

The Weekly Daf



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Niddah 46-52

Week of 29 Av-5 Elul 5757 / September 1-7 1997
Rav Weinbach's insights, explanations and comments for the 7 pages of Talmud
studied in the course of the worldwide Daf Yomi cycle

Her Honor, the Judge

Is a woman eligible to serve as a judge in a *beis din* (religious court)?

The Mishna seems to rule this out with its statement that "anyone who is eligible to serve as a judge is eligible to serve as a witness." Since a woman is ineligible to testify as a witness we can assume that she is also ineligible to serve as a judge.

Tosefos raises a challenge to this disqualification from the case of the Prophetess Devorah, about whom it is written that "she judged Israel at that time" (*Shoftim* 4:4). One of the resolutions offered by Tosefos is that she did not actually judge the people but rather taught them the law. The other resolution is that she judged on the basis of the Divine guidance she received in her capacity as prophetess.

This terse explanation that Devorah used prophecy to decide matters of laws seems to run counter to the principle of "It (the Torah) is not in heaven" (*Devarim* 30:12) which is understood by our Sages (*Bava Metzia* 59b) to mean that once the Torah was given from heaven at Sinai we are guided only by our interpretations and not by any heavenly intervention in the form of prophecies or voices.

Although Tosefos is vague here, he is more explicit in *Bava Kama* 15a where he writes that "perhaps the litigants voluntarily accepted her as a judge because of her contact with the Divine Presence." This is obviously a reference to the rule stated in *Sanhedrin* 24a that if litigants voluntarily agree to abide by the judgment of a relative or anyone else unqualified to be a judge then they must abide by his judgment. Although Devorah, was not eligible to be a judge who could impose her authority upon any litigant, she was certainly able to judge a case in which both litigants had voluntarily agreed to abide by her decision.

Niddah 49b

Fishy Features

A fish is considered kosher for eating, says the Torah (*Vayikra* 11:9), if it has fins and scales. This is explained by our Sages as a requirement for both fins *and* scales, not fins *or* scales.

Tosefos raises the problem that wherever the Torah connects two items with the prefix of the letter "vav" we can interpret it as meaning either "or" or meaning "and" unless the Torah specifies that it is "and" the way it does by the ban on plowing with a team made up of an ox and a donkey pulling *together*. Since there is no such explicit mention in the Torah that a fish must have both fins and scales in order to be kosher, why can't we assume that fins alone or scales alone are sufficient? (While it is true that if we see scales alone on a fish it is kosher, this is only because it is an ichthyological rule that every fish which has scales also has fins.)

The resolution proposed by Tosefos is that we draw a parallel between the *simanim* features which determine the kosher status of animals and those which determine the status of fish. The Torah names two features — chewing of the cud and split hooves — of a kosher animal and then goes on to specifically ban the pig and the camel for possessing only one of them. This is a clear signal to us that when the Torah requires two *simanim* in regard to *kashrus* it insists on both of them. We may therefore extend this rule to fish and conclude that both fins and scales are required.

Niddah 51b

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