

Daf Hashvuah Gemara and Tosfos Rosh Hashana Daf 22
By Rabbi Chaim Smulowitz
limudtorah.onlinewebshop.net
Subscribe free or to sponsor: tosfosproject@gmail.com

Daf 22a
New Sugya

On what the Mishna says that R' Akiva stopped the forty pairs of witnesses. A Braisa quotes R' Yehuda that, Chas V'shalom that R' Akiva would stop them. Rather it was Shazfar the head of the gates who stopped them. R' Gamliel sent a message that removed him from his post.

New Sugya

The Tanna Kama says: if a father and son saw the new moon, they both need to travel to Yerushalayim. Not that they'll combine to say testimony together, rather, if they find one of them not to be a proper witness, the other could combine with a third person to testify. R' Shimon says: a father and his son, or any other relative, are valid witnesses for the testimony of the new moon. R' Yossi says: there was a story about the doctor Tuvia, who saw the new moon in Yerushalayim, him, his son, and his (former) slave who was freed. The Kohanim accepted the testimony from him and his son, but not his former slave.

Tosfos says: they hold like R' Shimon who validates the relatives since he Darshin "this month will be for you" i.e., by your (Moshe and Aharon's) testimony. We also Darshin that they need to be valid and have proper Yichus (like Moshe and Aharon) to exclude a convert or a Mamzer, as we Darshin in Sanhedrin, that they should be "with you (Moshe)," i.e., similar to you (who has Yichus).

However, when they came to Beis Din, they accepted him and his former slave, but invalidated his son.

R' Levi says: what's the reason of R' Shimon (that relatives are valid for this testimony)? Because the Pasuk says "Hashem said to Moshe and Aharon in the land of Egypt saying; this month shall be to you (plural)," as to say that this testimony should be valid with both of you (brothers). However, the Rabanan explain: this testimony shall be given over to you, (i.e., to the great ones of the generation to accept testimony).

R' Chanan b. Rava says that the Halacha is like R' Shimon. R' Huna asked him: you have R' Yossi disagreeing (who we usually Paskin like), and he brings a story as a proof, and you say the Halacha is like R' Shimon? R' Chanan said back: I repeated this many times before Rav that the Halacha is like R' Shimon, and he didn't protest at all. He asked: how did you learnt the Mishna (i.e., how did you present the opinions)? He explained that he said the opposite opinions than we have written in the Mishna (and R' Shimon invalidates relatives). R' Huna answers: this is the reason why he didn't say anything to you (since he knows that R' Yossi invalidates, so you got the Halacha correctly to invalidate relatives). The Gemara concludes that they quoted Shmuel that the Halacha is like R' Shimon.

New Sugya

These people are invalid witnesses: those who play with dice (gamblers), those who lend with interest, pigeon racers, those who do business with Shmita produce and slaves.

Tosfos says: the Gemara implies that all the invalid witnesses in our Mishna are invalid rabbinically. As the Gemara says: from here we see that a rabbinical thief is valid to testify for a woman to remarry. Therefore, this fits well to the opinion in Sanhedrin that a gambler is invalid for a witness since he's not working at a job that benefits humanity. However, according to the opinion that it's not a true acquisition (since the other person relied on winning when he bet, and he didn't), still, he doesn't consider himself as a thief (and doesn't think he did anything wrong so that the Torah should consider him to be wicked) since it's willfully given to him. (So, we don't consider him as being wicked.)

By the case of lending with interest, we're referring to a case where you didn't make up a definite amount to give extra (which is only rabbinic). Alternatively, even if you make a set amount extra to pay, still, he doesn't think he did anything wrong since he doesn't consider it as a prohibition when the lender pays it willfully. He thinks it's only prohibited when the lender forcefully takes collateral.

By the case of racing pigeons, if it's true racing, i.e., you win if your dove comes in before my dove, then it's exactly the same case as gambling. According to the one who says that they all fly together, and you keep those doves that return with your flock, (so your taking doves that don't belong to you) that's not true thievery (since no one really owns the doves, since they can't really acquire them). The only reason you can't take them is because of keeping the peace (since they assume to have ownership).

By the case of people doing business with Shmita produce (the reason it's rabbinic) we refer to Shmita these days that's only rabbinic according to Rebbi, and the author of our Mishna would be Rebbi. Alternatively, it's business that's only forbidden by the Rabanan. Like the case in Sanhedrin where they gave money to the poor to collect Shmita produce for them. The Gemara says that this is not true business (since he's not really buying off the fruits) but the poor gather the fruits as his agents.

Tosfos is bothered by the question: the Gemara in Sukka implies that it's permitted to sell Shmita fruit to the ignorant. After all, the Gemara there only requires you to swallow the price of the Shmita Esrog in the price for the Lulav (so that you shouldn't officially pay anything for the Esrog) because you can't allow the ignorant to have money that has the Kedusha of Shmita on it (since he'll misuse it). However, it seems the actual selling is not prohibited. Similarly, the Gemara in Sanhedrin asks why can't you sell the Shmita produce that had Trumah fall in it to a Kohain for the price of Trumah, when you don't have a hundred times the Trumah to null it.

Tosfos answers: produce that's gathered with the intent to eat them, but there are some left over, it's permitted to sell them. Similarly, the Gemara in Avoda Zara, that prohibits selling, because of the Drasha "to eat it" which excludes to do business with it, implies like our explanation (that there is a difference between what it was picked for).

Alternatively, anytime it's bought to eat, it's not considered doing business with produce of Shmita (even if it was picked with intent to sell it to eat). It's only forbidden when you buy it cheap in order to sell it when it's expensive later, that you buy it in order to profit. In Mesechtas Shviuos, the Rash explains this according to the Yerushalmi.

Tosfos concludes: the last item of the Mishna, slaves, the Mishna in Sanhedrin doesn't mention it, because there it only lists those who are invalid by the rabbis, and not who the Torah invalidates. However, the Mishna here needs to list it (and we can't just learn it from a Kal V'chomer from the rabbinical invalidations), since they're not invalid because of any sin, we might validate them for testimony on the new moon (which may have different standards than regular testimonies), just like R' Shimon validates relatives (so the Mishna teaches us that they're still invalid).

This is the rule: any testimony in which women are invalid to testify, so too these people are invalid.

The Gemara makes the implication: all testimonies that women are valid for, these witnesses are valid too. R' Ashi says: this tells us that rabbinically categorized thieves (like gamblers, that the Torah don't consider them to be thieves, but the rabbis classified them as thieves), are permitted to testify for women to remarry (to say their husband died).

New Sugya

Whoever saw the new moon (on Shabbos) and they can't walk themselves, you allow them to ride a donkey, even if they need to be transferred in a bed. If there are ambushers (like Tzidukim who are trying to prevent people from coming to testify), you provide them with clubs (to defend themselves). If it's a long way to Yerushalayim, they may take food. They can desecrate Shabbos for a distance of a night and day that they can say testimony on the new moon on the next day, as the Pasuk says "these are the holidays of Hashem which they call in their proper time."

Tosfos explains that the witnesses who saw the new moon may desecrate Shabbos, and even those witnesses who come to verify the witnesses who testify on the new moon, when Beis Din don't recognize them (if they're reliable), to testify that they're reliable. As we see the Gemara in the beginning of the second Perek, that R' Naharoi went with a witness on Shabbos in order to testify on him (that he's a valid witness).

Second Perek

If you don't recognize the witness, you send another (witness) along with him to testify that he's reliable. **[Tosfos- and this witness may desecrate Shabbos, like we said in the end of the last Perek.]** After all, originally, they accepted testimony on the new moon from anyone. When the Bytusim (a certain sect) did wrong (by a false testimony), they decreed to only accept witnesses from people we recognized to be trustworthy.

Daf 22b

The Gemara says: the implication of sending another (witness) is sending one witness (and you don't need two).

Tosfos asks: (how can you make this implication?) After all, even if one wouldn't be believed by himself, you would still desecrate Shabbos to go there, for, perhaps, you'll find someone else to combine with to testify. After all, we said in the last Perek that a father and son travel together, not

because they can combine to say testimony, but, just in case one of them become invalid to testify, the second one will combine with someone else that came to say testimony.

Tosfos answers: the Gemara is not asking why he could desecrate Shabbos after he's not believed to testify by himself, rather, it's asking on the term used in the Mishna of 'another,' (inferring that that's all you need) because one is believed.

The Gemara asks: is one really believed by himself? After all, we learned, "he comes with his witnesses (in the plural) who testify about him."

Rather, R' Pappa explains: what's 'another?' It means another pair of witnesses. The Gemara says that this makes sense (that it means another pair). After all, the Mishna says "if we don't recognize that (witness)." What does it mean by not recognizing 'that?' If it means that one witness, but would you believe one witness to say testimony on the new moon? After all, the Pasuk calls it "a judgement," and a regular judgement needs two witnesses to establish it. Rather, it means "they don't recognize that pair."

Tosfos asks: I don't know what's he saying. After all, I can say it means to testify on one person from that pair.

Here too, we'll say that they sent another pair.

The Gemara asks: is it true that one is not believed that someone is trustworthy? After all, the Braisa says a story with R' Naharai who traveled with the witness to the city of Usha to testify about him (that he's trustworthy) on Shabbos. (So, we see that R' Naharai was believed by himself.)

The Gemara answers: really, there was another witness that testified with R' Naharai. The reason we don't mention him, because of the honor of R' Naharai (to mention with him a lesser person). R' Ashi answers: really, R' Naharai had a friend who was already in Usha who could testify, so he traveled there to testify with him.

Tosfos says that he could explain: this one person saw the new moon, and R' Naharai came along with him to verify him and also to testify on the moon (and he would be the second witness). That, which the Braisa says "to testify 'Alav,' " it doesn't mean to testify on him, but to testify on it, i.e., the moon. [Tosfos Harosh explains, according to this explanation, when the Gemara asks afterwards "if so, what's the Chidush?" It's only asking on R' Ashi. After all, since R' Naharai desecrated the Shabbos to testify on the moon, there is no Chidush. However, according to the first answer, where R' Naharai only went to verify the witness, it's a Chidush that you may desecrate Shabbos to verify a witness]

However, the Tosefta and Yerushalmi implies it means to testify on him, the witness, that R' Nahari only went to testify that the witness is Kosher. This is also how Rashi explains it. If so, (in both answers, R' Naharai only went to verify the witness, and yet the Gemara assumes there is no Chidush), the Gemara's question of "if so, what's the Chidush" is asking on both of the Gemara's answers.

The Gemara asks: if so (that there were two), what does this Braisa teach us? The Gemara answers: I might have thought that we shouldn't desecrate Shabbos on account of a doubt (for perhaps his friend wouldn't be in his house that Shabbos), so we're taught otherwise.

[See Tosfos Harosh and Maharsha who ask; according to the second explanation of the above Tosfos that the question was on both of the Gemara's answers, how does this answer the Gemara's first answer, since there were two witnesses coming, so there is no doubt whether there would be two witnesses.]

Ulla came from Eretz Yisrael (to Bavel) and testified when they sanctified the month there. R' Kahana says we don't need to say that such a great man like Ulla is believed, but even regular people are believed. The reason is: since it's a fact that will eventually be revealed to all (by other people coming), someone wouldn't lie (and get exposed as a liar). We have a Braisa like this: even if someone comes from the end of the earth and claims that Beis Din sanctified the month (on a certain day) he's believed.

New Sugya

The Braisa says: what was the story that the Bytusim did wrong? One time, the Bytusim wanted to fool the Jewish sages.

Tosfos quotes Rashi: the thirtieth day of Adar fell on Shabbos, and the new moon wasn't seen on that day. The Bytusim wanted that the first day of Pesach to fall on Shabbos, so the next day, when they waved (i.e., brought) the Korban Omar, will be on Sunday, and thus, Shvuos will also fall out on Sunday. This was because they Darshined that we count "from the day after Shabbos" (not to mean Yom Tov), but from Shabbos commemorating the creation (i.e., the weekly Shabbos) like the simple meaning.

Tosfos asks: what do the Bytusim gain (even if they get Shvuos in their right time) since they're ruining the day when Pesach should fall out?

Tosfos answers: they didn't consider it as ruining Pesach, since they agree to the Drasha of 'you' (i.e., Beis Din makes Rosh Chodesh), even when they purposely get the day wrong.

They hired two people with four hundred Zuz. One of them was loyal to us and one of them was part of their sect. The one who was one of them testified and left. Then the one loyal to us came in and they asked him, how did you see the moon? He answered (to hint to them this was all a set up), it first came up in the ascents of Adumim, and I saw it was laying between rocks. Its head was similar to a calf, its ears were similar to a goat. Its horns were like a deer, and its tail laid between its legs. I looked, I got scared and I fell backwards. (So, this is only a set up) and if you don't believe me, you can find the four hundred Zuz (of the hire money) wrapped in my handkerchief.

They asked him: what compelled you to take this on? He answered: I heard that the Bytusim want to make the rabbis make a mistake on the new moon, I said that I'll go to inform them, because, if not, they'll get an evil person and make the rabbis make a mistake.

The rabbis told him: you may keep your two hundred Zuz as a gift (although he didn't earn the wage, since he didn't do what his employers wanted him to do, Beis Din has a right to make items Hefker), and those who hired you, we'll stretch them out over a beam (to flog). At that time, they enacted to not accept any witnesses for the new moon unless we recognize them.

New Sugya

Originally, (to inform the world when they established Rosh Chodesh), they "Masian Masos" (light

fires). When the Kusi ruined the system (by imitating it on the wrong night), they enacted for agents to be sent out.

How did they have these lit fires? They brought long logs of cedar with reeds, oily wood and strands of flax. They wrapped a string around them and ascended the mountain and they lit it on fire. They waved it back and forth and up and down until they saw their friend on the next mountain doing the same.

Tosfos quotes the Yerushalmi why they waved it back and forth and up and down: in order to not confuse it with a (shooting) star. As R' Assi said that he saw a star go up and down. He also saw a star go back and forth. (Thus, if he does both motions, they know it's not a star, since stars only go in one direction.)

The same happened for the third mountain (etc.). From where did they light these fires? From the mount of olives to Sarvata. From Sarvata to Grafina. From Grafina to Chavran. From Chavran to Beis Balten. From Beis Balten they didn't stop waving it until they saw the whole Diaspora lit up like a bonfire.

The Gemara asks: how do we know that 'Masian' is a term used for lighting? The Gemara answers: as the Pasuk says " 'Vayisam' Dovid and his men" and the Targum explains that Dovid lit a fire.

We learned: you only light the fire on a month where the moon was seen (and sanctified) on the thirtieth. When do you light it? On the night of the thirty-first. The Gemara says that this implies they only did this for a short month and not for a full month. The Gemara asks: what's the reason? R' Zeira answers: because of a Rosh Chodesh after a short month that falls out on Friday.

Tosfos explains: they could have also said for a Rosh Chodesh after a long month that falls out on Shabbos would be a problem for the same reason.

When could you light the fires? Only on Moitzie Shabbos (since you can't light the fire the night after Rosh Chodesh, since it's Shabbos.)

Daf 23a

If you would say that you would do it for a full month too, and they'll mistake that it's a short month, and the only reason they didn't do it yesterday is because it's impossible. Or, perhaps, it was done tonight since it's the proper time (since it was a full month. So, there is no way to determine when Rosh Chodesh was.)