tell them that he refuses to judge the case and be subject to that person's badgering. However, once he is already leaning one way he may no longer refuse to decide the case, because the pasuk says “lo saguru mipnei ish” (“you shall not be afraid of a man”).
 - **R' Yehoshua ben Korcha** darshens this pasuk to teach that if a talmid is sitting by his rebbi as the rebbi is judging a case and the talmid sees a reason to correct his rebbi and show that the poor person should not have to pay or that the wealthy person should have to pay, the talmid should speak up and not remain quiet.
 - The witnesses who testify should know about who they are testifying (i.e. Hashem), in front of who they are testifying (i.e. Hashem), and who will punish them for testifying falsely (i.e. Hashem). This is based on a drasha on a pasuk that says the parties to a case shall stand “before Hashem”.
 - The judges should know who they are judging (i.e. Hashem), in front of who they are judging (i.e. Hashem), and who will punish them for judging incorrectly (i.e. Hashem). This is based on a pasuk that says “Elokim nitzav ba'adas Kel”. We see that Yehoshafat told this to the judges as well. If a judge says, based on this I will just not involve myself in judging at all, we learn from a pasuk that as long as the judge tries honestly to reach the proper verdict, he will not be punished.