



Volume 2. Issue 39.

Father and Son: They are allowed to fish together, but are they allowed to testify together?

The *Mishnah* in *Rosh Hashanah* discusses that a father and a son who come to the *Beit Din* to testify on the new moon are not allowed to testify in front of the *Beit Din*, due to their relationship. The question that arises is why are a father and son not allowed to testify together? Why does *Rebbi Shimon* allow it?

The *Rambam* lists as the 178th positive commandment, is to testify in *Beit Din*. The obligation covers any nature of testimony - either that it will save another from a capital punishment or if it will obligate someone to payment or death.

The *Torah's* view of one who holds back testimony, is that they have committed a great sin and crime against the society. Since, the justice system relies on testimony in order to judge fairly and justly, this person aided to the breakdown of society by not testifying. The punishment that the *Torah* gives is the obligation to bring a *korban Oleh ve'Yored*.

However, there is a distinction that is made between the different types of testimony in reference to the witness having to come forward on his own volition or waiting and only testifying when called. In a monetary case the witness does not need to approach the *Beit Din*, but is allowed to wait until called to give the testimony.

However, in the case of a capital or other *issurim* the person needs to approach the *Beit Din* alone and offer the testimony. The distinction between the two cases is that in the case of murder or any other *issurim* there has also been an offence to both man and *Hashem*. By withholding the evidence the person is allowing the society to become both lacking in morals and creating a void where Godliness should be.

The *Torah* sets various parameters and guidelines on how to accept a witness and his testimony. The *pasuk* writes, "That through two witnesses the matter should be established". This verse is understood as setting out a number of rules, for example the two witnesses need to see the event at the same time, that the testimony needs to be understood by the judges without the need for an interpreter and that the testimony needs to be spoken and not written.

The *Torah* in *Devarim* writes that "fathers shall not die because of sons and sons shall not die because of fathers" The *Gemara* in *Sanhedrin* 27b, learns that this verse discusses both that the son cannot testify on a capital punishment case of his father, but also that father and son can not testify together, not because we are afraid that they will lie but because it is a *gezayrat hakatuv*.

The question is asked, how can *Rebbi Shimon* allow the father and son to testify? The *Gemara* answers that this case example is of *Moshe* and *Aaron*, who stood together as the very first witnesses of the Jewish people. Therefore, if *Hashem* was prepared to accept these two brothers as witnesses, then why should the Rabbis not.

Another answer is given by the *To'hor Ve'Emes* that the concept of sanctifying the month and therefore deciding when the *Yomim Tovim* will be, was given to the Jewish people. Allowing us to have some control over time and being able to define when the *Yom Tov* is. *Rebbi Shimon's* position is explained that their testimony represents the great strength and spiritual ability that the Jewish people have in being able to define and set the *kedushat Yom Tov*, and does not primarily, reflect the classical form of *eydut*, which is a testimony about an event or a person. Therefore, father and son can join together and testify.

Natan Rickman

Revision Questions

ביצה ה': גי' – ז'

- How does one determine the how far an object can be carried (with respect to the laws of *techumim*):
 - In general?
 - If it is an object belonging to a household as apposed to an individual? (ה': ג')
 - If the object is borrowed? (Give two scenarios)
 - Regarding a cooked food where some of the ingredients have been borrowed on *Yom Tov*? (ה': ד')
 - Regarding water extracted from a waterhole? (Provide three scenarios) (ה': ה')
- Provide three halachic differences between hot coal and a flame. (ה': ה')
- If an *eiruv techum* has been placed between two cities, when is it permissible and when is it prohibited to bring the fruit from one city to the owner of the fruit situated in the other city? (ה': ו')
- Can a host give his guest food to take home? (ה': ז')
- What is the difference between *midbariot* and *bayatot*? (ה': ז')

ראש השנה א': א' – א': ט'

- What are the four *Roshei Shanim*? (א': א')
- When are the four times in the year when the world is judged? (א': ב')
- How many times each year are the messengers sent to inform about *Rosh Chodesh* and why are they sent each of those times? (א': ג')
- During the times of the *Beit Ha'Mikdash* for which months would the witnesses of the new moon be allowed to desecrate *Shabbat* in order to provide their testimony and why? (א': ד')
- What condition does *R' Yosi* place on the law described in the previous question? (א': ה')
- How did *Rabban Gamliel* respond when *R' Akiva* prevented an excessive number of witnesses from going to *Yerushalaim* on *Shabbat*? (א': ו')
- If a father and son saw the new moon, should they go to *Yerushalaim* to testify? (א': ז')
- Explain the discussion of which witnesses should be selected if a man and his son and servant saw the new moon. (א': ז')
- Which five people are invalid witnesses due to their profession? (א': ח')
- What is the source for witnesses being able to desecrate *Shabbat* in order to provide their testimony? (א': ט')

Local Shiurim

Sunday -Thursday
Between mincha & ma'ariv
Mizrachi Shul

Friday & Shabbat
10 minutes before mincha
Mizrachi Shul

Audio Shiurim on-line!

- 613.org/mishnah.html
- www.shemayisrael.com/mishna/

www.
mishnah
yomit
.com

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
28 th May א' סיון מ"ה לעומר Rosh Hashanah 2:1-2	29 th May ב' סיון מ"ו לעומר Rosh Hashanah 2:3-4	30 th May ג' סיון מ"ז לעומר Rosh Hashanah 2:5-6	31 st May ד' סיון מ"ח לעומר Rosh Hashanah 2:7-8	1 st May ה' סיון מ"ט לעומר Rosh Hashanah 2:9-3:1	2 nd May ו' סיון שבעות Rosh Hashanah 3:2-3	3 rd May ז' סיון שבעות Rosh Hashanah 3:4-5

