

TESTIMONY - EDUS

by Rabbi Dr. Azriel Rosenfeld

80.

Witnesses are commanded to testify in court, as it says "And if he is a witness or saw or knew, if he does not tell he bears his sin".¹ It is forbidden to give false testimony or testimony based on hearsay, as it says "You shall not answer against your friend as a false witness".² If it is proved that witnesses gave false testimony we are commanded to give them the same punishment that the defendant would have received on the basis of their testimony, as it says "If a wicked witness stands up against a man... the judges shall investigate thoroughly, and [if they find that] the witness is a false witness... you shall do to him as he plotted to do to his brother".³ Judges are commanded to question witnesses carefully, as it says "And you shall inquire and investigate and ask thoroughly".⁴ Once testimony has been given in court or put in writing it cannot be retracted.^a

It is forbidden to base a verdict on the testimony of a single witness, as it says "A single witness shall not rise up against a man for any transgression or sin... [a matter shall stand on the basis of two or three witnesses]".⁵ However, the presence of a single witness can compel a defendant to take an oath; and rabbinically a single witness suffices to establish that a man has died so that his wife may remarry. A single witness is also believed regarding [matters that do not require a court decision] unless there are grounds to doubt him. A witness who testifies in a capital case is forbidden to discuss the case in court, as it says "And one witness shall not answer against a person who is to die"⁶; and even in a civil case a witness is not allowed to serve as a judge except in a matter of rabbinical law.^b

Testimony cannot be accepted from women, children, or persons who are blind or not in full possession of their mental faculties; from sinners [as it says "You shall not set your hand with an evil man to be a wicked witness"⁷]; from ignoramuses unless they are known to be righteous; from relatives [as it says "Fathers shall not die because of sons"⁸]; or from persons who could derive benefit from the verdict. (All such persons are also disqualified from being judges. A proselyte, an old man, a eunuch, a person blind in one eye, a bastard, and a friend or enemy of the defendant are

also disqualified from being judges in capital cases.) Testimony must be given orally; but in purely monetary matters (not involving fines) written testimony can be accepted.^c

Sources:

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| 1. Lev. 5:1 | a. 1:1,4; 3:5-6; 17:1; 18:1 |
| 2. Ex. 20:16; Deut. 5:17 | b. 5:1-2,8-9; 11:7 |
| 3. Deut. 19:16-19 | c. 3:4; 9:1; 10:1; 11:1-2; 13:1; 15:1; 16:6 |
| 4. Deut. 13:14 | |
| 5. Deut. 19:15 | |
| 6. Num. 35:30 | |
| 7. Ex. 23:1 | |
| 8. Deut. 24:16 | |
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