

The Weekly Daf



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Rav Weinbach's insights, explanations and comments for the 7 pages of Talmud studied in the course of the worldwide Daf Yomi cycle

Sanhedrin 37-43

What's Wrong With Circumstantial Evidence?

"Villain," said Rabbi Shimon ben Shetach to the man holding a sword from which blood dripped while on the floor of the deserted house another man gasped his final breath. "Only one of us could possibly be the murderer. But I have no authority to convict you (even though there was a second witness to this scene) since the Torah insists on witnesses seeing the actual crime as a basis for inflicting the death penalty. Nevertheless, the Omniscient One will certainly see that justice is done to one who takes the life of another."

This scene began when the sage saw the sword wielding pursuer chasing his intended victim into the house and ended with a serpent biting the pursuer and bringing about the divine justice foreseen by Rabbi Shimon.

In his Sefer Hamitzvos, Maimonides explains that the Torah rules out circumstantial evidence as a basis for conviction in capital crimes because it is too subjective and if one man can be put to death because of powerful evidence another may be executed on the basis of inconclusive evidence. The Torah therefore drew a sharp line by insisting on the objective standard of two witnesses testifying to what they actually saw. Even if such a standard may sometimes allow a guilty man to go free it is preferable to taking the life of an innocent one.

Sanhedrin 37b

Environmental Boomerang

Here is how Hashem explains why he chose Ovadia to prophesize regarding the nation of Edom which was descended from Eisav:

"Let Ovadia, who lived in the company of two sinners – King Achav and Izevel – and was not corrupted by their evil come and prophesize regarding the wicked Eisav who lived in the company of two righteous people – Yitzchak and Rivkah – and did not learn from their good deeds."

In his "Michtav Me'Eliyahu", Rav A.E. Dessler zt"l cites this as a classic example of how environment can sometimes have a boomerang effect. If one is strong in his righteousness as was Ovadia the exposure to evil people will only increase his contempt for evil, while if one is as corrupt as Eisav his contempt for virtue will only increase from his exposure to virtuous people.

Sanhedrin 39b

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