

Daf Notes is currently being dedicated to the neshamah of

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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

1. Rava maintains that the dispute between Rabbi Meir and Rabbi Yehudah is regarding a miscalculation of slightly less than two hours or slightly less than three hours.

Rava says that according to Rabbi Meir, a person errs slightly less than two hours, whereas Rabbi Yehudah maintains that a person errs slightly less than three hours. According to Rabbi Meir, then, even if the incident that the witnesses are testifying about occurred either at the onset of the second hour or at the end of the third hour, their testimony will be valid, because they have erred by less than two hours, which Rabbi Meir maintains is a justified amount of time that one can err in his calculations. According to Rabbi Yehudah who maintains that a person errs slightly less than three hours, then even if the incident occurred at the onset of the third hour or at the end of the fourth hour, their testimony will be valid, because they will have erred in a time of slightly less than three hours, which according to Rabbi Yehudah is a justifiable miscalculation in time. (12a)

2. Seven questions were posed to the witnesses regarding a capital case.

When examining the witnesses regarding their testimony in a capital case, they would ask the following seven questions: In which year of the seven year *shemittah* cycle did you witness the offense? The second question was in which year did the offense occur. The third question was on

which date of the month did the offense occur. The fourth question was on which date of the month did the offense occur. The fifth question was on which day of the week did the offense occur. The sixth question was in which hour did the offense occur. The seventh question was in which place did the offense occur. (12a)

3. There is a distinction between *chakiros* and *bedikos*.

Chakiros are the seven standard questions that were posed to the witnesses, and *bedikos* were the supplementary questions that were posed to the witnesses. Regarding the *chakiros*, if one of the witnesses did not know the answer to one of the seven questions, the testimony would be invalid. Regarding the *bedikos*, however, even if both witnesses say that they do not know the answer to the question, the testimony is still valid. The reason is that if one of the witnesses does not know an answer to one of the *chakiros*, the testimony is invalid, because then the testimony cannot be negated through *hazamah*. *Hazamah* means that the second pair of witnesses testifies that at the time that the first set of witnesses' claims that the incident occurred, the first pair of witnesses was actually somewhere else and they could not have possibly witnessed the incident. All the questions that were posed to the witnesses as part of the *chakiros* were questions that if a witness could not answer, his testimony was

invalid, because his testimony can no longer be negated through *hazamah*. For example, if a witness cannot answer correctly which hour the incident occurred, then it is impossible for the second pair of witnesses to prove that his testimony is false by stating that he was elsewhere at the time the incident occurred. With regard to *bedikos*, however, even if a witness cannot answer satisfactorily one of the questions, the testimony can still be negated by a second pair of witnesses. For example, if the witness could not answer whether the accused was wearing black or white clothes at the time of the incident, this detail has no ramifications regarding the time and place of the incident. (12a)

People do not err between day and night.

According to Rabbi Meir, who maintains that one can err by two hours, we give the witnesses testifying regarding the incident from the onset of the first hour until the end of the fifth hour. When the first witness says that the incident occurred in the second hour, it is possible that he erred by two hours. Therefore we give him the first and second hours, and the third and fourth hours. For example, if he miscalculated two hours early, the incident may have occurred at the end of the fourth hour. It is also possible that the witness miscalculated by two hours later. The second pair of witnesses who are trying to refute the testimony of the first pair of witnesses must therefore testify that he was with them from the onset of the first hour until the end of the fourth hour. Similarly, the other witness who said that the incident occurred during the third hour is given two hours in both directions. The second pair of witnesses must testify that he was with them from the onset of the first hour (which is two hours prior to the onset of the third hour) until the end of the

fifth hour (which is two hours after the end of the third hour) in order to negate his testimony by way of *hazamah*. In this fashion the testimony regarding the hour can be refuted through *hazamah*. We really would give the witnesses who said that the incident occurred in the second hour another hour, which would be two hours before the onset of the second hour, but this would lead to an hour before the onset of the day, and people do not err between day and night. The witness thus has his testimony negated regarding his location from the first hour through the fourth hour. (12a)

4. There is a distinction between testimony and the prohibition of chametz.

We learned in our Mishnah that Rabbi Meir maintains that one can eat chametz during the fifth hour and one must burn the chametz at the onset of the sixth hour. Rabbi Yehudah maintains that one can eat chametz the entire fourth hour, chametz is suspended in the fifth hour, and one must burn the chametz at the onset of the sixth hour. According to Abaye who maintains that Rabbi Meir is of the opinion that one does not err at all in calculating time, then one should be permitted to eat chametz until the end of the sixth hour, which is the biblical law regarding when chametz can be eaten. Even if we say that one errs slightly in calculating time, he should be permitted to eat chametz until the end of the sixth hour, right before midday. According to Abaye in the opinion of Rabbi Yehudah who maintains that one errs by a half an hour, one should be permitted to eat chametz until the middle of the sixth hour, which is a half an hour before chametz is biblically prohibited. Even if we say that one errs by an hour and a half and a bit, one should be permitted to eat chametz until the end of the fifth hour. The

Gemara answers that Abaye said that testimony is given over to those who are diligent whereas chametz is given over to everybody. This means that only one who is expert in keeping time will come to testify regarding a capital case as he is aware that the court will interrogate him. Regarding chametz, however, although everyone must stop eating chametz at the end of the sixth hour, not everyone is an expert at determining the correct time. (12b)

5. One cannot eat chametz in the sixth hour because the sun is in the middle of the sky.

According to Rava in the opinion of Rabbi Meir who maintains that one errs slightly less than two hours, one should not be permitted to eat chametz from the onset of the fifth hour. The Gemara answers that in the fifth hour the sun is in the east and in the seventh hour the sun is in the west. Chametz is only prohibited at the onset of the seventh hour when the sun is in the western half of the sky, so we are not concerned that a person will confuse that time with the fifth hour. Based on this reasoning, one should be allowed to eat chametz even in the sixth hour as the sun is not yet in the east at that time, and one will not confuse the sixth hour with the seventh hour. Nonetheless, since in the sixth hour the sun is in the middle of the sky, and one cannot determine whether the sun is in the eastern half of the sky or the western half of the sky, if chametz were permitted during the sixth hour, one would confuse the end of the sixth hour with the onset of the seventh hour. (12b)

6. Rabbi Yehudah maintains that one can only eliminate chametz by burning it.

Rava maintains that according to Rabbi Yehudah, one will err in his calculations slightly less than three hours, so one should not be allowed to eat

chametz from the onset of the fourth hour. The Gemara answers that in the fifth hour the sun is the east and in the seventh hour the sun is in the west, and certainly in the fourth hour when the sun is even farther to the east there is no room for confusion. One is not permitted to eat chametz during the fifth hour, because we have already learned that testimony is given over to diligent people whereas the prohibition of chametz is given over to everyone. Even though Rabbi Yehudah maintains that witnesses do not err between the fifth and seventh hours, there is a concern that the populace will err in this manner. No one, however, will confuse the seventh hour for the fourth hour because the sun's location will prevent such an error. Alternatively, Rabbi Yehudah follows his reasoning as Rabbi Yehudah maintains that one can only eliminate chametz by burning it. The Chachamim therefore did not allow one to eat chametz during the fifth hour, because then the person would not have time to collect wood for the fire. (12b)

7. The fourth hour of the day is a mealtime for everyone.

The Gemara challenges the answer that Rabbi Yehudah follows his reasoning that one is required to eliminate the chametz by burning it, and this is the reason why the Chachamim prohibited one to eat chametz during the fifth hour. The challenge to this answer is that Rabbi Yehudah only said that chametz must be eliminated by burning during the sixth hour when chametz is still biblically permitted. When it comes time to eliminate the chametz, however, which is the seventh hour and chametz is then biblically prohibited, one can destroy chametz in any fashion. Rava therefore answers that the Chachamim prohibited one from eating chametz during the fifth hour as a decree on

account of a cloudy day. When it is cloudy, one cannot see the sun and he cannot tell the time by looking at the sun's location in the sky. Although based on this concern one should not be allowed to eat chametz during the fourth hour, the fourth hour is a mealtime for everyone and everyone knows the time of the fourth hour in the day. (12b)

8. One who eats after the sixth hour is like throwing a stone into a bag.

The first hour in the day is mealtime of the *Ludim*, who were a cannibalistic tribe, and they were gluttonous so they ate their main meal at the first opportunity. The second hour is when bandits eat their meal, because they are awake all night and they sleep during the first hour of the day. They are also gluttonous so they eat their meal at the first opportunity. The third hour of the day is when those who inherited a lot of money eat their meal. Since they are not concerned about earning a livelihood, they can eat earlier in the day than everyone else. The fourth hour of the day is when workers eat their meal. The fifth hour of the day is when Torah scholars eat their meal. The sixth hour of the day is when all other people eat their meal. Alternatively, the Gemara states that the fourth hour is when all other people eat their meal, the fifth hour is when workers eat their meal, and the sixth hour is when Torah scholars eat their meal. After the sixth hour, if one eats it is like throwing a stone into a bag. Although it appears that eating then is beneficial, there is really no benefit to eating then. This was only said regarding one who did not eat anything in the morning, but if one ate something in the morning, then it is acceptable to start the meal after the sixth hour. (12b)

9. One witness who says the incident occurred before sunrise and the other witness says it

occurred after sunrise, their testimony is invalid.

If one witness said that the incident occurred before sunrise and one witness says that the incident occurred after sunrise, their testimony is invalid, because sunrise is a clear delineation of time, and if the witnesses disagree regarding the incident occurring before or after sunrise, we cannot reconcile their testimony. If one witness says that the incident occurred before sunrise and one witness says that the incident occurred during the sunrise, their testimony is invalid. We would have thought that both witnesses are saying the same thing, and the one who says that the incident occurred at sunrise was standing in the glow of the sunrise. Thus, he merely saw the rays of the sun and he assumed that the sun was already rising. Therefore we are taught that no one can make such a mistake, and the testimonies contradict each other and are invalid. (12b -13a)

DAILY MASHAL

A Torah Scholar's meal

The Gemara states that a Torah scholar eats his meal at the sixth hour of the day. The reason a Torah scholar eats his meal so late in the day is because he is engaged in Torah study, so he should wait until the last possible time to eat. The Mesilas Yesharim quotes a Medrash¹ that states: before one prays that Torah should enter his mind, he should pray that food does not enter his body. It is interesting that we pray in the morning and then we immediately eat breakfast, because according to our Gemara and the Medrash, one should study Torah immediacy after praying, because his prayers should be focused on achieving diligence in Torah study, not on consumption of food.

¹ Also quoted in Tosfos to Kesubos 104a s.v. lo neheneisi