

HALACHA HIGHLIGHT

Government Documents

ובעובד כוכבים אם היה מתכוין אין עדותו עדות

And concerning an idolater, if he intended to testify his testimony is not accepted

Rambam¹ rules like the Mishnah that a non-Jew is believed when he relates that a Jew died only if the information is transmitted in innocence (מסיח לפי תומו). Furthermore, Rambam writes that if a government official relates that they executed a Jew he is not believed since idolaters have a tendency to lie about these matters to enhance their reputation in order to instill fear. Poskim discuss whether Rambam's ruling applies when there are government documents that indicate that a person died. The rationale behind this assertion is that one could draw a distinction between simply making a false assertion that the government executed someone and putting in the effort of drawing up false documentation that a person is dead.

For example, Teshuvos Dvar Avrohom² addressed a case of a Jew who was tried and convicted of a capital crime. A Jew was present at the time the judgment was pronounced and the next day the newspaper reported that this person was executed by the government. Dvar Avrohom wrote that the concern about government officials lying is not so applicable to our organized governments since they do not build their reputation by executing people. Additionally, he cites others who distinguish between merely stating that a person died and actual documentation to that effect.

Teshuvos Beis Efraim³, on the other hand, takes a different line of reasoning. An agunah obtained government documents that her husband who had been serving in the army died in a hospital somewhere far away. Beis Efraim hesitated to rely on this information because the government does have an ulterior motive to lie. It is embarrassing for the government to document the number of soldiers who ran away from the army. Therefore, in order to conceal the number of soldiers that actually fled, the government would prefer to lie and claim that soldiers died. In conclusion he writes that any time there is a reason or incentive for the government to lie about a person's death they are not believed even if their claim is documented.

1. רמב"ם פי"ב מהל' גירושין הט"ז
2. רמב"ם פי"ג מהלל' כגירושין הי"ג
3. שו"ת דבר אברהם ח"ג סי' ט"ו
4. שו"ת בית אפרים סי' ל"א

MUSSAR FROM THE DAF

A Natural Miracle

תנו רבנן נפל לתוך כבשן האש מעידין עליו

The Gemara explains that if a man fell into a furnace, we can testify that he surely died. However, the Yerushalmi (Perek 16, Halacha 3) explains that if a man fell into a fire one cannot testify that he died because maybe a miracle happened

It seems to be a סתירה (contradiction) between the Bavli (which holds that one can testify concerning a person's death where he fell into fire) and the Yerushalmi (that one cannot testify to the death in such a case).

The Bach (שו"ת סי' עב) writes that there is no disagreement. The Bavli is referring to a furnace that is very deep and there is no way to get out whereas the Yerushalmi is discussing a case where a person fell into a fire that is not so deep and it is possible to survive (and therefore one cannot testify that the person certainly died since perhaps a Nes happened and the person survived).

The Etzai Arazim (ס"ק קכג) explains that when the Yerushalmi says that we suspect that perhaps a miracle occurred it is only referring to miracles that are within nature even though the odds are almost nil.

There is a great lesson to be learned from this Yerushalmi. It is very easy to give up hope and stop davening when a situation is not the way we would want it to be. We learn from this Yerushalmi that where something is naturally possible even if not likely we always have to leave hope that a miracle can occur. This is true even in a situation in which change is almost impossible, a person should continue to daven and try to change the situation. Yeshuas Hashem Keheraf Ayin. We live in a world of Nisim.

POINT TO PONDER

The Gemara says that שמואל said about רב the פסוק of "שילא שיילא", because he was saved from being שילא שיילא רב. How about what happened to רב, who ruled incorrectly? Wasn't he a צדיק as well?

Response to last week's Point to Ponder:

What is the דין if it's a ספק whether the deceased died within the past three days, may testify based on facial signs?

The רשב"א writes that the din in this case is a ספק, on one hand we can say that it's a ספק דאורייתא and therefore we should be מחמיר. On the other hand, since they recognize him and it's only a חשש דרבנן that he may have changed over three days, we can be lenient, when it's not definitely over three days.

ר' יוסף שמואל שמעלקא ב"ר יצחק מערמעלשטיין ז"ל, Shelly Mermelstien, לע"נ has been dedicated to Yevamos

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Gutterman, please visit our website, dafaweek.org, or download the app

To share an insight from your Chabura please email info@dafaweek.org

The shavua matters is published by the Daf a week program under the rabbinical guidance of Harav Meir Stern shlita and Harav Shmuel Kamenetsky shlita

To sponsor a publication, please contact Rabbi Zacharia Adler, Executive Director at info@dafaweek.org or call 507-daf-week. Sponsorship for one week is \$100

Sections reprinted with permission from the Chicago Torah Center