

Daf Hashvuah Gemara and Tosfos Rosh Hashana Daf 26
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The Gemara deduces from here that someone who witnessed something can serve as a judge on the case. The Gemara suggests: perhaps the Mishna is not like R' Akiva. As we see: R' Tarfon says if a Sanhedrin saw someone kill a person, some of them become witnesses, and the others may remain judges on the case.

Daf 26a

However, R' Akiva says that they're all witnesses, and a witness can't be a judge.

The Gemara rejects this reasoning. After all, our Mishna could still be like R' Akiva. R' Akiva only said it there by capital cases since the Torah says "the congregation judges, and saves." (I.e., that part of the Sanhedrin's job is to try to find a defense for the defendant.)

Tosfos asks: the Gemara in Makos has a different source for this Halacha. It says; how do we know when a Sanhedrin sees a murder that they can't kill the murderer until they bring him to another Beis Din? As the Pasuk says: "until they stand before the congregation for judgement."

Tosfos answers: the main Drasha is from there (Makos). The Pasuk here teaches us that we should not extrapolate to all other judgments that we should need to bring them to another Beis Din. So, we say that capital punishment is different since the Torah wants Beis Din to try to save him. However, (this is not only true by capital cases), but also by wounding your friend, as it's brought in Bava Kama. *[This seems like Tosfos contradicts what it said that this only applies to capital cases. See P'nai Yehoshua.]*

Regarding whether a witness can become a judge, there are differences between different cases, as I explained in the second Perek of Kesuvos. Therefore, by testifying on the new moon, which is a Torah law, someone who saw it can become a judge (if he's not testifying). However, regarding verifying (the witnesses' signature) on documents, that were only instigated by the rabbis, even the witness who testifies can become a judge. Regarding capital cases, even the witness that saw the action, (although he's not testifying), can't become a judge in the case.

So, once the judge witnesses the killing, he could never be able to come up with a defense. However, here (by saying testimony on the new moon) even R' Akiva would admit (that, if a judge saw the new moon, as long as he doesn't testify himself, he can remain a judge).

New Sugya

The Rabanan say: all Shofars (from all types of animals) are valid for the Mitzvah except for a cow's horn, since (it's not classified as a 'Shofar'), but a 'Keren.'

Tosfos is bothered by the question: why doesn't the Mishna say except for the wild ox? After all, the wild ox's horn is also called a 'Keren.' As the Pasuk says "the Keren of the wild ox is its horn." It also says "from the 'Keren' of the wild ox you saved me.

Tosfos answers: perhaps, since they're not hollow, they're not fit to be a Shofar.

R' Yossi (disagrees and validates a cow's horn.) He says: we also find all Shofars are called 'Keren.' As it says, "as the (blow) from the Keren (horn) of the ram goes on."

Tosfos asks: why didn't they bring the Pasuk by Yitzchok that says "(the ram) got caught in its Keren?" Although (you might want to push off the question) that this Pasuk refers to a live ram, (but there's no proof to what it would be called when the horn is off the animal), however, the Gemara brings the Pasuk of "the choice of his oxen is beautiful for it, and it has the horn of the wild ox as its Keren" (which refers to a live animal).

Tosfos answers: they want to bring this Pasuk since the word 'Shofar' is written in it.

The Gemara asks: R' Yossi's asking a good question, (so how do the Rabanan respond?) The Gemara answers: the Rabanan say that all Shofars are called both Shofar and Keren.

Tosfos quotes Rashi: it's called Keren, like we said, and it's called Shofar from the Pasuk "as the (blow) from the Keren (horn) of the ram goes on," and it says afterwards "sit was the sound of the Shofar."

There are those who ask: why doesn't he bring the Pasuk from the Mishna as a proof "as the (blow) from the Keren (horn) of the ram goes on, as they hear the sound of the Shofar" a proof that all Shofars are called Shofar. However, Tosfos says that it's a foolish question, and it's easy to understand why not. On the contrary, we see from that Pasuk that Shofar is called a Keren, and we still need to find out that Shofar is called Shofar (by itself without being called Keren too).

However, the cow's horn is only called Keren and not Shofar. As the Pasuk says "the choice of his oxen is beautiful for it, and it has the horn of the wild ox as its Keren (horns)." R' Yossi would respond: the cow's horn is also called a Shofar, as the Pasuk says "(my prayers) are good to Hashem as a Shor Par." If it's a Shor (implying even young), why does it say Par (which implies at least three years old)? If it's a Par, why does it say Shor? Rather, what does the Torah mean "Shor Par?" To hint to (putting the words together as) Shofar. The Rabanan learn that Pasuk the same way R' Masna did. R' Masna says it was a Shor, (since it was by creation, it was just 'born') that was as big as a Par (a three-year-old).

Ullah says the reason for the Rabanan (not to blow with a cow's horn) is like R' Chisda who says; why didn't the Kohain Gadol go into the Kodesh Hakedashim (on Yom Kippur) to do the service with his golden clothing? It's because the prosecutor can't become the defense attorney. (Since they sinned with the golden calf, they shouldn't appease Hashem with gold. The same thing, you can't appease by the Shofar with a bovine.)

The Gemara asks: isn't he bringing in the bull's blood? The Gemara answers: because it changed from what it was, it's a change (and is not considered to be the same object).

The Gemara asks: (but there is so much gold in the Kodesh Hakedashim) with the Aron, its cover and the cherubim? The Gemara answers: (the only objection is that) the sinner shouldn't do service with that object. The Gemara asks: but doesn't he bring in (a golden) spoon (to carry the incense) and shovel (to carry the coals)? The Gemara answers: we really mean that the sinner shouldn't beautify himself with it.

Tosfos explains: regarding Shofar, it's also considered as if he's beautifying himself through the sound of his Tekiah.

The Gemara asks: but he wears the golden clothes outside. The Gemara answers: our only objection not to wear it into the Kodesh Hakedashim. The Gemara asks: (if so, how can you compare it to Shofar) if Shofar is also blown outside? The Gemara answers: since it's supposed to bring remembrance of us before Hashem, it's equivalent to bringing it into the Kodesh Hakedashim.

Tosfos asks: the Choshan breastplate also was for a remembrance, as the Pasuk says explicitly. (So, how can there be gold in it?)

Tosfos answers: the Shevatim (written on it) are the remembrance (and not the Choshen per se).

The Gemara asks: but didn't we learn in the Mishna that the Rabanan's reason was because it's called a Keren? The Gemara answers: the Mishna was giving another reason besides this one. One reason is because a prosecutor can't become a defense attorney. Another reason; because it's called a Keren. R' Yossi would respond: on your claim that a prosecutor can't become a defense attorney, that's only when going into the Kodesh Hakedashim, but Shofar is blown outside. On what you claim that it's called a Keren, all Shofars are called Keren.

Abaya says: the reason for the Rabanan is because the Torah says you need to blow a Shofar (in the singular) and not two or three Shofars. Therefore, since the cow's horn grows in pieces, (a new one for every year of growth), it has the appearance as two and three Shofars.

Tosfos is bothered by the question: why is this any different than placing one Shofar in another, which we allow sometimes when you blow the inside one?

Tosfos answers: it's like the way Rashi explains; when we say the first piece grows on the second it means; at the place the first piece ends, the second piece grows. Therefore, the sound travels through each piece. (However, when you blow in the inner Shofar and the outer Shofar doesn't jut out, the sound only goes through one Shofar, the inner one.)

The Gemara asks: but didn't we learn in the Mishna that the Rabanan's reason was because it's called a Keren? The Gemara answers: the Mishna was giving another reason besides this one. One reason is because the Torah says you need to blow a Shofar, and not two or three Shofars. Another reason; because it's called a Keren. R' Yossi would respond: on your claim the Torah says you need to blow a Shofar and not two or three Shofars, since all the layers are attached, they're considered as one Shofar. On what you claim that it's called a Keren, all Shofars are called Keren.

The Gemara asks: where do we see the implication of 'Yovel' means a ram? (This is to explain the above mentioned Pasuk, "as the (blow) from the Keren of the Yovel (ram) goes on.") As we learned: R' Akiva says; when he went to Arabia, they called a ram a 'Yuvla.' R' Akiva also said: when he went to Galya, they called a Niddah a 'Galmuda.' What's the connotation of Galmuda? It's an acronym for "Gamula Dah M'Balah" (this one is separated from her husband).

Tosfos explains: the difference is how we Darshen in Sotah "the group of flatterers (are repulsive) like a Galmud (Nidah)."

R' Akiva said: when I went to Africa they called the coin 'Ma'ah' a 'Keshita.' The Gemara asks: what difference does that make? The Gemara answers: to explain the Pasuk "a hundred Keshita" to mean a hundred 'Danki' (i.e., Ma'ah, lit. a sixth (of a Dinar)).

Rebbi said: when he went overseas, they called selling, 'Kira.' What difference does it make? To explain the Pasuk (that Yaakov said bury be in the lot) "which I 'Kira,' (bought)." R' Shimon b. Lakish said: when I went to T'chum Kan Nashraya, they called a bride 'Ninfi' and a rooster 'Sechvi.' What difference does it make? They called a bride 'Ninfi' will explain the Pasuk "a beautiful "Nof' (bride), everyone's happy to see." That a rooster is called 'Sechvi,' Rav, or R' Yehoshua b. Levi, says; the Pasuk says "who placed wisdom in the 'Batuchos' or who gave understanding to the Shechvi." Who placed wisdom in the 'Batuchos,' this refers to the kidneys. Who gave understanding to the Shechvi, this is the rooster.

Daf 26b

Levi visited a town. A person came before him and said a person did 'Kavan' to me. He didn't know what the man was saying. He went to ask in the Beis Medrish, and they explained that it means that the person stole from him, as it says "can a man steal ('Yikva') from Hashem." Rava from Barnish told R' Ashi: if I was there, I would have asked "how did he 'Kava?' With what did he 'Kava?' Why did he 'Kava?' Thus, (through the answers) I would be able to figure out what it meant. However, The Gemara concludes: Levi thought there was some prohibition. *[Maharsha -it wouldn't be applicable to ask "what did he Kava?"]*

The Rabanan didn't know the meaning of 'Serugin,' (as to understand the Mishna that you're Yoitza reading the Megila Sirugin). They heard Rebbi's maid, when the rabbis entered in breaks (i.e., and not all at the same time), "until when will you continue to enter 'Sirugin.' "

The Rabanan didn't know what was 'Chaluglogos.' They heard Rebbi's maid say, when he saw a man that was scattering this vegetable that they called 'Parpechina,' "until when will you continue to scatter your 'Chaluglogos.' "

Tosfos says: the practical difference is regarding a Zav, which we say you shouldn't feed him anything that will bring him to Tumah (i.e., to see another flow). (One of the items that bring him to this) is the Chaluglogos.

The Rabanan didn't know the meaning of the Pasuk " 'Salsela' and I will lift up. One day, Rebbi's maid said to a person who was turning his hair, "until when will you continue to M'salsel' your hair."

The Rabanan didn't know the meaning of the Pasuk " 'Tatasey with a 'Mtatah' of destruction." One day, Rebbi's maid said to a friend " 'Tatai' (sweep) the house.

The Rabanan didn't know the meaning of the Pasuk "throw on Hashem your 'Hav' and He'll sustain you." Rabbah b. b. Chana said: I once was traveling with this Arab merchant. I was carrying a load, and he told me "take your 'Hav' and put it on my camel.

New Sugya

The Tana Kama says: the Shofar of Rosh Hashana should be made of a straight antelope's horn (Yu'al).

Tosfos quotes Rashi who explains: this is a wild animal that's called Yu'al, and we call it a "stone buck."

However, the Aruch explains it to be a female sheep (i.e., ewe), which its horns tend to be straight.

However, Tosfos says that it seems that Rashi's correct, that a Yu'al is a wild animal. As the Pasuk says "the mountains and hills are for Yu'alim." Also, we see the Pasuk (for kosher wild animals) counts "Aku and Dishin" which the Targum renders them as "Yu'al and Ruma."

Therefore, the best way to perform the Mitzvah is with a straight antelope's horn, as it implies in the Gemara, the more straight the better because of the Pasuk "we raise our hearts to our palms." However, we don't Paskin like our Mishna, but like R' Yehuda who says that we blow on Rosh Hashana with bent ram's horns, as R' Levi in the Gemara holds like him and holds that the Mitzvah by Rosh Hashana and by Yovel's Yom Kippur is with bent ram's horns. It's better to have a mindset of being bent over on Rosh Hashana as the Pasuk says "my eyes and heart are there." This is like how R' Avahu says in the first Perek; why do we blow with a ram's horn? Because, Hashem says that you must blow before me with a ram's horn Shofar so that I should remember the Akeida.

Therefore, it seems that they only argue what you should blow L'chatchila. However, everyone holds that you're Yoitza B'dieved, whether you blow a ram or antelope's horn. As we see in the beginning of the Mishnayos that all Shofars are kosher except a cow's. Therefore, if you can't find a ram's horn, you can be Yoitza with an ewe or goat horn. A proof they're only arguing what's the best Mitzvah is that Levi said that it's a Mitzvah (with a bent horn). Also, does the Pasuk talk about a straight or bent horn? After all, the Pasuk only says to blow with a (generic) Shofar on Yovel, and we learn Rosh Hashana is with a Shofar from there. Since they're all called Shofar except with a cow, why shouldn't he be Yoitza?

Another proof, it seems like the argument between the Rabanan and R' Yossi (in the last Mishna) is its own argument, and the argument between Rabanan and R' Yehuda (of our Mishna) is its own argument. They're not one big argument. Therefore, if you say that the Rabanan and R' Yehuda argue which Shofar you could only use, then it would come out that it's one big argument. The Tanna Kama held that all Shofars are kosher for Rosh Hashana, Yom Kippur and for fasts except for a cow's. R' Yossi permits even a cow's. The second Rabanan held that you can only use an antelope's horn for Rosh Hashana, Yom Kippur and a ram's horn for a fast. R' Yehuda held that you can only have a ram's horn for Rosh Hashana and an antelope's horn for Yovel's Yom Kippur.

However, Tosfos asks: the reason R' Levi held that Rosh Hashana and Yom Kippur have the same type of horn is because we learn a Gezeira Shava "Shevi, Shevi" like we'll say later to extrapolate from one to the other. As we have a Mishna Yovel's Yom Kippur and Rosh Hashana have the same amount of blowings (because of this Gezeira Shava). If it's true that it's only for the best Mitzva, that the more bent you are (on Rosh Hashana) the better, then, it would only be applicable for Rosh Hashana that the blowing is a prayer and a remembrance. However, (it wouldn't apply) for Yovel where it's only as a sign for freeing the slaves, and it's a sign for the fields to return to their original owners.

Therefore, Tosfos concludes: you're not Yoitza unless it's a bent horn. I.e., it needs to be bent, and if it's not, then you're not Yoitza. Therefore, we extrapolate to Yovel.

It was gold plated by its mouth, and they had two trumpets, one on each side of the Shofar. The Shofar blew long, while the trumpets blew shorter, because the Shofar is the Mitzvah of the day. On a fast day, they blew with bent ram's horns and their mouths were silver plated. There were two trumpets in the middle (and Shofros on both sides).

Tosfos explains: they had two Shofros, one on each side, so that the trumpets should be in the middle since the Mitzvah of the day was done with trumpets.

The trumpets blew long and the Shofros blew shorter since the trumpets are the Mitzvah of the day. Yom Kippur of Yoival and Rosh Hashana are the same regarding the blowing (of the Shofar) and the (nine) Brachos (in Shemona Esrei). R' Yehuda says: on Rosh Hashana they blew a ram horn and on Yovel they blew antelope horns.

Tosfos explains: R' Yehuda doesn't hold that Yovel needs to be the same as Rosh Hashana (since he doesn't hold of the Gezeira Shava).

Tosfos is bothered by the question: if it's true that we don't compare the two, how do we know that the blowing is done with a Shofar, since it only says Shofar by Yovel and we extrapolate to Rosh Hashana from the Gezeira Shava.

Tosfos answers: we don't learn it from Yovel, but from where a different Tanna in the last Perek learns it from, since it says "you should blow in the month of the Shofar." However, we need to say that even that Tanna needs to extrapolate Rosh Hashana from Yovel, since we say that you need three Truos on Rosh Hashana, and one of the P'sukim is from "you blow the Shofar a Truah," that's written by Yovel. Also, we learnt that you can only blow at day and not by night from Yovel. If so, that which we need the Pasuk "you should blow in the month of the Shofar" (and we don't just extrapolate it from Yovel), because we also learn Rosh Hashana from the blowing in the desert, so I would think you blow trumpets like they blew in the desert, (so this Pasuk tells us it's a Shofar).

Therefore, it seems that R' Yehuda holds that we extrapolate Yoival to Rosh Hashana (since everyone holds of the Gezeira Shava). It's only regarding this aspect of blowing a ram's horn that it's not applicable to compare it to Rosh Hashana. After all, the reason you blow with it on Rosh Hashana is because it's the logical one to fit into the idea that it's better to be bent over on Rosh Hashana because it's the day of judgement, and also in order to make a remembrance to the Akeida. However, by Yovel it's only about freeing slaves and fields returning to the original owners, all you need it to be is called a Shofar. Although R' Levi compares them in this aspect too because of the Gezeira Shava, we must say that they argue in this point (if it's applicable to compare them in this aspect with the Gezeira Shava or not).

The Gemara says that R' Levi held that the Mitzvah of Rosh Hashana and Yom Kippur (of Yovel) is with bent Shofars, and the rest of the year (i.e., fast days) with straight ones. The Gemara asks from our Mishna: the Shofar of Rosh Hashana is a straight antelope's horn. The Gemara answers: R' Levi holds like the following Tanna (who disagrees with our Mishna): R' Yehuda says that the Shofar we blow on Rosh Hashana is of a bent ram's horn. On Yovel, we blow with an antelope's horn. The Gemara asks: if so, R' Levi should have simply said that the Halacha is like R' Yehuda. The Gemara answers: if he would say the

Halacha is like R' Yehuda I might have thought that the Halacha is like him even by Yovel, so he said his own statement to teach us otherwise.

The Gemara asks: what does their argument (between our Mishna and R' Yehuda) depend on? The Gemara answers: one holds (R' Yehuda) that it's better to have a mindset of being bent over on Rosh Hashana, and the mindset on Yovel is to be straight. **(Rashi: because of the Pasuk "my eyes and heart are there." You need to be bent over that your eyes and heart be together. However, Yom Kippur on Yovel is when the slaves go free, so you should have good posture.)** The other (our Mishna) holds that it's better to have a mindset of being straight on Rosh Hashana, and on the fast to be bent. **(Rashi: for Rosh Hashana, we say that it should be like the Pasuk "we raise our hearts to our palms." Yom Kippur is the same from a Gezeira Shava. We change the shape for the fast to make a distinction. R' Levi holds like R' Yehuda except he holds that the Yovel blowing is the same because of the Gezeira Shava.)**