



Overriding Shabbat for Kiddush HaChodesh

The *Mishnah* (1:4) teaches that during the times of the *Beit HaMikdash* witnesses of the new moon were allowed to travel to *Yerushalaim* on *Shabbat*, even though it could mean them violating *Shabbat* by walking beyond the *techum*. Later we learn that the license to override *Shabbat* for providing testimony is expanded in scope. Transportation (a donkey) can be provided for a witness that is unfit to make the journey. Similarly those travelling can carry weapons if the passage is dangerous (1:9). Others that can testify about the credibility of the witness can even join him on his journey if necessary (2:1).

The *Mishnah* (1:9) explains that the reason that the witnesses are able to override *Shabbat* is because the *pasuk* states: "These are the appointed festivals of *Hashem*, the holy convocations, which you shall designate in their appropriate time."

The *Tosfot Yom Tov* notes that when the *Mishnah* teaches that a donkey may be used to transport a witness who is unable to walk the distance, it uses the singular tense. Recall that two witnesses are required to provide testimony for *kiddush ha'chodesh*. We find that an individual witness is allowed to violate *Shabbat* in case another witness will also avail himself in *Yerushalaim* with whom he can pair. Whether this actually occurs is not a certainty and it is possible that this individual witness will have violated *Shabbat* for nothing.

Indeed the *Tosfot Yom Tov* cites the *Mefaresh* in *Hilchot Kidush HaChodesh* who finds it difficult that a single witness may be allowed to violate *Shabbat* in the case of a doubt. We learnt in *masechet Shabbat* that if a baby is born during *bein hashmashot* on *erev Shabbat* that his *brit millah* will be the Sunday of the week that follows. A *brit millah* can only occur on *Shabbat* if it occurs on the eighth day (meaning the baby was born on *Shabbat*). In this case, since

there is a doubt whether the baby was born on *Shabbat*, one is not allowed to violate *Shabbat* and the *brit millah* is delayed an extra day. We find therefore a case where *Shabbat* is not overridden in a case of doubt, so why or how can *kiddush ha'chodesh* be different?

Citing the *Ramai*, the *Tosfot Yom Tov* explains that *kiddush ha'chodesh* is different to *brit millah*. A proof can be found in that *machshirei millah* (those things that facilitate a *brit millah*, e.g. sharpening the knife) do not override *Shabbat* while for *kiddush ha'chodesh* the *machshirin* (e.g. taking food for the journey) do. The *Tosfot Yom Tov* adds that there is good reason for greater leniency shown toward *kiddush ha'chodesh* for it is a *mitzvah* that applies to the entire nation as a whole (*rabbim*), where as *brit millah* applies to the individual and can be fulfilled the next day.

The *Tifferet Yisrael* finds this answer difficult. Granted that this is positive *mitzvah* that applies to the *rabbim* and it is true that such a *mitzvah* can override a positive biblical *mitzvah*. Nevertheless it cannot override a negative biblical prohibition, especially one that is punishable with *karet* (*Yevamot* 4a). Furthermore the desecration of *Shabbat* and *Yom Tov* involves both a positive and negative biblical commandment, which a positive biblical commandment cannot override (*Pesachim* 4a).

The *Tifferet Yisrael* therefore presents a different solution. The very fact that the *Torah* teaches that the witnesses may override *Shabbat*, reveals that for *kiddush ha'chodesh*, *chillul Shabbat* is permitted even in the case of doubt. This is because were it not the case, then practically there would never be a case of witnesses violating *Shabbat* for there is always a doubt that they might not be needed with the availability of other witnesses.

Yisrael Yitzchak Bankier

Revision Questions

ראש השנה א': ד' ב' ח'

- 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 a 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')
- How would they verify the trustworthiness of the witnesses? (א': ב')
- Why was this verification necessary? (א': ב')
- Initially, how did the *Beit Din* inform everyone of *Rosh Chodesh*? (א': ב' ג')
- Why was this system changed and with what was it replaced? (א': ב')
- What were the contents of the *masu'ot*? (א': ג')
- How many mountaintops were involved in the *masu'ot*? (א': ד')
- What was the name of the courtyard in *Yerushalaim* where all the witness of the new moon would gather? (א': ה')
- What decree did *Rabban Gamliel* institute for the benefit of those witnesses? (א': ה')
- How would they interrogate the witnesses? (א': ו')
- What were the four questions that they were asked? (א': ו')
- After two witness testimonies were confirmed, why would they interrogate more witnesses? (א': ו')
- Explain the debate regarding when the *Beit Din* would not declare “mekudash” for a new month. (א': ז')
- What innovation did *Rabban Gamliel* employ to assist in interrogating the witnesses? (א': ח')
- What were the two cases of apparent “*edut sheker*” that *Rabban Gamliel* accepted? (א': ב')

Local Shiurim

Melbourne, Australia

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

Friday & Shabbat
10 minutes before *Mincha*
Beit Ha'Roeh
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Efrat, Israel
Shiur in English

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

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

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

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
26 th February ג' אדר	27 th February ד' אדר	28 th February ה' אדר	29 th February ו' שבט	1 st March ז' שבט	2 nd March ח' אדר	3 rd March ט' אדר
Rosh Hashanah	Rosh Hashanah	Rosh Hashanah	Rosh Hashanah	Rosh Hashanah	Rosh Hashanah	Rosh Hashanah

