



## A Child Testifying for Kiddush HaChodesh

This week we started *Rosh Hashanah*. Much of the *masechet* deals with *kiddush ha'chodesh*. A Jewish month is either twenty-nine or thirty days. We learn that *Rosh Chodesh* – the beginning of the month – is declared based on witness testimony regarding sighting the new moon. We learn that many of the criteria of witnesses in other legal contexts also applies to the witnesses for *kiddush ha'chodesh*. A child, for example, cannot serve as a witness. The *Minchat Chinnuch* however raises a question regarding minors that were born on *Rosh Chodesh Nissan*. These children saw the new moon on the night of thirtieth of *Adar* and approach *Beit Din* the next morning. The *Minchat Chinnuch* asks whether *Beit Din* must accept their testimony. If they do, then the boys were already *bar mitzvah* and the testimony is valid. On the other hand, at the moment, until *Beit Din* declare that the day is *Rosh Chodesh*, they are still minors and unable to present witness testimony. What is the law?

The *Minchat Chinnuch* connects this question to another that provides us with a cross-over to *Daf Yomi*. One of the requirements for witnesses to be valid is that the witness must have the capacity to be found *zomemin* (loosely translated as false witnesses) – *edut she'yacholim le'hazima*. In other words, the nature of the testimony must be such that other witnesses can declare that the first set was with them at the time they claim to have witnessed the event and thereby liable to receive the reciprocal punishment. The question posed is does this requirement also apply to witnesses for *Kiddush ha'chodesh*?

The *Minchat Chinnuch* explains that it depends on two different answers on the *Tosfot*. The *Tosfot* asks how one can accept testimony for a pair who testify that a *kohen* is a *ben gerusha* (son of a divorcee)? This appears to be a case that is not *yacholim le'hazima* since, if the witnesses were found to be *zomemin*, they would not receive the reciprocal punishment, but instead receive lashes? The *Tosfot* first

answers that, the punish of lashes qualifies as *yacholim le'hazima*. For *Kiddush ha'chodesh*, the *Minchat Chinnuch* concludes, that one would expect that *eidim zomemin* would also receive lashes. Consequently, the requirement of *edut she'yecholim le'hazima* would also apply.

The *Tosfot's* second answer however is that whenever a reciprocal punishment is not relevant then there is no longer a requirement of *edut she'yecholim le'hazima*. The being the case, with respect to *edut ha'chodesh*, this would mean that there is no requirement of *edut she'yecholim le'hazima*. How does this relate to our issue?

The *Minchat Chinnuch* explains that according to understanding that there is such a requirement, and the punishment of lashes qualifies for *edut she'yecholim le'hazima*, then the young men could no present as valid witnesses. Even if we accept that they would be considered as adults once the testimony was accepted, such a testimony would not meet the requirement of *edut she'yochlim le'hazima*. That is because, if they were found to be *eidim zomemin*, this would mean that they were indeed minors when they provided the testimony and we would not be able to punish them with lashes.

According to the second understanding that the requirement of *edut she'yecholim le'hazima* does not apply, can we accept the witness testimony of these (potentially) young men? The *Minchat Chinnuch* explains that the *Beit Din* are not obligated to accept their testimony (as with other witnesses), because at the moment they are minors. Nevertheless, if they want to they can. This is because once they accept the testimony and declare the day as *Rosh Chodesh*, they will retroactively be considered adults at the time they witnessed the new moon and presented their testimony to *Beit Din*.<sup>1</sup>

*Yisrael Bankier*

<sup>1</sup> The *Zichron Shmuel* cites the *Rambam* (*Kiddush HaChodesh* 2:2) who maintains that *derisha ve'chakira* and by extension *edut she'yecholim le'hazima* is not required for *edut ha'chodesh*. The *Zichron Moshe* uses this fact to answer how we can accept testimony from witness that arrive on *Shabbat*. It would appear that

this is not *edut she'yecholim le'hazima*. This is because if they are found to be false, then they would have violated prohibitions of *Shabbat* and thereby considered invalid witnesses from the outset. Since however, *edut she'yecholim le'hazima* is not a requirement for *Kiddush ha'chodesh*, there is no problem.

**Revision Questions**

ביצה ה' ה' - ז'

- How does one determine the how far an object can be carried (with respect to the laws of *techumin*, 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' ה')
- 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' - ב' ב'

- What are the four *Roshei Shanim*? (א' א')
- When are the four times in the year when the world is judged? (ב' ב')
- How many times each year are the messengers sent to inform about *Rosh Chodesh* and why are they sent each of those times? (ג' א')
- 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? (ד' א')
- What condition does *R' Yosi* place on the law described in the previous question? (ה' א')
- How did *Rabban Gamliel* respond when *R' Akiva* prevented an excessive number of witnesses from going to *Yerushalaim* on *Shabbat*? (ו' א')
- If a father and son saw the new moon, should they go to *Yerushalaim* to testify? (ז' א')
- Explain the discussion of which witnesses should be selected if a man and his son and a servant saw the new moon. (ח' א')
- Which five people are invalid witnesses due to their profession? (ט' א')
- What is the source for witnesses being able to desecrate *Shabbat* in order to provide their testimony? (י' א')
- How would they verify the trustworthiness of the witnesses? (יא' ב')
- Why was this verification necessary? (יב' א')
- Initially, how did the *Beit Din* inform everyone of *Rosh Chodesh*? (יג' ב' - ג')
- Why was this system changed and with what was it replaced? (יד' ב')

**Melbourne, Australia**

**Sunday -Thursday**  
10 minutes before *Mincha*  
Mizrachi Shul  
Melbourne, Australia

**Friday & Shabbat**  
10 minutes before *Mincha*  
Mizrachi Shul  
Melbourne, Australia

**Efrat, Israel**  
*Shiur in English*

**Sunday -Thursday**  
Rabbi Mordechai Scharf  
9:00am  
Kollel Magen Avraham  
Reemon Neighbourhood

**ONLINE SHIURIM**

*Yisrael Bankier*  
[mishnahyomit.com/shiurim](http://mishnahyomit.com/shiurim)

*Rabbi Chaim Brown*  
[www.shemayisrael.com/mishna/](http://www.shemayisrael.com/mishna/)

*Rabbi E. Kornfeld*  
*Rabbi C. Brown*  
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

**SHIUR ON KOL HALOSHON**

*Rabbi Moshe Meir Weiss*  
In US dial: 718 906 6400  
Then select: 1 – 2 – 4

**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
19 November א' כסלו	20 November ב' כסלו	21 November ג' כסלו	22 November ד' כסלו	23 November ה' כסלו	24 November ו' כסלו	25 November ז' כסלו
Rosh Hashanah 2:3-4	Rosh Hashanah 2:5-6	Rosh Hashanah 2:7-8	Rosh Hashanah 3:1-2	Rosh Hashanah 3:3-4	Rosh Hashanah 3:5-6	Rosh Hashanah 3:7-8

