

OUR QUESTIONS

- 1** How do the teachings and perspective of Mishna 8, which begins a discussion of judges, inform our Mishna, if at all?
- 2** In Mishna 9, Shimon ben Shetach cautions judges to examine witnesses in a case thoroughly by asking a lot of questions. Doesn't this seem obvious? What does he need to teach this for?
- 3** The term for this examination is "marbeh L'chakor" — multiply or increase in the examination. Why does the Mishna stress multiplicity of investigation rather than depth or careful consideration?
- 4** The judges are being cautioned to be careful in their questioning lest witnesses learn to lie. What is the concern here — inadvertently leading the witnesses, or is there something else?
- 5** Also, why use the phrase "learn to lie"? Either they want to lie or they don't. How do the judges' words *teach them* how to lie, and if they are not liars, why would they do so? (Also notice it says judges' words, not their questions.)

“R. Shimon ben Shetach says, “Ask the witnesses many questions, and be careful in the manner with which you speak, because through your words, they may learn to lie.””

SYNOPSIS:

This Mishna, like the one which preceded it, relates to justice in the court. Here the judges are being instructed on how to cross-examine the witnesses, in order to minimize the possibility of false testimony. By asking the witnesses many questions we make it more difficult for them to give false testimony successfully.

The judge should also be careful with his choice of words, lest the witnesses deduce legal “loop-holes” from the judge’s statements and be tempted to distort the facts to gain a favorable verdict.

The Commentaries point out that these questions should be asked quickly, because this too imposes difficulty upon the potential bearer of false testimony.

A Deeper Look:

Although the Mishna is instructing court judges specifically, as we have mentioned previously, we are also judges, not necessarily in court, but in relation to our own lives and personal issues.

In this Mishna, another key to achieving objectivity in our decision-making process is given. This key is asking questions.

A good question is like a spotlight that exposes the patches of unpainted areas on a freshly painted wall. As long as the lights are dimmed, everything looks fine. As soon as we get a close look under illumination, the deficiencies in the paint job become evident.

The same is true for thoughts, ideas, and decision-making in general. As long as we don’t ask too many questions, everything makes sense. But once we encounter questions, an entire idea can collapse in a moment.

SUMMARY

Asking questions is the key to true understanding. One who ceases to ask, ceases to learn.

Since the last two Mishnayos dealt with honesty in court, a short story about a Jewish judge in a small village in Poland (naturally in Poland, all these stories always take place in a small town in Poland), is in order. From this story we see the importance of being honest in court, and how ultimately justice is meted out by Heaven even when the judge fails to do his job the way he should.

The Clearing In the Forest

The students of the great Rabbi filed into the small room for their daily lesson.

"Today's lesson, my dear students," the Rabbi began, "will not take place in this room. Instead, I would like you all to go out to the forest, to the large oak tree in the clearing near the stream, and wait behind the tree for half an hour. You may then return here and tell me what you have learned."

The students dutifully left the Rabbi's study and went out to the forest. The day was bright and clear, and the birds chirped happily in the trees as the students situated themselves behind the large oak tree and waited for the day's lesson to take place.

Sure enough, after several minutes, the sound of a galloping horse could be heard. Soon the horse came into view, and on the horse's back was a well-dressed man of about 50. A large sack could also be seen on the horse's back. As the man galloped past the clearing, the sack slipped off the back of the horse, unbeknownst to the rider, and before the students could call out and inform the rider what had happened, the rider disappeared into the thicket, leaving the sack on the ground behind.

Footsteps!

The students hurried back behind the tree just in time to remain unobserved by the next visitor to the forest clearing this spring morning.

The man was poor. His shoes were torn and his clothes tattered. He walked along slowly kicking a rock here and there, looking depressed all the while.

Suddenly, he tripped. Sprawled out on the ground he noticed the cause of his fall. It was the sack that had been left behind by the rider.

The students watched him open the sack and let out a joyous yell. "Money!" he exclaimed. "My financial problems are over!" He raised the sack on his shoulders and ran back to the village as fast as his legs could carry him. The half hour was not up yet and the students waited for the next passerby.

After a few minutes, shuffling could be heard. As they strained to look down the forest path, an older man came into view. Neither rich nor poor, he seemed like nothing more than a harmless older gentleman taking a morning stroll. The older gentleman paused by a large tree, and sat down in the cool shade. His cane by his side, his hat on his lap, he dozed off in the cool forest shade, completely unaware of the small group of students across the clearing, hiding behind the large oak tree.

In the distance, the galloping of a horse could be heard for the second time this morning. As the students crouched behind the tree, they noticed the same horse and rider that had been there previously. The rider stopped in the middle

of the clearing and jumped off the horse, looking very upset. He paced back and forth in the clearing, talking out loud to himself in an agitated voice.

"My money! Where is my money? I remember hearing a thud right here in the clearing. It was just moments ago! Where could the money have gone! Someone must have taken it!"

Before the students could answer, the rider spied the older man dozing off peacefully under a tree.

"Aha!" exclaimed the rider, "I have found him! It must be he! After all, who else could have come by this deserted spot in the last 15 minutes? He probably took the money and hid it somewhere!"

"Old man! Wake up!" he shouted, shaking the poor old man vigorously. "Where's the money?!"

The poor fellow did not know what hit him.

"Money? What money? I don't know what you are talking about!"

"C'mon now," the red-faced, angry rider said furiously. "I'm sure you have it!"

And with that, he proceeded to shake and hit the older man so vigorously that the poor fellow cried out in pain.

The students, who had been shocked by what they saw happening, now sprang into view, scaring the rider away. They bent down and helped the older fellow to his feet as the rider could be heard disappearing into the thicket.

The half hour was finally up, and the students, some of them a bit white-faced, returned to the Rabbi's study.

"So, my dear students, what did you see?" asked the Rabbi.

"Dear Rabbi, we saw a terrible thing happen! We saw one man lose money, another man find it, and a third man get beaten up for nothing! It appeared to be a complete lack of justice!"

"Allow me to explain," the wise and sagacious Rabbi, who was known to be a master of mysticism, said.

Thirty years ago, in a small village, two men, one rich and one poor, came before the local rabbinical judge and asked him to settle a dispute. The poor man claimed that the rich man owed him money. The rich man denied it.

The judge tried to be objective but could not help being swayed by the rich man's smooth speech and his well-polished demeanor, as opposed to the poor man's impoverished appearance. What he should have done as soon as he felt himself losing his objectivity was to decline from passing a decision on the case. However, he proceeded to judge the case in favor of the rich man despite the fact that in reality, the poor man was right.

"Now, you should know," the Rabbi continued, "that the rich man who lost the money today was the same rich man who appeared before the local judge 30 years ago. And the poor man who found the money was the same poor man who appeared before the local judge 30 years ago. The money he found was owed to him, and he simply received what was rightfully his."

"Ah ha!" The students exclaimed. "Now we understand! But who was the poor guy that got beaten up for nothing?"

"That man, my dear students, was none other than the local judge who had misjudged the case. In the end, each man got what he deserved."