

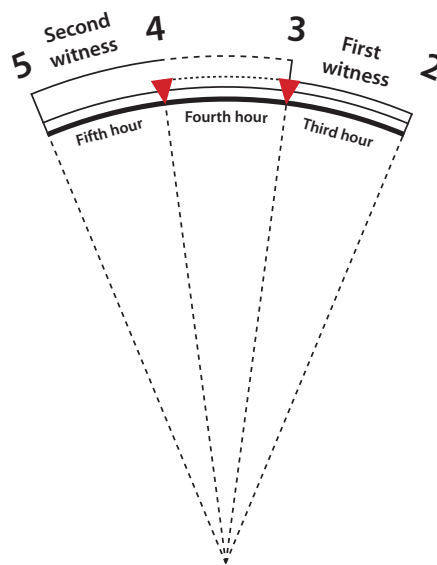
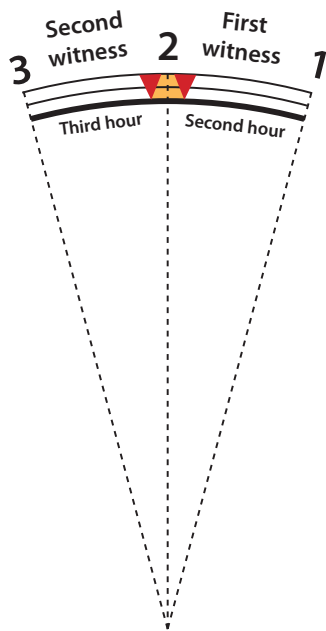
איכא דאמרי, אמר אביי: כשתמצא לומר, לדברי רבי מאיר – אדם טועה משהו, לדברי רבי יהודה – אדם טועה שעה ומשהו. לדברי רבי מאיר אדם טועה משהו, מעשה כי הוה – או בסוף שתים הוה או בתחלת שלש, וחד מינייהו טועה משהו. לדברי רבי יהודה – אדם טועה שעה ומשהו, מעשה כי הוה – או בסוף שלש או בתחלת חמש.

Some say a different version of this statement. Abaye said: When analyzing the matter, you will find that you can say that according to Rabbi Meir a person errs a bit, and according to Rabbi Yehuda a person errs by an hour and a bit. Abaye elaborates: According to Rabbi Meir, a person errs a bit, as when the incident occurred, it occurred either at the end of the second hour or at the beginning of the third hour, and one of the two witnesses errs a bit.<sup>B</sup> According to Rabbi Yehuda, a person errs by an hour and a bit, as when the incident occurred, it occurred either at the end of the third hour or at the beginning of the fifth hour,<sup>B</sup>

**BACKGROUND**

The opinion of Rabbi Meir – שיטת רבי מאיר: Rabbi Meir’s opinion according to the second version of Abaye’s explanation is that the incident occurred either at the end of the second hour or at the beginning of the third hour, as marked by the vertical lines. The area marked by the shading is the range of time that can be attributed to error.

The opinion of Rabbi Yehuda – שיטת רבי יהודה: Rabbi Yehuda’s opinion according to the second version of Abaye’s explanation is that a person errs by slightly more than an hour, as indicated by the dotted lines. The incident occurred either at the end of the third hour or at the beginning of the fifth hour, each marked with a vertical line, as one of the witnesses erred by slightly more than an hour.



Perek I  
Daf 12 Amud a

וחד מינייהו קטעי שעה ומשהו.

and one of them errs by an hour and a bit.

אזל רב הונא בריה דרב יהודה אמרה לשמעתא קמיה דרבא, אמר: ומה אילו דייקנן בהני סהדי דהאי דקאמר שלש – בתחלת שלש, והאי דקאמר חמש – בסוף חמש, והויא עדות מוכחשת ולא קטלינן, ואנן נקום ונקטיל מספקא? ורחמנא אמר: 'ושפטו העדה' ו'הצילו העדה'!

Rav Huna, son of Rav Yehuda, went and said the *halakha* of Abaye before Rava. Rava said to him that Abaye’s explanation must be rejected: **And were we to closely examine the statements of these witnesses and ask them when precisely the incident occurred, and find that the one who says at three hours means that it occurred at the beginning of the third hour, and the one who says at five hours means that it occurred at the end of the fifth hour,<sup>N</sup> it would be contradictory testimony and we would not kill the accused on the basis of this testimony; and will we arise and kill based on uncertainty?** Although their testimony could be valid, it could also be void. Can the court execute the accused based on that uncertainty? **And consider that the Merciful One says in the Torah: “And the congregation shall judge...and the congregation shall deliver”** (Numbers 35:24–25),<sup>N</sup> from which it is derived that judges must do everything in their power to save an accused from the death penalty.

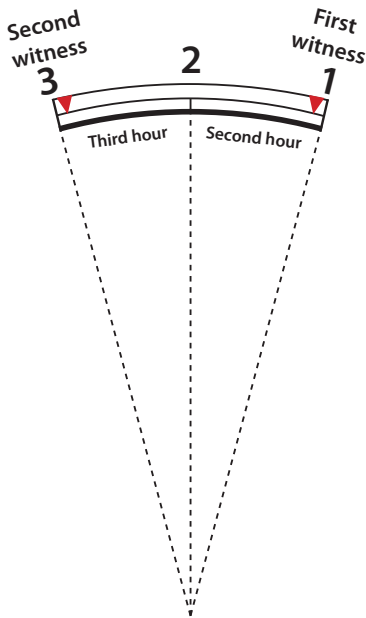
**NOTES**

**A mistake in hours – טעות בשעות:** It is important to keep in mind that these witnesses did not determine the time by consulting a clock. Rather, they based their assessment on the position of the sun in the sky, the temperature, and other factors. Consequently, depending on the climactic conditions on that day, it was entirely possible that a person could have erred by two or three hours in his assessment of the time.

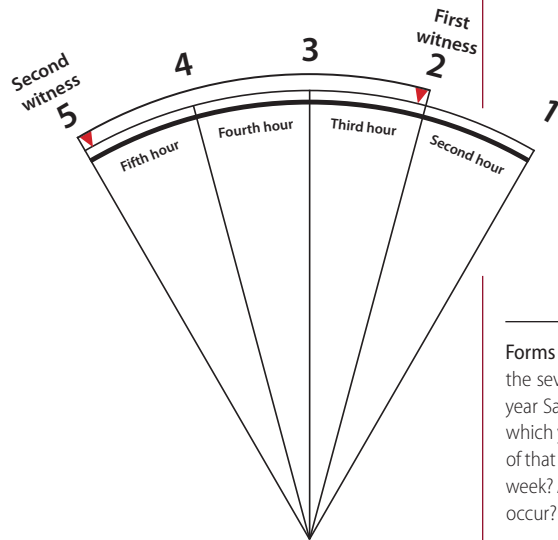
**And the congregation shall judge...and the congregation shall deliver – ורשפטו העדה והצילו העדה:** There is a principle with regard to capital cases that the court is directed to consider the innocence of the accused. In fact, the court’s approach should be to seek out ways to establish his innocence and reach a verdict of acquittal for the accused whenever possible. Due to the fact that in these courts there were no advocates for either the prosecution or the defense, it was critical that all claims supporting the defendant’s innocence were illuminated by the court itself to the fullest extent possible.

**BACKGROUND**

The opinion of Rabbi Meir – שיטת רבי מאיר: Rabbi Meir's opinion, as explained by Rava, is that a person errs by almost two hours. The incident occurred near the end of the third hour, as indicated by the arrow on the left, and one witness erred from the first hour until then; or the incident occurred at the beginning of the second hour, marked by the arrow on the right, and the second witness erred by nearly two hours.



The opinion of Rabbi Yehuda – שיטת רבי יהודה: Rabbi Yehuda's opinion, as explained by Rava, is that a person errs by nearly three hours. One witness, who says the incident occurred in the third hour, might have meant that it occurred at exactly two hours of the day, but erred and said it occurred adjacent to the fifth hour. Likewise, the second witness, who said the incident occurred in the fifth hour, meant that it occurred at exactly five hours of the day and thus erred by almost three hours, as the incident occurred just after the second hour, as indicated by the arrow.



אָלָא אָמַר רַבָּא: לְדַבְרֵי רַבִּי מֵאִיר אָדָם טוֹעָה שְׁתֵּי שָׁעוֹת חָסֵר מִשָּׂהוּ. לְדַבְרֵי רַבִּי יְהוּדָה אָדָם טוֹעָה שְׁלֹשׁ שָׁעוֹת חָסֵר מִשָּׂהוּ. לְדַבְרֵי רַבִּי מֵאִיר אָדָם טוֹעָה שְׁתֵּי שָׁעוֹת חָסֵר מִשָּׂהוּ, מִעֲשֵׂה בִּי הוּא – אִם בְּתַחֲלֵת שָׁלֹשׁ אוֹ בְּסוֹף חֲמִשׁ, וְחָד מִיֵּנֵיהֶם קָטְעֵי שְׁתֵּי שָׁעוֹת חָסֵר מִשָּׂהוּ.

לְדַבְרֵי רַבִּי יְהוּדָה אָדָם טוֹעָה שְׁלֹשׁ שָׁעוֹת חָסֵר מִשָּׂהוּ, מִעֲשֵׂה בִּי הוּא – אוֹ בְּתַחֲלֵת שָׁלֹשׁ אוֹ בְּסוֹף חֲמִשׁ, וְחָד מִיֵּנֵיהֶם קָטְעֵי שְׁלֹשׁ שָׁעוֹת חָסֵר מִשָּׂהוּ.

תָּנַן: הָיוּ בּוֹדְקִין אוֹתוֹ בְּשִׁבְעַת חֲקִירוֹת: בְּאִיזוֹ שָׁבוּעַ, בְּאִיזוֹ שָׁנָה, בְּאִיזוֹ חֹדֶשׁ, בְּכַמָּה בְּחֹדֶשׁ, בְּאִיזוֹ יוֹם, בְּאִיזוֹ שָׁעָה, בְּאִיזוֹ מְקוֹם. (וְתַנְיָא) מַה בֵּין חֲקִירוֹת לְבִדְיוֹת? חֲקִירוֹת, אָמַר אֶחָד מֵהֶן אֵינִי יוֹדֵעַ – עֲדוּתָן בְּטִילָה. בְּדִיּוֹת, אָפִילוּ שְׁנֵיהֶם אוֹמְרִים אֵין אֲנִי יוֹדְעִים – עֲדוּתָן קַיָּמָה.

וְהָיוּנָ בָּהּ: מֵאִי שָׁנָא חֲקִירוֹת וּמֵאִי שָׁנָא בְּדִיּוֹת?

וְאָמְרִינָ: חֲקִירוֹת, אָמַר אֶחָד מֵהֶן אֵינִי יוֹדֵעַ עֲדוּתָן בְּטִילָה – דְּהוּאָ לָהּ עֲדוּת שְׂאִי אַתָּה יָכוֹל לְהַזְמִינָהּ.

Rather, Rava said: In fact, according to the statement of Rabbi Meir, a person errs by two hours less a bit; according to the statement of Rabbi Yehuda, a person errs by three hours less a bit. The Gemara elaborates: According to the statement of Rabbi Meir, a person errs by two hours less a bit. How so? When the incident occurred, it was either at the beginning of the second hour or at the end of the third hour and one of the witnesses erred by two hours less a bit, as that is a reasonable discrepancy.<sup>B</sup>

According to the statement of Rabbi Yehuda, a person errs by three hours less a bit. How so? When the incident occurred, it was either in the beginning of the third hour or at the end of the fifth hour, and one of them errs by three hours less a bit.<sup>B</sup> According to Rabbi Yehuda, that is a reasonable discrepancy.

We learned in a mishna: The judges of the court would examine witnesses with seven forms of interrogation:<sup>H</sup> In which seven-year Sabbatical cycle of the Jubilee did the incident occur, in which year of the seven-year Sabbatical cycle, in which month of that year, on which date of that month, on which day of the week, at which hour of the day, at which place did the incident occur? And it was taught in a *baraita*: What is the difference between interrogations and examinations? With regard to each of the forms of interrogation, if one of the witnesses said: I do not know, their testimony is void. However, with regard to examinations, even if they both say: We do not know, their testimony is valid.

The Gemara continues. And we discussed this *baraita*: In what way are interrogations different and in what way are examinations different?<sup>HN</sup> Why is the testimony of a person who cannot answer one of the interrogations void, but his testimony is valid if he cannot answer one of the examinations?

And we said in response: With regard to interrogations, if one of them says: I do not know, their testimony is void, as this is testimony that you cannot render as false, conspiring testimony. Witnesses are determined to be false, conspiring witnesses when other witnesses arrive in court and testify that the first pair of witnesses could not possibly have witnessed the incident in question, as they were at a different place at that time together with them. If a witness says he does not know when the incident occurred or where it occurred, it would be impossible to testify that he was elsewhere and render him a false, conspiring witness. The Torah disqualifies the testimony of a witness who cannot be rendered a false, conspiring witness.

**HALAKHA**

Forms of interrogation – חֲקִירוֹת: The court asks all witnesses the seven questions known as interrogations: In which seven-year Sabbatical cycle of the Jubilee did the incident occur? In which year of the seven-year Sabbatical cycle? In which month of that year? On which date of that month? On which day of the week? At which hour of the day? At which place did the incident occur? (Rambam *Sefer Shofetim*, *Hilkhot Edu* 1:4).

Interrogations and examinations – חֲקִירוֹת וּבְדִיּוֹת: With regard to the interrogation and basic scrutiny of witnesses, if one witness does not know the answer to even one of these questions, the testimony is void. However, with regard to examinations, even if neither witness is able to answer a particular question, their testimony is valid, provided they do not contradict each other (Rambam *Sefer Shofetim*, *Hilkhot Edu* 2:1).

**NOTES**

Interrogations and examinations – חֲקִירוֹת וּבְדִיּוֹת: The *Me'iri*, based on the Rambam, analyzes this issue at length, and explains that there are in fact three types of questions posed to witnesses. The first category consists of interrogations, inquiries with regard to when and where the incident occurred, i.e., the seven questions mentioned in the Gemara that are asked of every witness. The next group of questions concerns the details of the act with regard to which they are testifying, as well as questions about the perpetrator. These questions include: Do you know the parties involved, how did the accused perform the act, and similar questions. With regard

to this second category as well, if the witnesses answer that they do not know, their testimony is void. The third group of questions consists of specific examinations that clarify the details of the incident. These queries pertain to tangential issues and not to the act itself. Accordingly, the question of the weapon used in the murder falls into the second category. If the witnesses are unable to answer that question their testimony is void. However, an inquiry into the clothes the murderer was wearing falls into the third category, and the testimony is disqualified only if the witnesses contradict each other.

בדיקות – עדות שאֵתה יכול להזימה היא.

However, with regard to **examinations**, even if the witness cannot remember every detail, it remains **testimony that you can render as false, conspiring testimony**. Even without that detail, the second pair of witnesses can still testify that the first pair of witnesses was with them in a different place at that time.

ואי אִמְרַת טַעֵי אֵינִישׁ כּוֹלֵי הַאי – חִקְרוֹת דְּאִיּוֹ שְׁעָה נְמִי עֵדוֹת שְׂאִי אֵתָה יִכּוֹל לְהַזְיֵמָה הֵיא, דְּאִמְרֵי מְטַעֵי קְטַעֵנָן!

Based on the above, the Gemara returns to discuss the matter of discrepancies in the testimony of the witnesses with regard to the hour that the incident occurred. **And if you say that a person errs by that much**, e.g., several hours, with regard to the **interrogations of what time of day the incident occurred**, this is **also testimony that you cannot render as false, conspiring testimony**, for if other witnesses claim that they were elsewhere at that time, the witnesses can say: **We are mistaken**, and the incident did not actually occur at that time, but a few hours earlier or later. Consequently, it is impossible to prove that they are false, conspiring witnesses.

דִּיהִבְיֵנָּה לְהוּ כּוֹלֵי טַעוּתֵיהוּ. לְרַבִּי מֵאִיר יְהִבְיֵנָּה לְהוּ מִתְחִילַת שְׁעָה רֵאשׁוֹנָה עַד סוֹף חֲמִשׁ.

The Gemara explains that we give leeway to the first pair of witnesses for the **entire** duration of the potential margin of **their error**. In order to render them false, conspiring witnesses, the second pair of witnesses must testify that the first witnesses were with them for the entire period during which their testimony would be accepted, despite the discrepancy with regard to the hour in which it occurred. **According to Rabbi Meir, we give the witnesses who testified that the incident occurred at two or three hours of the day, from the beginning of the first hour until the end of the fifth hour**. If they testified that the incident occurred in the second hour or the third hour, the court must take into account a mistake of two hours in either direction.<sup>8</sup>

וּבְדִין הוּא דְנִתְיָב לְהוּ מִעִיקְרָא טַפִּי, אֶלָּא בֵּין יִמְמָא לְלֵילִיא לֹא טַעוּ אֵינִישׁ.

**And by right we should give them even more leeway at the beginning**. Since one errs by two hours less a bit, if the witnesses testified that the incident occurred at approximately two hours of the day, they might have erred by roughly two hours and the incident actually occurred before sunrise. **However, since between day and night people do not err**, and as the witnesses testify that the incident occurred during the second or third hour of the day, it could not have occurred before sunrise.

וּלְרַבִּי יְהוּדָה יְהִבְיֵנָּה לְהוּ מִתְחִילַת שְׁעָה רֵאשׁוֹנָה וְעַד סוֹף שְׁשִׁית. וּבְדִין הוּא דְנִתְיָב לְהוּ מִעִיקְרָא טַפִּי.

**And according to Rabbi Yehuda, we give the witnesses a margin of error from the beginning of the first hour until the end of the sixth hour**.<sup>8</sup> **And by right we should give them even more leeway at the beginning**, as according to his opinion one errs by three hours less a bit, and therefore the margin for error should be greater.

Perek I  
Daf 12 Amud b

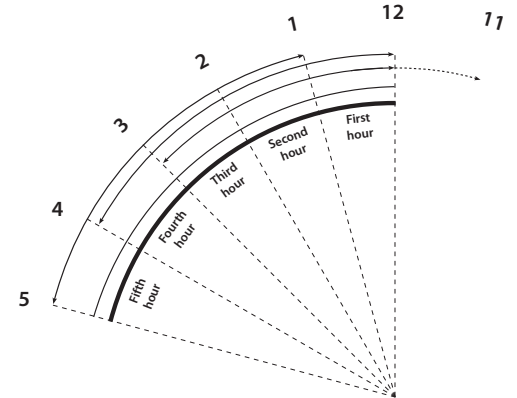
אֶלָּא בֵּין יִמְמָא לְלֵילִיא לֹא טַעוּ אֵינִישׁ. וּבְדִין הוּא דְנִתְיָב לְקַמְיָה טַפִּי, אֶלָּא שְׁבַחֲמֵשׁ חֲמָה בְּמִזְרַח וּבְשֶׁבַע חֲמָה בְּמַעֲרָב.

However, **between day and night people do not err**, and therefore there is no concern that they might have erred in this regard. **And similarly, by right we should give them even more leeway at the end of the period**. However, this too is not a reasonable discrepancy, as **at five hours of the day the sun is in the east and at seven hours the sun is in the west**. No one confuses the morning with the afternoon.

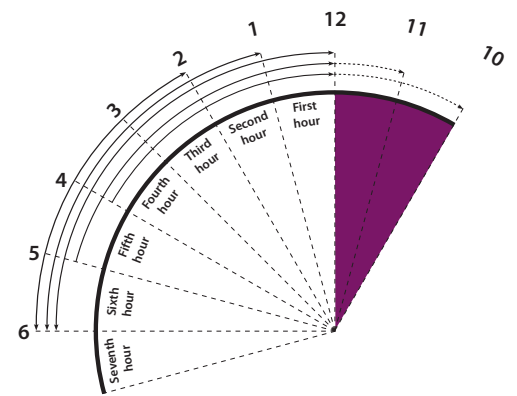
תַּנּוּ, רַבִּי מֵאִיר אָמַר: אוֹכְלִין כָּל חֲמֵשׁ וְשׁוֹרְפִין בְּתַחֲלִילַת שֵׁשׁ. רַבִּי יְהוּדָה אָמַר: אוֹכְלִין כָּל אַרְבַּע, וְתוֹלִין כָּל חֲמֵשׁ, וְשׁוֹרְפִין בְּתַחֲלִילַת שֵׁשׁ.

In light of the above conclusions, the Gemara returns to address the issue of leaven. **We learned in the mishna that Rabbi Meir says: One may eat leaven the entire fifth hour of the fourteenth of Nisan, and one must burn it immediately afterward at the beginning of the sixth hour**. **Rabbi Yehuda says: One may eat the entire fourth hour, and one places it in abeyance for the entire fifth hour, and one burns it at the beginning of the sixth hour**.

The opinion of Rabbi Meir – שִׁטַּת רַבִּי מֵאִיר – The acceptable margin of error according to the Gemara's final explanation of Rabbi Meir's opinion is marked here with arrows. If the incident occurred at the third hour of the day, it is possible that the witness erred by two hours in either direction, and his testimony is accepted if he said the incident occurred anytime between the first and fifth hours of the day. If the incident happened at the second hour, it is possible that he erred and said it occurred between the beginning of the day and the fourth hour. However, if the incident occurred at the end of the first hour, the witness has a margin of error of two hours after the incident but only one hour beforehand, as marked by the dotted line, as it is unreasonable that one would confuse day and night.



The opinion of Rabbi Yehuda – שִׁטַּת רַבִּי יְהוּדָה – According to the Gemara's final explanation of Rabbi Yehuda's opinion, the court grants a witness a margin of error of three hours in either direction, which would mean that with regard to an incident that occurred at the first hour of the day, testimony that occurred at the tenth hour of the night, i.e., two hours before sunrise, should be accepted. However, in practice that is not the case, as it is unreasonable that one would confuse day and night.



עדות מסורה – עדיה מְסוּרָה: Testimony is entrusted to the vigilant – עדיה מְסוּרָה: Not everyone testifies. One who knows that he will testify and be interrogated in court ensures that he is well aware of when the incident took place. In contrast, the prohibition against eating leaven applies to everyone, and most people are not sufficiently accurate in their assessment of time to be certain that they will remove the leaven at the appropriate hour.

The removal of leaven can be performed only by burning it – אין ביעור חמץ אלא שריפה: The early commentaries discuss at what stage Rabbi Yehuda insists that leaven must be removed by means of burning alone (see *Tosafot*). Some say that although Rabbi Yehuda maintains that it is always preferable to remove leaven by burning it, if the time for the leaven's removal is approaching and one is unable to burn it, he may eliminate it in any manner (*Me'ir*).

לְאָבֵי אֵלִיבָא דְרַבִּי מֵאִיר, דְּאָמַר: אֵין אָדָם טוֹעָה וְלֹא כְּלוּם – נִיבּוֹל עַד כּוֹלָה שְׂתִית! וְלֹהֲךְ לִישָׁנָא נְמִי דְּאָמַר: אָדָם טוֹעָה מְשָׁהוּ – נִיבּוֹל עַד סוּף שְׂתִית!

וְאָבֵי אֵלִיבָא דְרַבִּי יְהוּדָה, דְּאָמַר: אָדָם טוֹעָה חֲצֵי שָׁעָה – נִיבּוֹל עַד פְּלִגָּא דְשִׂית. וְלֹהֲךְ לִישָׁנָא נְמִי דְּאָמַר: אָדָם טוֹעָה שְׁעָה וּמְשָׁהוּ – נִיבּוֹל עַד סוּף חֲמִשָּׁה!

(אֵלָא) אָמַר אָבֵי: עֵדוּת – מְסוּרָה לְוִיזִים, חֲמִץ – לְבַל מְסוּרָה.

וְרַבָּא אֵלִיבָא דְרַבִּי מֵאִיר, דְּאָמַר: אָדָם טוֹעָה שְׁתֵּי שָׁעוֹת חָסֵר מְשָׁהוּ – מִתְחִילַת חֲמִשׁ לֹא נִיבּוֹל! חֲמִשׁ – חֲמִשָּׁה בְּמוֹרָחַ וְשָׁבַע – חֲמִשָּׁה בְּמַעֲרָב.

אֵי הָכִי, בְּשִׂית נְמִי נִיבּוֹל! אָמַר רַב אָדָא בַר אֲהֵבָה: שְׂתִית יוֹמָא בְּקֶרְנֵתָא קָאִי.

וְרַבָּא אֵלִיבָא דְרַבִּי יְהוּדָה, דְּאָמַר: אָדָם טוֹעָה שְׁלֹשׁ שָׁעוֹת חָסֵר מְשָׁהוּ, מִתְחִילַת אַרְבַּע לֹא נִיבּוֹל! חֲמִשׁ – חֲמִשָּׁה בְּמוֹרָחַ, וְשָׁבַע – חֲמִשָּׁה בְּמַעֲרָב, וְכָל שָׁבֹן אַרְבַּע. אֵי הָכִי, בְּחֲמִשׁ נְמִי נִיבּוֹל!

תְּרַגְמָה אָבֵי אֵלִיבָא דְרַבָּא: עֵדוּת מְסוּרָה לְוִיזִים, חֲמִץ לְבַל מְסוּרָה.

וְרַבָּא אָמַר: לֹא הֵינּוּ טַעְמָא דְרַבִּי יְהוּדָה, אֵלָא רַבִּי יְהוּדָה לְטַעְמֵיהוּ, דְּאָמַר: אֵין בִּיעוּר חֲמִץ אֵלָא שְׂרִיפָה, וְיִהְיֶה לִיָּה רַבְּנָן שְׁעָה אַחַת לְלִקוּט בְּהַ עֵצִים.

The Gemara raises a difficulty: **According to Abaye's explanation in accordance with the opinion of Rabbi Meir, that he said a person does not err about the time at all, let him eat leaven for the entire sixth hour,** as by Torah law it is permitted to eat until the end of the sixth hour, i.e., midday. The Sages issued a decree prohibiting the consumption of leaven from the beginning of the sixth hour, lest one unwittingly come to eat after midday. However, according to Rabbi Meir, people do not err in this regard at all and that concern is unfounded. **And according to that version of Rabbi Meir's opinion, that he said a person errs a bit, let him eat leaven until just before the end of the sixth hour.**

And according to Abaye's explanation in accordance with the opinion of Rabbi Yehuda, that he said: **A person errs by half an hour; let him eat leaven until the midpoint of the sixth hour. And even according to the version of Rabbi Yehuda's opinion, that he said: A person errs by an hour plus a bit; let him eat leaven until just before the end of the fifth hour.** From the fact that this is not the ruling of these Sages, apparently Abaye's assessment of the amount of time that a person errs is incorrect.

Rather, Abaye said: There is a difference between the issues of testimony and leaven, as **testimony is entrusted to the vigilant.**<sup>N</sup> One comes to testify only if he thoroughly scrutinized the subject of his testimony. Therefore, he will not err significantly with regard to the time in question. However, the prohibition against eating leavened bread is a *halakha entrusted to all*, and not everyone is able to correctly determine the time. Consequently, Rabbi Meir and Rabbi Yehuda both extend the margin for error, so that people will not unwittingly eat leaven after the time that it is prohibited to do so.

The Gemara raises another difficulty: **And according to Rava's explanation in accordance with the opinion of Rabbi Meir, that he said: A person errs by two hours less a bit; from the beginning of the fifth hour let one no longer eat leaven.** After all, one could confuse the fifth hour with the seventh hour, when it is prohibited to eat leaven by Torah law. The Gemara answers: Since at **five hours the sun is in the east and at seven hours the sun is in the west**, no one confuses morning with afternoon.

The Gemara raises a difficulty: **If so, during the sixth hour let him eat leaven as well,** as one distinguishes between the sixth hour and the seventh hour since the sun tends westward only during the seventh hour. Rav Adda bar Ahava said: In the sixth hour, **the day**, i.e., the sun, stands at the meridian, equidistant between east and west, and it is unclear toward which direction it tends. Therefore, confusion between the sixth and seventh hours is possible.

The Gemara asks: **And according to Rava's explanation in accordance with the opinion of Rabbi Yehuda, that he said: A person errs by three hours less a bit; from the beginning of the fourth hour let one no longer eat leaven.** The Gemara answers: If, since at **five hours the sun is in the east and at seven hours the sun is in the west**, one does not confuse the morning with the evening, **and all the more so** one will not confuse seven hours of the day with **four hours** of the day, when the sun is further east. The Gemara raises a difficulty: **If so**, i.e., there is no concern lest one confuse morning and afternoon, **during the fifth hour let him eat leaven as well.**

Abaye interpreted it in accordance with the opinion of Rava: **Testimony is entrusted to the vigilant**, and therefore a witness is less likely to err, whereas the prohibition against eating leavened bread is **entrusted to all**. Since a common person is more likely to err, the Sages were more stringent with regard to leaven than with regard to testimony.

And Rava said: **That is not the reason** for the added hour in the opinion of Rabbi Yehuda, as he is not concerned lest people err. **Rather, Rabbi Yehuda conforms to his standard line of reasoning, as he said: The removal of leaven can be performed only by burning it,**<sup>N</sup> and therefore by prohibiting the consumption of leaven, **the Sages provided him with one hour during which to gather wood to burn the leaven.**

**A decree due to a cloudy day – יום גזירה משום יום** – **המעונן**: One may not eat leaven during the fifth hour on Passover eve, lest people come to confuse the fifth and sixth hours on a cloudy day. However, this decree applies only to eating, not to the prohibition against deriving benefit from leaven at that time, in accordance with Rava's explanation of the opinion of Rabbi Yehuda (Rambam *Sefer Zemanim, Hilkhot Hametz UMatza* 1:9).

**Mealtime – זמן סעודה**: The healthy mealtime for an ordinary person is the fourth hour after sunrise (*Shulhan Arukh, Orah Hayyim* 157).

BACKGROUND

**Mealtimes – זמני סעודה**: To understand the context of this discussion, one must be aware that people typically ate two meals each day, a larger meal in the morning and a smaller one in the evening, just before sunset. Naturally, people sometimes ate between meals, but on weekdays people would not eat additional meals. On Shabbat they would eat three meals, as required by *halakha*. Since workers would begin working very early in the morning, at sunrise or even before, they would eat their meals at or around the middle of the workday. However, people who were not day laborers might eat their meal at an earlier time.

**Ludim – לודים**: Some explain that these were gladiators who fought in Roman amphitheatres and ate very early, before they entered into their regimen of intense training, which lasted for many hours. Even on days when they would fight they would eat early because they wished to enjoy life as much as possible before they died during these encounters, as most fights were to the death.

LANGUAGE

**Cannibals [Ludim] – לודים**: Some explain that the *Ludim* are a people indigenous to a land in Asia Minor called Ludiya, whose residents were both ravenous and pampered. However, other sources indicate that the word *Ludim* is from the Latin *luderi*, to play, and *ludi*, the games. Apparently it refers to gladiators who fought each other as well as wild animals in the Roman circus. Because of their need for frequent training and their desire to enjoy life until their inevitable demise in the arena, they would eat early and ravenously.

**Robbers [Ilistin] – ליסטינין**: From the Greek *λησστής, lestēs*, meaning thief or bandit.

איתביה רבינא לרבא, אמר רבי יהודה: אימתי – שלא בשעת ביעורו, אבל בשעת ביעורו – השבתתו בכל דבר!

אלא אמר רבא: גזירה משום יום המעונן. אי הכי, אמילו בארבע שעות נמי לא נכול! אמר רב פפא: ארבע זמן סעודה לכל היא.

תנו רבנן: שעה ראשונה – מאכל לודים, שניה – מאכל ליסטינין, שלישית – מאכל יורשין, רביעית – מאכל פועלון, חמישית – מאכל תלמידי חכמים, ששית – מאכל כל אדם.

והאמר רב פפא: רביעית זמן סעודה לכל היא! אלא איפוך: רביעית – מאכל כל אדם, חמישית – מאכל פועלים, ששית – מאכל תלמידי חכמים.

מכאן ואילך – כוורק אבן לחמת. אמר אבוי: לא אמרן אלא דלא טעים מידי בצפרא. אבל טעים מידי בצפרא – לית לן בה.

אמר רב אשי: במחלוקת בעדות כן מחלוקת בחמץ. פשיטא, היינו הך דאמרין! הא קא משמע לן: שינויי דשנינן – שינוינא הוא, ולא תימא תנאי היא.

Ravina raised an objection to the opinion of Rava from a *baraita*. Rabbi Yehuda said: When is it that the elimination of leaven can be performed only by burning it? It is only when one removes the leaven not at the time designated for its removal. Then, one should seek out the preferred method of removal and implement it in the ideal manner. However, when one removes the leaven at the time designated for its removal, at the end of the sixth hour when he must remove the leaven immediately, the removal of leaven may be performed in any manner, and one need not seek wood for burning. Why, then, was it necessary for the Sages to provide him with an hour to gather wood?

Rather, Rava reconsidered the previous explanation and said: It is a rabbinic decree due to a cloudy day,<sup>HN</sup> when one is unable to observe the precise position of the sun, increasing the likelihood of confusion. The Gemara raises a difficulty: If so, then even at fourth hour let one no longer eat leaven, as according to Rabbi Yehuda a person errs by three hours less a bit. Rav Pappa said: The fourth hour is mealtime for everyone,<sup>N</sup> and therefore everyone is aware of that hour and will not confuse it with another.

In light of Rav Pappa's statement, the Gemara discusses the topic of mealtimes.<sup>B</sup> The Sages taught in a *baraita*: Eating in the first hour of the morning is the time of eating for *Ludim*,<sup>BL</sup> who are members of a nation of cannibals, and they are ravenous and in a hurry to eat. The second hour is the time of eating for robbers [*Ilistin*].<sup>L</sup> Since they spend the night stealing, they eat early in the morning. The third hour is the time of eating for heirs, i.e., people who inherited a lot of money and do not work for their sustenance. Their only preoccupation in the early hours of the morning is eating. The fourth hour is the time of eating for workers. The fifth hour is the time of eating for Torah scholars. The sixth hour is the time of eating for all people.

The Gemara raises a difficulty: But didn't Rav Pappa say that the fourth hour is the time of eating for all? Rather, reverse the fourth, fifth, and sixth hours: The fourth hour is mealtime<sup>H</sup> for all people, the fifth hour is the time of eating for workers, and the sixth hour is the time of eating for Torah scholars.<sup>N</sup>

One who eats from this point forward does not benefit from eating, as he is like one who throws a stone into a leather bottle,<sup>N</sup> i.e., it does not contribute to his health. Abaye said: We only said that eating from the sixth hour onward is not beneficial, when he did not taste anything in the morning; however, if he tasted something in the morning we have no problem with it.

Rav Ashi said: Like the dispute between Rabbi Meir and Rabbi Yehuda with regard to testimony, so too is their dispute with regard to leavened bread. The Gemara comments: This is obvious, as this is precisely that which we said. The Gemara explains: Rav Ashi comes to teach us that the answers that we answered, distinguishing between the cases of testimony and leaven, are legitimate answers.<sup>N</sup> And do not say that the different rulings in the two cases reflect a dispute between *tanna'im* with regard to the opinions of Rabbi Meir and Rabbi Yehuda and the answers are merely forced attempts to resolve the contradiction but not legitimate answers.

NOTES

A cloudy day – יום המעונן: Clouds obscure the position of the sun in the sky, rendering the sundials in use at that time ineffective.

Mealtime for everyone – זמן סעודה לכל: Some commentaries explain that as everyone eats at the fourth hour throughout the year, one will feel hunger pangs when that time arrives. That will alert them that the fourth hour has arrived (Rabbeinu Yehonatan).

The time of eating for Torah scholars – מאכל תלמידי חכמים: Since they are engaged in Torah they are in no rush to eat and they would therefore take their meals later than everyone else.

Like one who throws a stone into a leather bottle – כוורק אבן לחמת: Rashi provides two explanations of this statement. One sug-

gestion is that someone who throws a stone into a bottle damages the bottle, and similarly, one who eats after this time harms himself. Alternatively, throwing a stone achieves nothing, as the bottle is filled with water, and the stone will therefore have no impact on it.

The answers that we answered are legitimate answers – שינויי דשנינן שינוינא הוא: The status of many answers of the Gemara is often left unclear. Since the Gemara does not entirely accept or reject a position without incontrovertible proof, many weak answers are cited only to negate a proof, even though these answers are not ultimately accepted. Consequently, in certain situations the Sages found it necessary to note that a certain answer was well founded, various difficulties notwithstanding.

Before sunrise...during sunrise – בתוך הנץ...קודם הנץ: With regard to two witnesses who testify about an incident, and one of them says it occurred before sunrise while the other says it took place during sunrise, their testimony is rejected. This is because the difference between their statements cannot be attributed to error, and therefore their accounts are considered contradictory testimonies (Rambam *Sefer Shofetim*, *Hilkhot Edu* 2:5).

אמר רב שימי בר אשי: לא שנו אלא בשעות, אבל אחד אומר קודם הנץ החמה, ואחד אומר אחר הנץ החמה – עדותן בטילה. פשיטא!

Rav Shimi bar Ashi said: They taught that the court does not reject testimony due to a discrepancy over time **only with regard to testimony ascribed to different hours of the day. However, if one witness says that the incident occurred before sunrise and the other one says it occurred after sunrise, their testimony is void.** The Gemara asks: It is obvious that this is the case, as a blatant contradiction of this kind could not possibly be the result of miscalculation.

אלא: אחד אומר קודם הנץ החמה, ואחד אומר בתוך הנץ החמה – עדותן בטילה. הא נמי פשיטא! מהו דתימא: תרוייהו חדא מילתא קאמרי, והא דקאמר

Rather, emend the previous statement: If **one witness says the incident occurred before sunrise and one says it occurred during sunrise,**<sup>h</sup> **their testimony is void.** The Gemara asks: **That too is obvious,** as the difference between those times is similarly conspicuous. The Gemara answers: It is necessary to teach this *halakha*, lest you say that **both of the witnesses are saying one matter, and the fact that one witness says**

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NOTES

Rabban Gamliel is not a decisor – רבן גמליאל לאו מבריע – **הוא:** These two principles, that the *halakha* is in accordance with the opinion of the decisor, and the counterclaim that this is not a compromise opinion, are expressions of the same basic concept. When two Sages disagree with regard to the details of an issue and a third Sage agrees with one of them with regard to certain details and with the other with regard to other details, this third opinion is that of the decisor. The reason is that there is a majority with regard to certain details in accordance with the first opinion, and a different majority with regard to the other details in accordance with the second opinion. However, this principle applies only if the opinion of the third Sage actually addresses details of the first two rulings. When the third Sage expresses an independent opinion, not dependent on the previous dispute, it is merely considered to be a third opinion, even if the actual ruling is an intermediate opinion.

בתוך הנץ החמה – בגילויי אור קאי, וזהו רורי בעלמא הוא דחזא, קא משמע לן.

that the incident occurred **during sunrise** is because **he was standing out in the open and they were mere rays of light that he saw which he mistook for sunrise.** In actuality, he too is testifying to an incident that occurred before sunrise, and the testimony of the two witnesses is therefore compatible testimony. Rav Shimi bar Ashi therefore **teaches us** that there is no concern that it transpired in that manner.

אמר רב נחמן אמר רב: הלכה כרבי יהודה. אמר רבא ליה רבא לרב נחמן: ונימא מר הלכה כרבי מאיר, דסתם לן תנא בזההיא!

Rav Nahman said that Rav said: **The halakha is in accordance with the opinion of Rabbi Yehuda.** Rava said to Rav Nahman: **And let the Master say that the halakha is in accordance with the opinion of Rabbi Meir, who maintains that one may eat during the entire fifth hour, as the tanna taught an unattributed mishna in accordance with his opinion,** indicating that this is the *halakha*.

דתנן: כל שעה שמותר לאכול – מאכיל.

As we learned in a mishna: For the **entire time that one is permitted to eat** leaven himself, **he feeds it to his animal.** It can be inferred from this mishna that there is no intermediate period when it is prohibited for a person to eat leaven but he may feed it to his animal. This unattributed mishna must be in accordance with the opinion of Rabbi Meir, as Rabbi Yehuda maintains that during the fifth hour it is prohibited to eat leaven but one may feed it to an animal.

ההיא לאו סתמא הוא, משום דקשיא "מותר".

The Gemara rejects this contention: **That mishna is not classified as unattributed,** as it is in accordance with the opinion of Rabban Gamliel, **due to the fact that had the mishna been in accordance with the opinion of Rabbi Meir, the term: Permitted, is difficult.** Instead, the mishna should have been formulated: When one eats he may feed.

ונימא מר הלכה כרבן גמליאל, דהוה ליה מבריע! אמר ליה: רבן גמליאל לאו מבריע הוא, טעם דנפשיה קאמר.

Rava raised an additional difficulty to Rav Nahman: **And let the Master say that the halakha is in accordance with the opinion of Rabban Gamliel, as he is the decisor in this dispute, and there is a general principle that the halakha is always in accordance with the decisor who states an opinion that compromises between two opinions cited previously. He said to him: Rabban Gamliel is not a decisor;**<sup>n</sup> **he is stating a reason of his own.** Rabbi Yehuda and Rabbi Meir disagree with regard to consumption of any type of leaven; they do not distinguish between *teruma* and non-sacred food. Since Rabban Gamliel distinguishes between the time one must desist from eating *teruma* and the latest time that one may eat non-sacred food, his is evidently an unrelated opinion that is in no way a compromise between the other two rulings.