

Daf Digest

„אֶסְפֶּה-לִּי שְׁבָעִים אִישׁ מִזִּקְנֵי יִשְׂרָאֵל”

“Gather 70 men for me from the elders of Israel.” (Numbers 11:16)

With Moses over them, this totals 71.

Sanhedrin 2a3 line 31 A37  
Weinbach p560

וּמִנִּין לְקִטְנָה שֶׁהִיא שֶׁל עֶשְׂרִים וּשְׁלֹשָׁה

Where in the Torah do we learn that a Sanhedrin Ketanah, with the power to judge capital offenses, must have 23 judges?

(Bamidbar 25:24-26)- We must have a community convicting and a community acquitting. A community is 10, therefore, we must have 20 judges.

We must acquit, if there is only a majority of one in his favor. We do not convict unless there is a majority of at least two against him. So we add two judges to the convicting community of 10, which gives us a minimum of 22 judges.

No court can have an even number of judges, because it creates the possibility of being evenly divided and not rendering a decisive judgement. Therefore, we add one more judge, giving us a total of 23 judges.

Sanhedrin 2a4      line 7      A7  
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„עַד־מָתַי לְעֵדָה הָרָעָה הַזֹּאת“

“Until when, this evil congregation?” (Num 14:27)

From this sentence, it is derived that a congregation is composed of at least 10 men. This is stated concerning the 12 spies sent to Eretz Israel, excluding Joshua and Caleb, thus ‘a congregation’ consists of a group of at least 10 men.

Sanhedrin 2a4

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לֹא־תִהְיֶה אַחֲרֵי־רַבִּים לְרַעַת׃

“Do not follow a majority to harm (to convict)” (Ex 23:2).

How do we decide that we need 23 judges for a lesser Sanhedrin?

One could imply that we could follow the majority to acquit. So why does the next phrase need to be written, “You shall decide the matter by the majority”?

This phrase teaches us that the ‘majority to convict’ should be different from the ‘majority to acquit’.

Majority of 2 is needed for conviction, i.e. 22= 10 plus 2 vote majority.

Since 22 is an even number and a hung jury could result, we use 23 judges, so that a hung jury could never occur. 23 is the fewest number of judges that fulfill these criteria.

וְנִקְרַב בַּעַל-הַבַּיִת אֶל-הַאֱלֹהִים..

“The master of the house shall approach the judge”.

In the next verse ‘judge’ is mentioned 2 more times.

A case of theft is decided by a court of three (Ex 22:7-8). There it is written about a theft.

The threefold mention of the word ‘judge’, indicates that three judges are needed in this case regarding thefts.

דִּינֵי מְמוֹנוֹת לֹא בְּעֵינָן דְּרִישָׁה וְחֻקִּירָה

In monetary cases, we do not need inquiry and questioning.

In regard to money, you need 3 judges. There should be one law for you, but you do not need inquiry and questioning. The 3 judges need not be ordained.

In order not to close the door in the face of a borrower.

-If lenders knew that a very high degree, complex, court procedure would occur when they wanted their money back, they would probably not lend. A more informal procedure is attractive to them.

אַלֵּא יְקוֹב הַדִּין אֶת הַהָר

Let the law cut through the mountain.

After a case has been decided by a legal judgement, you must not attempt a settlement.

A litigant, who is strong, firm, tough and vexatious may tempt the judge to resort to compromise, so as not to be further harassed.

Judges are encouraged to “let justice pierce the mountain”.

אָבֵל אֶהְרֵן אוֹהֵב שְׁלוֹם וְרוֹדֵף שְׁלוֹם וּמְשִׁים שְׁלוֹם בֵּין אָדָם לְחֵבִירוֹ

But, Aaron loved peace, pursued peace and made peace between one man and another.

This relates to compromise between litigants.

Efforts at compromise may occur before the matter comes before the court.

One may encourage peace-making before they go to court. Once in court, the judge must decide according to halacha.

Aaron was a judge and loved compromise, but he could only advocate compromise before the litigants came to court and he could not serve as their judge.

There are three levels of peace in compromise:

Ohev Shalom - refers to peace between man and God.

Rodef Shalom – refers to peace between the judge and the litigants.

Beyn Adom L'chavayro - refers to peace between the litigants.



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כיצד מקריך אין זה מקריך אלא מנאץ

How does a person (thief) recite a bracha? This person is not reciting a bracha, he is blaspheming God.,

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Is one who eats a prohibited food required to recite a bracha?

Rambam says, No.

The Ra'avad says, Yes. After all he is benefiting from the physical world. However, Chazal did not create brachos for prohibited foods.

What is the rule regarding stolen food?

Bais Yosef – says, No

Bach – Stolen bread is, itself, not prohibited and there is a bracha for consuming bread.

A bracha is praise to HaShem for food that will be eaten, that is proper to eat, but not for prohibited food.

אַלֵּא אִינְהוּ מִשְׁפֵּט שֵׁשׁ בּוֹ צְדָקָה הֵּוֵי אֹמֵר זֶה בִּיצוּעַ

What kind of judgment has within it elements of righteousness?

We must say arbitration.

Where there is a strict justice, there is no peace.

In civil law, arbitration is called 'out of court settlement'. The judge must not be part of it.

In halacha, arbitration is a juridical act, in order to bring peace to the community and because absolute right and wrong, eludes finite man. It is better to have the parties decide for themselves, than for a judge to weigh the evidence and decide. He may be wrong.

כִּי אֵי תִּגְרָא דְּמִיָּא לְצִינּוּרָא דְּבִידְקָא דְּמִיָּא כִּינּוּ דְּרִנּוּחַ רִנּוּחַ

Strife is like an opening made by rushing water that widens as the water presses through it.

Once one has opened a hole in a reservoir, there is no holding back the flood.

Once a controversy gets started, there is no controlling its fury or destructiveness.

גברא דרחיצנא עליה אדייה לגזייה וקם

The man, upon whom I relied, shook his fist and rose against me.

The man is prone to be deceitful.

We may trust and have confidence in man, but we may not have faith in him. That is reserved only to God.

The Torah has confidence in man.

- We never assume that a person is lying.
- Oaths determine the outcome of court litigation.
- We don't suspect perjury.

This is trust and confidence, not faith.

To totally believe in man borders on idolatry and inevitably, invites calamity.

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כָּל דִּיּוּן שֶׁדָּן דִּין אֱמֶת לְאַמִּיתוֹ

A judge must adjudicate a decision that is true according to its truth.

Only its truth must be judged. No other consideration is permitted to enter into the decision process.

A ruling must take into account the particular circumstances of the case.

כל המעמיד דין (על הציבור) שאינו הגון כאילו נוטע אֲשֵׁרָה בְּיִשְׂרָאֵל

He, who appoints an incompetent judge, is as though he had planted an Asherah in Israel.

-A competent judge acts in lieu of the Divine Judge.

-An incompetent judge usurps Divine authority and that is akin to idolatry.

אמר עולא בחוששין ללעז קמיפלגי

Ulla (and Rabbi Meir) discuss gossip.

How many judges are needed to judge a case regarding an accusation of infidelity which would have the ketubah forfeited?

R Meir – Three, as in any money matter.

Chachamim - Twenty-three, since this case may evolve into capital punishment concerns.

How? The publicity of the case may reach the ears of those who could be witnesses and then turn a purely money matter, into a capital case where 23 judges are needed.

Ulla answers: We are not concerned that publicity will do that. We do not anticipate. We take the facts as they are now.

לא בא שלישי אלא להחמיר עליו

A third witness serves only to make the law stringent.

A case is determined by 2 or 3 witnesses (Deut 19:15).

If two witnesses are sufficient, why does the Torah mention a third witness?

-He is treated like the other two witnesses, if they are false.

-He is considered a false witness also and gets their punishment.

-If he is disqualified because he is a relative of the defendant, or for any other reason, he disqualifies the other two as well.

Rabbi Akiva learned from this sentence, that if a person associates with sinners, he will be punished, even if he does not sin. If he associates with people doing a mitzvah, he will be rewarded, even if his role is only peripheral.



נמצא אחד מהן קרוב או פסול עדותו בטלה

If any of the witnesses (3 or more) are found to be ineligible, all are ineligible.

It takes two concurring witnesses to convict. However, if any of a group of witnesses is found to be false, the entire group (even if there were two or more good witnesses among them) are thrown out.

If a mere accomplice to a transgressor is treated like the transgressor himself, how much more so is one, who is an accomplice to the performing a mitzvah, rewarded like the one who actually performed the mitzvah.

על אחת במה ובמה שישלם את שכר הניטפל לעושה מצוה בעושה מצוה

All the more will He reward those who join others doing a mitzvah, like those who are actually performing the mitzvah.

May a person, who attends a siyum, read the Hadran together with those who actually finished the massechta, even though he only learned the last portion?

Those who attend a siyum, attach themselves to those who are fulfilling a mitzvah.

One who joins two witnesses is punished, as the first two are, if they are found to be false witnesses. So you are considered joined, even if the process is under way when you join.

On erev Pesach all first born can eat after a Siyum, even if they did not personally finish a massechta.

אָדָם קָרוֹב אֶצֶל עַצְמוֹ וְאִין אָדָם מְשִׁים עַצְמוֹ רָשָׁע

A man is considered a relative to himself and a person may not disqualify himself by claiming to be a sinner.

He, therefore, cannot incriminate himself in a crime which involves corporal punishment (which includes ‘malkos’, ‘lashes with a lash’). This rule goes beyond the 5<sup>th</sup> amendment which allows a person to not testify against himself, and cannot compel him to do so.

But, he cannot use the fifth amendment to avoid testifying in a monetary case, because a man is not considered a relative to his property (Sanhedrin 10a).

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אָדָם קָרוֹב אֶצֶל עַצְמוֹ וְאִין אָדָם מְשִׁים עַצְמוֹ רָשָׁע

A man is considered a relative to himself and a person may not disqualify himself by claiming to be a sinner.

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Reuven testified that he sinned because of Shimon.

Reuven declared himself a sinner and therefore, is disqualified from testifying regarding Shimon. He cannot even join with another witness, who testifies about this event.

Rava notes that a person cannot disqualify himself by declaring himself a sinner and therefore, Reuven can testify against Shimon.

Reuven is believed about Shimon

Reuven is not believed about himself.

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זמן נשיא צריך גדי סימן

Zman Nasi Tzorich Gedi='Semon'

This is mnemonic for remembering:

Zman – ‘designation’ – Witnesses inform and judges determine.

They have to be judges specifically designated for that purpose.

Nasi - and Nasi approves.

Tzorich - ‘necessary’-or/and it becomes necessary for various reasons.

Gedi - ‘goats’-but not for young goats.

מַעֲשֵׂה בֶרֶךְ בְּרַבָּן גַּמְלִיֵּאל שְׂאָמֵר

There was an incident involving Rabban Gamliel, who said to his helper, “Wake 7 judges for me, early in the morning”.

The next morning, Rabban Gamliel found 8 judges.

Rabban Gamliel said, “Whoever came without permission must leave”.

Shmuel HaKatan rose and said, “I am the one. But I came not to decide whether to add a month to the year, but to learn the Halacha”.

Gemara: The true motivation of Shmuel HaKatan was to spare another embarrassment, so he claimed to be the uninvited one.

Problems: How can the Gemara tell this story?

Rabban Gamliel already designated who to invite – so he knew who is not the invited one.

If Shmuel HaKatan did leave, there would be only 6 who were invited.

There would not have enough judges. He needed 7 and Rabban Gamliel would not know that he was left with only 6 who were invited and one who was not. Therefore, what Shmuel HaKatan did would lead Rabban Gamliel to sin!!!

His helper thought Rabban Gamliel needed 7 other people, not 7 including himself. So he invited 7 others, which amounted to one extra. Rabban Gamliel did not realize that his helper made this mistake. Therefore, he told one to leave. Shmuel HaKatan’s action would not have left Rabban Gamliel without a proper number. The last one should have left, but was saved the embarrassment.

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וְרַבִּי חִיָּיא מְהִיבָא גְמִיר לֵה מְרַבִּי מְאִיר

And from where did R Chiya learn to do this? From R Meir.

Rebbe was teaching his students and he said that whoever ate garlic to leave.

R Chiya rose and left and all the other students rose and left with him, to support their colleague and not embarrass anyone.

The next morning, the son of Rebbe met R Chiya and asked him, “Are you the one who caused my father aggravation?” And R Chiya said, “Heaven forbid. There should be nothing like that among Jewish people.”

Questions: 1. Did son mean ‘irritated by eating garlic’ or ‘irritated by initiating events’ which caused his father not to have students to teach that day?

- R Chiya
1. No person amongst the Jewish people should be embarrassed.
  2. No person (student) should irritate his Rebbe with garlic, i.e. something the Rebbe does not like.
  3. No Rebbe should embarrass his student – Bitul Torah is bad, but embarrassment is worse.
  4. This resulted in confrontation even next day.

This is another case of someone taking the blame to save someone else embarrassment.

וְרַבִּי חִיָּיא מְהִיכָא גְמִיר לָהּ מִרְבִּי מֵאִיר

Where did R Chiya learn this? From R Meir.

A woman came and said that one of the scholars in the class married her by intercourse (Kiddushin). (Beya, Shtar, Kesef) She wanted to complete the marriage with Nisuin or give her a divorce.

(11a2) R Meir rose and wrote her a bill of Divorce and gave it to her.

All his students rose and wrote her a bill of Divorce and gave it to her.

R Meir knew his students would all follow suit and amongst them would be the real person, thus, saved from embarrassment. Where did R Meir learn to take the blame to avoid embarrassing people?



עָמְדוּ כָּתְבוּ כּוּלָם וְנָתְנוּ לָהּ

They arose, wrote bills of Divorce and gave them to her.

A teacher remarked that the unpleasant smell of garlic in class offended him and requested the person who was the source to please leave the room.

All the students got up and left and this very much pleased the teacher.

The next day he told them, “I see you have learned your Torah lessons well. You all got up and left the class so you would not embarrass the guilty party.”

“עַד-אֵנָּה מֵאַנְתֶּם”

“Until when shall you all refuse” (i.e., all the congregation)  
to obey my commandments (Ex 16:28). This was learned from God’s example.

All the Israelites observed the rule not to gather manna on the Sabbath except for Dasan and Aviram. So as not to specifically point out these two individuals and embarrass them, God chastises the entire nation

Therefore, we see it is important to take the blame on yourself to spare another person embarrassment.

אֵין מַעֲבִירִין אֶת תְּנוּ רִבְּנוֹ הַשָּׁנָה בְּשָׁנֵי רָעָבוֹן

We do not extend the year by adding a month in times of famine.

Famine has depleted the stores of grain.

New grain can only be used in the month of Nisan.

Adding an additional month of Adar would postpone the date the new grain would be permitted, creating a prolongation of the suffering of the people.

If we did add a month, the residual grain would be very expensive and the people might violate and eat the new grain prematurely.

Other consideration in deciding on an additional month:

- The status of the roads. Can pilgrims come to Jerusalem early?
- Astronomical and seasonal connection to make certain that Pesach does not occur in winter, or if the fruits are not adequately developed.

מַגִּיד שֶׁאֵין נִסְמָכִין לְבֵית עֲלִי

How do we know that descendants of Eli will not be ordained?

(Shmuel I 2:32) There shall not be an elder in your house for all your days.

Shulchan Aruch – Someone under age 18 cannot serve as a judge, because their mind is not yet fully mature.

BT Sotah 226 indicates that 40 is the minimum age when one may issue halachic rulings, on the premise that one does not understand his Rabbi's teaching until the age of forty (Avodah Zarah 5b).

However, today, when we learn from books, one is qualified to rule, as soon as he acquires the requisite knowledge.

אֵין אָדָם עוֹלָה לְגִדּוּלָה אֶלָּא אִם בֵּן מוֹחֲלִין לוֹ עַל כָּל עֲוֹנוֹתָיו

One does not attain greatness, unless all his sins are forgiven.

R Samuel Alter – If a leader is worthy and his community accepts his leadership, than all of his sins are forgiven. But, if he is unworthy and people reject his leadership, all his sins (perceived slights to them) are magnified.

## עשרה כהנים כתובין בפרשה

Ten Kohanim are written in the section.

Should a Kohen be allowed to be a member of a rabbinical court? Perhaps not, as his duties in the Temple cannot be done by anyone else.

A Kohen is mentioned 10 times in Lev 27:8 – Erech (3) a person's fixed value

Lev 27:11-12 -non-kosher animals (3)

Lev 27:14,18,23 - consecrated lands (4)

Therefore, a Kohen must be a member of the court.

-No, all 10 members of the court should be Kohanim and we learn from this that 10 are needed.

-No, since the 1<sup>st</sup> time a Kohen is mentioned, it excludes persons who are Yisraelim, or Leviim. The second time is a double exclusion.

A double exclusion is an inclusion – like a double negative. So only one Kohen is needed and the 2<sup>nd</sup> mention of the word, is used to include others.

-No, we need 5 Kohanim. The 2<sup>nd</sup> mention of Kohen is the double exclusion, which is an inclusion, but the 3<sup>rd</sup> mention of Kohen, starts the process of inclusion all over again as an exclusion of Yisraelim and Leviim.

וְשֵׁן דְּבָרִים שֶׁהֵן נִקְרָקַע וְאֵינָן בִּקְרָקַע

There are things that are attached to the ground, but not treated like land.

On Succos, if one, or are all of the four species are still attached to the ground, was the mitzvah fulfilled?

Tzlach says, “Yes. We are instructed to “take the four species” and he has done so.”

Minchas Pitim disagrees. He states that the word, “to take”, implies it is no longer attached to the ground.

Chachamim in our Gemara – Something, that can be detached, is still considered part of the ground and cannot fulfill the Torah’s instructions ‘to take something’.

„כָּל-הַדָּבָר הַגָּדֹל יָבִיאוּ אֵלֶיךָ”

“Every great matter, they should bring to you” (Ex 18:22).

Quotes Yisro suggesting to Moses that he reserve “great matters” for himself to judge.

The Talmud uses this sentence to learn that a case involving a Kohen Gadol, or a prince of a tribe, or a Gadol of his tribe, should be tried before a Sanhedrin of 71, because Moses was considered the equivalent of a Sanhedrin of 71.



בֵּינָן שֶׁהָגִיעַ חֲצוֹת לַיְלָה רוּחַ צְפוֹנִית מְנַשְׁבֶּת בּוֹ

Once midnight arrived, a Northern wind would blow on it.

The wind, blowing on the harp, would wake King David and he would rise and study until morning.

What part of the night is best for studying?

Rambam – A person acquires most of his wisdom by studying at night.

Should he study in the evening until he falls asleep, or wake early to study during the 2<sup>nd</sup> half of the night? To expect to awaken early may not occur, since people have a tendency to oversleep. But if possible, it is the best time, as exemplified by David Hamelech.

לְשִׁבְטֵיךָ וְשִׁפְטוֹיֶיךָ

“Every tribe had its own Sanhedrin.”

How do we know? It is written in the Torah (Deut 16:18) where the juxtaposition of the words ‘tribe’s and ‘judges’ suggest that each tribe should have its own judges and one Sanhedrin Gadolah – Bais din Hagodol. It is a mitzvah for a tribe to judge its own tribal members.

אַסְפָּה-לִי שְׁבָעִים אִישׁ מִזִּקְנֵי

“Choose for me 70 men from the elders (of Israel)”.

Moses is told to choose 70 elders to serve on the Sanhedrin.

Should he take 5 from each tribe = 60?

6 from each tribe = 72?

Either choice may not be the right number.

Moses took 6 elders from each tribe, equaling 72. Then he made a lottery for the 2 extra persons

The extra 2 persons, who were left over, Eldad and Meidad, continued to prophesize in the camp.

אָמְרוּ אֶלְדָּד וּמֵידָד אֵין אָנוּ רְאוּיִין לְאוֹתָהּ גְּדוּלָּהּ

Eldad and Meidad said, “We are not worthy of this greatness.”

They prophesied that

- The quail would come up.
- The battle of Gog and Magog.
- That Moses would die.
- That Joshua would lead Bnai Yisroel into Israel.

Moses said, “May all Israelites be prophets like them.”

**Eldad and Meidad continued to prophesy after all the other elders, who were chosen for the Sanhedrin, stopped prophesying.**

## Daf Digest

סְנֵהֲדְרֵי שְׂרָאוֹ בּוֹלָן לְחוּבָה פּוֹטְרִין אוֹתוֹ

If the Sanhedrin unanimously find the accused guilty, he is acquitted.

(Rambam Hil Sanhedrin 9:1).

R Zvi Hirsch Chajes - There are always mitigating circumstances. Therefore, if the court could find nothing in his favor, it indicates that the court was incompetent, hasty, or used bad judgement.

R Menachem Mendel of Kotzk – If some judges found points in his favor, he may not fully repent, but if no judge finds any ameliorating facts, he will realize the total guilt and responsibility that he has and will sincerely repent. Sincere repentance warrants his acquittal.

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R Meir HaLevi Abalafia (Ramah) – Translates “potrin”, not as ‘acquitted’, but as “finished”. He is sentenced immediately and punished. This is a ‘das y’chid’, ‘only one person’s interpretation’ and not is cited later.

## אין מושיבין בסנהדרין אלא בעלי

One may not be appointed to the Sanhedrin unless he is a person of certain:

- height
- wisdom
- imposing appearance
- old age
- can speak 70 languages – (at least 2 or 3 or 4 members must speak magic, be acquainted with witchcraft; only 1, who knows how to purify a Sharetz to be tahor, according to Biblical law).

וְיֹדְעִים בְּעִ' לְשׁוֹן שְׁלֹא

And knowing 70 languages.

What are the arguments regarding Jews knowing secular languages?

-It will reduce ‘Jew hatred’, since the people can communicate.

The Rabbis of the Sanhedrin each knew 70 languages, so they did not have to depend on translators.

The miracle of Purim was largely due to a Jew, who had knowledge of other languages and could understand the plotting of Bigsan and Teresh. So it is our tradition to learn other languages.

“Not so”, said the rabbis, “ Mordechai was an exception. We know because if it was common for Jews to know other languages, the evil-doers would not have dared to make their plan in front of a Jew. This proves it was never our tradition to learn other languages.”

וְכַמָּה יִהְיֶה בְּעִיר וַיְהִי רְאוּיָהּ לְסִנְהֶדְרִין מֵאָה וְעֶשְׂרִים וְכוּ'

How many residents must live in a town for it to be fit to have a Sanhedrin ?

120 residents

- Three rows of 23 scholars each (including the 23 scholars of the Sanhedrin) = 92
- 10 unoccupied men for synagogue
- 2 court stenographers
- 2 court officers
- 2 litigants
- 2 witnesses
- 2 who could discredit the witness
- 2 who could discredit those who discredited
- 2 to collect charity
- 3 to distribute the charity
- 1 to serve as the town's doctor, bloodletter, scribe and teacher

This equals 120 residents.



כָּל עִיר שֶׁאֵין בָּהּ עֲשָׂרָה דְּבָרִים הֵלְלוּ אֵין תַּלְמִיד חָכָם רִשְׁאֵי לְדוֹר בְּתוֹכָהּ

A Talmid Chacham should not live in a city that lacks these 10 things,  
one of which is a doctor.

(Shemos 21:19) Doctors have permission to treat the sick, yet (in Kiddushin 82a) we learn that even the best of doctors are to be judged by heaven with great severity.

Pardes Yosef suggests several reason for this.

- To impress upon doctors the seriousness of their calling.
- If a doctor considers himself 'the best', he may not call other doctors in consultation when he should.

כָּל עִיר שֶׁאֵין בָּהּ עֶשְׂרֵה דְּבָרִים הֵלֵלוּ אֵין תַּלְמִיד חָכָם רִשְׁאֵי לְדוֹר בְּתוֹכָהּ

A Talmid Chacham should not live in a city that lacks these 10 things.

A Talmid Chacham needs 10 essential items to live in a town.

A town needs a doctor for a Talmid Chacham to be permitted to live there. Why?

It's not the duty of the sick person to pay the doctor.

It's the duty of the town. All the inhabitants have to pay, just as they pay for other societal obligations, i.e., teachers, sewage systems, shul, etc.

Rav Tendler 1990 Lecture.

## Daf Digest

שָׂרֵי אֲלָפִים שָׂרֵי מֵאוֹת שָׂרֵי חֲמִשִּׁים וְשָׂרֵי עֶשְׂרֵת

“Officers of thousands, officers of hundreds, officers of fifty, and officers of tens.”

This teaches us that only in regards to the big matter (a crime where death could be a punishment) does one need Moses, i.e., a Sanhedrin of 71.

In lesser matters, i.e., violating an ‘Aseh’ or Lo Saaseh’, a Bais Din of three is adequate for a Kohen Gadol.

שָׂרֵי אֲלָפִים שָׂרֵי מֵאוֹת שָׂרֵי חֲמִשִּׁים וְשָׂרֵי עֶשְׂרֵת

“Officers of thousands, officers of hundreds, officers of fifty, and officers of tens.”

And you Moses, shall place over them officers of 1000's, 100's, 50's and 10's.

How many officers were there according to Yisro's advice.

#1	600,000	10	50	100	1000	
		60,000	12,000	6,000	600	= 78,600 ?

#2 The nation numbered 600,000 - officers of 10 = 60,000 and from these the other officers were taken.

	population	# of officers
#3 600,000 - deduct officers of 1000 =	599,400	600
deduct officers of 100 =	593,406	# 5,994
deduct officers of 50 =	581,538	11,868
deduct officers of 10 =		58,153
		<u>76,615</u>

כֹּהֵן גָּדוֹל דֵּן וְדָנִין אוֹתוֹ

A Kohen Gadol may judge and be judged.

- He may testify and be testified against.
- He may perform Chalitzah.
- Chalitzah may be performed by his wife.
- Yibum may be performed by his wife.
- He may not perform Yibum (he is not permitted to marry a widow).

-Procedure at a Funeral

- He may not follow immediately behind the bier.
- When they are hidden, he may be visible.
- When they appear, he is to be hidden.
- He goes only to the gates of the city. – R Meir
- May not leave the Temple.

וּמִן־הַמִּקְדָּשׁ לֹא יֵצֵא״

From his “Kiddusha”, his ‘state of holiness’, he should not go out.

This does not mean that he can’t leave the Temple, but he should not follow, or touch a dead person so as not to become Tomeh.

This relates to a Kohen Gadol.

לא מלך וכהן גדול בעיבור שנה

Neither the King nor the Kohen Gadol may participate (in the panel that decides an) adding (a month) to the year.

---

Each of them is suspect of being swayed from total objectivity by the particular situation of his office.

The King pays his soldiers by the year and therefore, has a vested interest in the year being longer.

The Kohen Gadol must walk barefoot on the cold floor on Yom Kipper and take numerous immersions in a cold Mikvah, so he has a vested interest against an extra month, which would cause Yom Kippur to fall well into the winter.

לא מלך וכהן גדול בעיבור שנה

Neither the King nor the Kohen Gadol may participate (in the panel that decides about) adding (a month) to the year.

---

This tells us that neither a king, or high priest may be on the Bais Din that determines whether or not a leap year should be declared, as is directed to us to declare in (Ex 12:2), “This month will be to you, This commands us to add an extra leap month, when necessary.”

The King is biased. He wants to add the month, because since his troops are paid by the year, he gets an extra-month free.

The Kohen Gadol is biased since he does not want to add a month. It would make Yom Kippur later in the year. It would be colder and more uncomfortable for him to immerse as is required many times on Yom Kippur.

Telling Moses (like a King) and Aaron (high priest) simultaneously would cancel those biases out.



לא מלך וכהן גדול בעיבור שנה

Neither the King nor the Kohen Gadol may participate (in the panel that decides about)  
adding (a month) to the year.

A King does not participate in ... making a leap year.... because of wages.

The reason is that the leap year serves the interest of the king and a judge may not sit on a Bais Din that rule on something that affects him.

The King would pay the army an annual salary and if the year has an extra 30 days he does not pay them for that extra month.

## Daf Digest

חולץ וחולצין בו

(A Kohen Gadol) must perform Chalitzah.

A Kohen Gadol cannot perform Yibum for his dead brother's wife, Why?

Because he is required to marry a virgin, an unmarried woman.

The first is an Aseh and the second is a Lo Saaseh.

The rule is that if you are obligated to do an Aseh and a Lo Saaseh, the Aseh supersedes the Lo Saaseh and you do it first.

But an Aseh does not supersede an Aseh and a Lo Saaseh.

For example, the Aseh of Yibum does not supersede the Aseh of marrying a virgin combined with the Lo Saaseh of marrying a previously married woman.

Therefore, the Kohen Gadol cannot give Yibum.

What if she was only married up to and including Erusin, but not yet Kiddushin?

So she is still a virgin, even though she is considered to be married.

So that if he performed Yibum, the Kohen Gadol would violate the Lo Saaseh of marrying a married woman, but not the Aseh of marrying a virgin.

Could he then perform Yibum in such a case?

## Daf Digest

חולץ וחולצין בו

Con't

No, we make a fence around the law, so as not to run the risk of his violating it, in case she is also married through Kiddushin. Since he can't have the second biyah, we don't allow him to have the first biyah.

If she had no Kiddushin, he could give Yibum and have biyah with her, since she is still a virgin.

The positive commandment of Yibum could push away the Lo Saaseh of marrying a widow.

This is true and in that case, the first biyah would be theoretically permitted for the purpose of Yibum. But only the first. The second and subsequent relations would not have the Lo Saaseh supersede. It is over and the second biyah would violate the Lo Saaseh of relations with a previously married woman, widow or divorcee and it is not permitted. Since, only the first and not the subsequent biyah is permitted, we make a fence around the law to prevent even the first biyah. He might continue with more biyah and that is prohibited.

שִׁיהִיו נָשִׁים מְסֻפְרוֹת בְּבֵית הַכֶּסֶּא

Women should talk to each other while in an outhouse to prevent Yichud.

Yichud means a woman and a man being alone in a room together. This is prohibited.

Therefore, women should go to the outhouse together and should talk.

Any man who comes along will be warned that he hears this is a woman's outhouse and there are at least two women in there, so he cannot attack. This is a protection for the woman and also for the man.

קִשְׁט עֵצְמְךָ וְאַחֵר כֵּךְ קִשְׁט אֲחֵרִים

Perfect yourself and afterwards, work to perfect others.

Rambam – Accept truth from whoever speaks it. If you are rebuked, accept the words, consider the worthiness of the words and whether they are justified as of value and if so, he should harken to their call.

(Arachin 16b) Rabbi Tarfon says, “I wonder if anyone in this generation is capable of delivering a rebuke”.

נָשָׂא דָוִד שְׁתֵּי אֲחֵיוֹת בְּחַיָּיהֶן

Saul's two daughters were given as wives to David.

Meirav – Adrial

Michal – Palti ben Layesh

David had to bring 100 Philistine foreskins to King Saul in order to marry Michal.

How could David marry two sisters while they were both alive?

1. He married Michel, after Meirav died.
2. His marriage to Meirav was based on a mistaken assumption, and was therefore, not valid. He was never legally married to Meirav and was permitted to marry her sister, Michel.

לְלַמֵּדךָ שֶׁכָּל הַמַּגְדֵּל יָתוּם בְּתוֹךְ בֵּיתוֹ מַעֲלָה עָלָיו הַכָּתוּב כְּאִילוֹ וְלָדוֹ

If you teach Torah to the child of your friend, it is as though you had given birth to that child.

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How so?

A father gives his child life in ‘this world’, ‘olem hazeh’. A teacher gives the child life in the ‘next world’, ‘olem habah’.

מֵת לוֹ מֵת אֵינוּ יוֹצֵא מִפֶּתַח פְּלִטְרִין שְׁלוֹ

If a relative dies, the King may not exit the entrance of his palace.

Just as a king may not leave his palace to attend a funeral, we can ask whether a bridegroom, who is considered a king for the week of the Sheva Brachos, may go to a funeral during that week.

Sdei Chemed – (cites the Maharil who wrote that) A groom may leave his house to go to the cemetery.

The Maharil – might be saying that neither groom or bride, may leave the house to go to a cemetery. But, he might permit either, or both, to attend the funeral, especially of a close relative.



„תִּנֶּה-לָּנוּ מֶלֶךְ לְשִׁפְטָנוּ“ , גַּם-אֲנֵחֵנוּ כְּכָל-הַגּוֹיִם וּשְׁפָטֵנוּ מֶלְכֵנוּ וְיֵצֵא לְפָנֵינוּ“

“Give us a King to judge us” (B11 1 Samuel 8:4-5).

“We will be like all others nations” (B16) and he will judge us and go out to war before us”

The elders requested that the king rule over them and be their judge. This is interpreted to refer to the King, judging the people, in areas of Torah law.

The people, however, wanted the King’s own discretion, not related to Torah law and to lead them in battle, rather than to rely upon God’s protection.

The people wanted to modify their system of life, in order to be more like all other nations.

..לא-יִרְבֶּה-לוֹ סוּסִים" ,וְכֶסֶף וְזָהָב לֹא יִרְבֶּה-לוֹ מְאֹד."

"(The King) should not accumulate horses, silver or gold in large amounts."

If the King has the maximum amount of these items and someone give him a gift, he is allowed to accept the gift. He did not make an effort to accumulate too much.

The prohibition is not so much about owning a lot, but to prevent the King from taxing the people in order for him to become richer by doing so.

A person who is rich and then appointed King, need not divest himself of his property.

The prohibition is only for the King regarding accumulating hoards of wealth, but not a sin in possessing it.

אף על פי שהניחו לו אבותיו לאדם ספר תורה מצוה לכתוב משלו

Even though his ancestors left him a Sefer Torah, here is a mitzvah to write one on his own (Rava).

---

Sha'ages Ayeh suggest that this is no longer appropriate. Since in our times, we are no longer experts in writing a Sefer Torah.

If anything it is a Rabbinic obligation, but no longer is it a Biblical obligation.

Besides, the purpose of writing a Sefer Torah was that it not be forgotten and if he inherited one that is adequate. Childa says, "No."

The Rambam took great pains to be able to copy a Sefer Torah and the Arizal, also instructed a scribe to write one for him, which strengthens the opinion, that the Biblical Mitzvah of writing a Sefer Torah could be fulfilled, even to this day.

Sanhedrin 21b4 line 43 B14  
Meam Loez 17:231

וְכָתַב לוֹ אֶת־מִשְׁנֵה

The King shall write a duplicate for himself .

Every Jew is to have a Torah written for his own personal use, as ordered (Deut 31:19).

The King is ordered to have a copy of the Torah written specifically for him (Deut 17:18).

..את משנה התורה הזאת..

The king must write the book of the Torah, such as these

that he must have two Sefrei Torah. One to carry with him at all times and the second to be amongst his treasured items in the Palace. The Sefer, which he carried with him, fulfils the verse “I have set HaShem before me always” (Tehillam 16:8).

Maharshal agrees- Every person must write a Sefer Torah. It is a mitzvah to do so. The requirements that the king write a Sefer Torah, must be referring to a second scroll.

Maharshal explains -A commoner can fulfill his obligation if he inherits a Sefer Torah. But, a king must actually write, or have one written, specifically for him.

## אֵין רוֹכֵבִין עַל סוּסוֹ

No one may ride on his horse.

These are restrictions upon the people, in order to maintain a degree of honor and awe they must have for the king.

- No one may sit on his throne.
- No one but the king may use his scepter.
- No one may see the king:
  - having his hair cut.
  - undressed.
  - in a bath house.

תָּנוּ רַבָּנָן מֶלֶךְ מְסַתֵּפֵר בְּכָל יוֹם

The Rabbis taught: A king has his hair cut everyday.

Shulchan Aruch writes - A groom is permitted to launder his clothes and take a haircut, even if he is a mourner.

Beis Yosef explains -This leniency is because a groom is similar to a king.

Raavid prohibits a groom from taking a haircut during his week of Sheva Berachos.

Teshuvos Mahari ben Lev explains -Just as a haircut is not allowed on Chol Hamoad, and to those who are working in the Bais Hamikdash. This **is** to ensure that people will enter the holiday and the Bais Hamikdash and into marriage, properly groomed and presentable.

זֶה בּוֹרֵר לּוֹ אֶחָד וְזֶה בּוֹרֵר לּוֹ אֶחָד

This one chooses a judge for himself and this one chooses a judge for himself.

That is not appropriate.

In a town where there is an established Bais Din, the litigants do not use the process of each choosing a judge and the two judges choose a third. No, they are judged by the established Bais Din members.

R Moshe Feinstein - Only if that Bais Din is empowered by the entire community, not merely a segment of it.

Teshuvos Shevet Halevi disagrees and believes -If a person is part of a community that has its own Bais Din, he cannot refuse to be bound by its ruling. The established Bais Din is better, so that all judges hear each litigant directly.



מאי בבל אמר רבי יוחנן בלולה במקרא בלולה במשנה בלולה בתלמוד

What is the meaning of Bavel? R Yochanan explained, “It is mixed with Scripture, Mishnah and Talmud.”

Rema - One’s obligation to study is satisfied if he studies Talmud Bavli, since it contains all facets.

Aruch HaShulchan says -One is obligated to know Scripture and Mishnah.

Kaf HaChaim says - Both are correct. In the days of the Rema, people studied a great deal of Talmud each day and thereby, encountered much Scripture and Mishnah. Today, when we study little, we should augment our Talmud study with additional Scripture and Mishnah studies.

מַאי בָּבֶל אָמַר רַבִּי יוֹחָנָן בְּלוּלָה בְּמִקְרָא בְּלוּלָה בְּמִשְׁנָה בְּלוּלָה בְּתַלְמוּד

What is the meaning of Bavel? R Yochanan explained, “It is mixed with Scripture, Mishnah and Talmud.”

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Every student should have a primary teacher or a Rebbe muvhak. But students often have many teachers in their student years, who is to be considered the primary teacher?

The one who taught him most of his wisdom and that means the Talmud. Since the Talmud includes scripture, Mishnah and Talmud.

-It explains the scriptural wisdom?

-It gives real life examples to teach the appreciation of the law.

-It lets us see that there are legitimate differences in opinion and we should not rush to a decision, but consider all points of view.

ואלו הן הפסולין המשחק בקוביא

And these are disqualified? One who plays with dice.

A litigant may bar the judge brought by his opponent if he is a relative, or is disqualified.

Who is disqualified?

One who plays with dice, or bets on bird races. In these games of chance, the player does not expect to lose and pays unwillingly. Taking such payment is akin to stealing (Rashi/Rambam).

Tosfos says, “He is disqualified only because he is not constructively contributing to the betterment of society. If he loses, he does pay willingly. He understood the rules.”

Lending with interest (where the lender pays willingly, or selling fruits of the Shmittah year, is only a Rabbinic prohibition, not scriptural) is not a sin, but disqualifies one to be a judge.

ההוא טבחא דאישתכח

There was a certain butcher.

The Rabbi was told a rumor about the person responsible for collecting and distributing Tzedakah in his community. The Rabbi refused to accept the rumors.

Later, the man confessed. The Rabbi had him return the stolen monies and apologize and forced him to resign his position.

Did the Rabbi act correctly?

- Ignored the rumors?
- Made him pay back?
- Made him apologize publicly?
- Removed him from his position?

Is there any other act of Teshuva the man could perform?

Should he be permitted to, again, be entrusted with the Tzedakah responsibilities for the community?

הַלֵּב יוֹדֵעַ אִם לְעֵקֶל אִם לְעֵקָלָלוֹת

The heart knows whether for akel (netting) or for akalkalos (perverseness).

(Pesachim 54b) No man knows what is in his friend's heart.

The motivation of an individual is known only to him.

מִפְּנֵי שֶׁהוּא מְתַשֵּׁת כֹּחַ שֶׁל אָדָם

(Torah) weakens the strength of man.

Rabbeinu Yonah- While a man toils at Torah, he has no strength to follow the evil influence.

R Yehoshua H. Rabinowitz - Torah study weakens a person's complacency. He realizes how far he is from the perfection that is required of him.

## להכעיס אביו אמר פסול

(If he ate non-kosher food) out of rebelliousness, he is disqualified.

Abaye says, “He is disqualified.”

Two people eat non-kosher food:

- One has a strong desire for the food and can't really resist that desire.
- The other does not especially care for the food, but he eats it out of rebellion against religious prohibition.

Rava says he is eligible to testify!

Which is worse?

- A violator because of irresistible desire.
- A violator because of rebellious nature.

To whom would you wish “bon appetite”?

## ואלו הן הקרובין

And these are the relatives.

Relatives are not eligible to testify in any case, criminal, or civil, for/or against, a relative.

It is easy to understand why a relative should not be able to testify for a relative's benefit, but why should he not be permitted to testify against him? Doesn't that show his objectivity and that he is telling the truth?

Relatives often have disputes and in a moment of anger, one may seek to harm the other by testifying adversely against him. Therefore, a relative is not allowed to testify for/or against his kin.



שׁוֹנֵא כָּל שְׂלֹא דְבַר עֲמוּ שְׁלֹשָׁה יָמִים בְּאִיבָה

An enemy is one who did not talk to him for three days, because of his hatred.

R Yehudah says, “Amongst those who are disqualified from being a judge, or a witness for a person, is one who is a friend, or one who is a enemy”.

Th Chachamim disagree with regard to a witness:

The witness must only testify regarding the facts. There is little discretion where he could alter the facts to befriend, or harm. But, they agree that neither a friend, or enemy may be a judge. Because a judge has much discretion and his opinion could become slanted, even unwittingly.

## Daf Digest

## מִלְמַד שְׂבוּלָן עֲרֵבִים זֶה בְּזֶה

We learn that everyone is responsible for one another.

Your host does not have a mezuzah on one of his doors and even though you have pointed this out to him, he persists in not putting one there. Should you go out and buy one? Put it up? Should you put it up with, or without, a bracha?

Your boss did not do bedikas chometz. You do it for him, but time is running out; do you make a bracha? “Yes”, says the Shulchan Aruch. Why? It is not your mitzvah!!

Rav Yaakov Emden says- We say a bracha because:

1. We are responsible for each other.
2. He could act as an agent, if it is a mitzvah, for which one could appoint an agent.

Divrei Yatziv makes a distinction:

One does make a bracha when one is acting as an agent in performing a mitzvah.

Responsibility for each other is limited to preventing your friend from committing a sin, but one is not obligated to do his mitzvah for him. Therefore, the guest should not make a bracha when fixing the mezuzah.

דְּבָרֵי הָרַב וְדְבָרֵי תַלְמִיד דְּבָרֵי מִי שׁוֹמְעִין

Between words of the rav and the words of the student, whose words should one follow?

Is a person who gives bad advice responsible for the consequences?

Teshuvah Be'er Esek says he is not responsible before a Bais Din, but is responsible in Heaven.

Shach - Even someone, who convinces witnesses to testify falsely, is not liable, even in the hands of Heaven.

Imrei Baruch - suggests that a person, who gives bad advice to another that will benefit himself, is more liable than if he gives advice that does not accrue to his own benefit.

The snake gave Eve bad advice that did not benefit the snake at all, so he should not have been punished, but he was. This suggests that there is a price to be paid for giving bad advice. Eve did not have to listen to his advice, but she did.

שָׁבֵל הַמוֹסִיף גּוֹרֵעַ

He, who adds, subtracts.

Genesis – When Eve added to God’s words and told the serpent that she was not even permitted to touch the tree. The snake pushed her into contact with the tree and told her, “See, just as death did not ensue from the touch, so it will not follow from eating its fruit.”

“Do not either add, or take away from” what God enjoins upon us. (Deut 13:1)

To do less is clear to us, but why would it be improper to add to their obligations?  
Because if we add, it implies that what God commanded was incomplete.

Rambam (Hil Yesoden HaTorah 9:1) - We are forbidden to make innovations in the Torah.

מדבריהן נזדכּה פלוני

Through the words of the judges, so and so was found...

If you are a member of a three judge Bais Din and you disagree with the judgement of the other two judges, must you nonetheless sign the ‘psak din’, the ‘order indicating the decision of the court’, or can you avoid doing so?

If the ‘dayanim’, ‘judges’, disagree, all must, nonetheless, sign. However, you can write, “from the words of their words, the defendant is obligated, etc.” and then sign.

This requires no explanation, but if you refuse and sign, you will have to explain and tell the world, that the other judges violated the law and such an implication is not proper.

It is called ‘rechilus’, “tale bearing”.

וּבֵית הַלֵּל אוֹמְרִים יֵשׁ בְּכֻלָּל מֵאֲתֵּים מִנָּה

Whereas, Bais Hillel included the 200 zuz... (in the testimony).

How would you rule?

Would these two witnesses be disqualified? One witness says Reuven borrowed 200 zuz.

They contradict each other in a vital fact.

Rishonim says - One of them is lying and their testimony should not be allowed.

Bais Hillel says – They both agree that a least 100 zuz was borrowed. They only disagree regarding the second 100 zuz and that is considered a separate testimony.

וּבֵית הַלֵּל אוֹמְרִים יֵשׁ בְּכָל לְמַאֲתִים מִנָּה

Whereas, Bais Hillel included the 200 zuz in the testimony.

Witnesses must be subjected to ‘chakiros’, “investigations”, ‘bedikos’, “details of the case itself”. The court asks relevant and irrelevant information to be sure that the witnesses do not fabricate their study.

These investigations and verifications are dispensed with in monetary cases. The lender may think it too much trouble to get witnesses, etc., to support his claim to recovery.

The money he lent, and simply refused to lend and borrower’s, will find the doors closed to them. Therefore, in monetary matters, we relax these requirements.

הָהוּא תִּלְמִידָא דְנִסְיָק עָלֵיהּ קָלָא

A student in R Ami's Yeshiva revealed a secret that was 2 years old and he was expelled.

There are forbidden aspects of language:

Lashon Hara -Speaking words that damage.

Rechilus - Secrets revealed.

Ex: A judge may never reveal how he voted, since that tells how his other two colleagues on the court voted. If the party lost and the judge tells him, “but I voted for you”, that is revealing a secret and he is called a talebearer.



אַפְקִיָּה רַב אָמִי מִבֵּי מִדְרָשָׁא

R Ami removed him from the Bais Midrash (and explained that this person reveals secrets).

R Yonah teaches that a person is obligated to keep secret all information that a friend shared in private. This is learned from our Gemara, where the secret was conveyed 22 years earlier.

This is another form of speech. Sharing secrets is prohibited, just as is “rechilus”, “tale bearing”.

Magen Avroham and Rambam consider sharing a secret as ‘lashon hara’, using as their definition, any speech that will cause another person’s distress, fear, or embarrassment.

Reading another person’s mail is a form of ‘rechilus’.

Detrimental words against your yeshiva, shul, or workplace is also prohibited.

אַחַד דִּינֵי מְמוֹנוֹת וְאַחַד דִּינֵי נַפְשׁוֹת

Both monetary cases and capital cases.

The court proceedings begin by listing the similarities between a monetary case and a capital case. There is only one similarity, both require inquiry and questioning.

(Lev 24:22) - “One law you shall have for you.” Court proceedings should be uniform.

(Deut 13:15) - In orders, inquiry and questioning for capital cases and therefore, to be uniform, we learn it is required for monetary cases, except regarding loans (32b1).

The purpose of inquiry and questioning is to gather details of the testimony that permit other witnesses to come and ‘refute’, “hazamah” that testimony. Therefore, the questions are specific, i.e., year, month, day of the week, hour, and place.

In capital cases: Did you know the victim? Did you recognize the victim? Did you warn the accused, etc.?

מה בין דיני ממונות לדיני נפשות

What are the differences between monetary cases and capital cases?

Seven differences between commercial and capital cases.

**Differences:**

1. 3 Judges
2. Opens with statements the liability or non liability.
3. Decided by a majority of one for non-liability or liability.
4. Can be reversed in favor of non liability or liability.
5. Anyone can advance on argument for 1 or non-liability even.
6. May advance arguments for 1 or NL.

**Capital Cases:**

1. 23 Judges
2. Opens with statements for acquittal, but not for conviction.
3. Decided by majority of one for acquittal 12-11 but a majority of two for conviction 13-10 [therefore really not 2 but 3].
4. Can be reversed only for acquittal, but not for conviction.
5. But in capital cases, the disciple may only advance arguments for acquittal.
6. One who argues for conviction, may argue latter for acquittal. But one who argues for acquittal, may not later argue for conviction.

מה בין דיני ממונות לדיני נפשות

Con't

**Differences:**

7. May be tried by day and ended by night.
8. May conclude on the day they begin for non-liability or liability.
9. Begin with the most eminent judge.
10. All are eligible to judge.

**Capital Cases:**

7. Must be tried by day and ended by day.
8. May conclude on the day they began for acquittal but only on the following day for conviction.
9. Begin with those who side on the side.
10. Not all are eligible to serve as judge.

דיני ממונות בשלשה

Monetary cases (are judged) by three judges.

71 Judges derived from Numbers 11:16, “gather for me 70 + 1”.

70 men from the elders of Israel

23 Judges - a congregation to convict	20
- a congregation to acquit	20
at least 2 extra to convict	2
so as not to be a tie vote add	<u>1</u>
	23 Total

3 Judges (derived from Ex 22:7 & 8)

-A case of theft is decided by a court of 3.

-The word ‘judges’ is written 2 times.

In a case of theft, the word ‘judge’ is mentioned three times (Ex 22:7-8).

דִּינֵי מְמוֹנוֹת מִי בְּעֵינָן דְּרִישָׁה וְחֻקִּיָּה

Do we really require inquiry and questioning in money matters (Deut 13:15)?

Yes, we learn it from Lev 24:22, where we have a capital case –man killing a man- and a monetary case-a man killing an ox- juxtaposed and the order , “One law you should have for you”. We learn from the proximity of the cases that we have one law for both money matters and for capital matters.

Just as in capital matters, the judges are instructed to conduct Drisha V’Chakirah in interrogating the witnesses, so too, you must do Drisha V’Chakirah in interrogating the witnesses in money matters. But not regarding loans, or else people will be reluctant to lend, since they get nothing, only possible grief for doing so (32b2).

”צֶדֶק צֶדֶק תִּרְדּוּף”

“Righteousness, righteousness, you shall pursue.”

Repetition of the word ‘tzedek’, ‘righteousness’, suggests that the judges in certain cases are to exercise an extra measure of righteousness and vigor in judging.

They should subject witnesses to a very thorough examination.

But, if the word ‘tzedek’ is written only once, as in Deut 16:19, extra scrutiny is not required.

Also, the second ‘tzedek’ relates to a different form of justice, that is just called, for example, arbitration-compromise, etc., both provide equivalent justice.

The repetition of the word ‘tzedek’ may also mean that a person is obligated to go to the best court possible to have his case adjudicated.

## Daf Digest

תִּדְחָה שְׂאִינָה טְעוֹנָה מִפְּנֵי טְעוֹנָה

We push away the one who is not loaded, for the one who is loaded.

Birkei Yosef quotes Teshuvos Ra'anach in regards to prioritizing individuals for the honor of performing a mitzvah.

A Torah scholar and a regular person each have yahrzeit, which one gets the maftir aliyah? The Torah scholar? He is to be honored preferentially, but not necessarily where a mitzvah is involved. Some say the regular person should get the honor, since the scholar can provide benefit for his parent by his Torah study.

A rich person vs. a poor person, who is to be honored? The rich can honor his parent with the mitzvah and tzedakah and the poor one cannot.

Final decision: Each have an equal claim and a lottery should be drawn to help decide.



## קְרוּבָה וְשֵׂאִינָה קְרוּבָה

(Examples of compromise) One is close to his city and one is far.

- There are 2 ships passing through a narrow channel.
- There are 2 camels ascending and descending a narrow path.

Resolve:

- If one is loaded – he goes first.
- The one who is farthest from his city of origin - goes first.
- Let them compromise and compensate each other for the right to go first.

כָּל מִי שִׁיּוּדָע לוֹ זְכוּת יָבֵא וַיִּלְמַד עָלָיו

Whoever knows of grounds for acquittal, should come and present it on his behalf.

We open a capital case with a statement of acquittal.

We learn this from Num 5:19, regarding the suspicion of adultery, when we give the sotah, bitter waters to drink:

The Kohen says,

“If you have not lain with a man and if you have not strayed, you will not be harmed by these waters, but....”.

This is a statement of non-guilt, or acquittal.

Therefore, we learn that in capital cases we begin with statements for acquittal.

פֶּטוּר אַתָּה שֶׁכָּל הַמוֹמְחָה לְרַבִּים פֶּטוּר מִלְּשָׁלִים

Reversing judgement in a monetary case can be done, but only by a judge greater in knowledge and number.

Number means -more disciples.

- older chief judge.

A judge if he changes his verdict, the losing party could say this judgement is no better than the first. The change in verdict can only come from a court greater in knowledge and number.

A non-expert judge: If he is reversed, he must pay the losing party. He should not have taken the case to begin with.

An expert judge is exempt. Therefore, if his judgement is reversed, the losing party must pay.

Therefore, this is the situation in which monetary verdicts may be reversed.-

דין חַיִּיב

A man left court having been judged guilty.

Reversing decisions in capital cases:

If a person left the court convicted and someone then said, “I have evidence to present in favor of acquittal”. We return him to court to consider the evidence.

(Ex 23:7) An innocent person (truly innocent and mistakenly convicted).

And if a person left the court innocent and someone said, “I have evidence of his guilt”. We do not return him to court to consider the new evidence.

(Ex 23:7) A righteous person, you shall not slay. He has been deemed righteous by court and therefore, cannot be returned to court.

However, this is reversed for a person who instigates others toward idolatry (Deut 13:9).

## Daf Digest

הַמְלִיךְ זְכוּת אֵינוֹ יָכוֹל לַחְזוֹר וּלְלַמֵּד חֻבָּה

One who advanced an argument for acquittal, may not reverse himself and advance an argument for conviction.

In capital cases, a witness who previously gave incriminating testimony against the defendant, can give further evidence for the benefit/acquittal of the defendant.

יֹאמְרוּ שְׁנַיִם טַעַם אֶחָד מִשְׁנֵי מְקָרְאוֹת

If two judges give their reason from two different pesukim.

What is the law?

Rema rules that a decision of Bais Din always follows the majority opinion, even if the judges base their reasoning on different rationale and a different posuk.

The question arises, there cannot be two different pesukim that teach the same principle. Therefore, one interpretation must be wrong.

When it comes to court, we are only interested in the judges decision regarding guilt, or innocence and not the rationale for their opinions.

## שְׁלֹשָׁה שֶׁנִּכְנְסוּ לְבֵקֵר אֶת הַחוֹלֶה

Three, who joined to visit the sick.

A Talmid Chacham was asked where he was going, and he told them that he was going to visit a particular person in the hospital. They were surprised, because that person was a known sinner and scoffer and did not merit such a visit.

The scholar reassured them. “Every person has the potential of good within them, much like a pomegranate that is filled with seeds. And besides, we know that the Shekinah is above the head of every sick person. So, I am going to be in the company of the Shekinah as well.” The men who questioned, joined him in the visit.

The patient got better, left his bad ways and no fault was ever found in him again.

דִּינֵי נַפְשׁוֹת דִּנִּין בַּיּוֹם וכו'

In cases of capital crime, the judges must decide in daytime  
and do the hanging in the daytime (Num 25:4) (Note 43).

Since the execution took place by day, the verdicts must have also been handed down that  
same day.



הִלְכָּךְ לֹא אֶפְשָׁר

Therefore, it is not possible

to hold a trial on Erev Shabbos or Erev Yom Tov

A capital case cannot be judged on Erev Shabbos or Erev Yom Tov.

If judges reach a decision for acquittal in a capital case, they announce it that very day.

But, if the decision is for conviction, they postpone the final judgement until the next day, to give an opportunity for new evidence, or a new argument to be made for acquittal.

If that next day is Shabbos or Yom Tov, execution is forbidden, and so it would prolong his agony awaiting execution until Sunday, or until the day after Yom Tov.

Therefore, a capital case is never judged on those days.

מִשְׁמָחָה לְמֵת מִצְוָה

He may contaminate himself for an unattended corpse, a ‘meys mitzvah’  
(Kiddushin/ Vayikrah).

-A Kohen.

-A Nazir.

-A Kohen Gadol.

-One who is preparing for the Avodah.

All are still obligated to bury an abandoned dead person, a ‘meys mitzvah’.

In the argument that

Richitza (execution) is not Doche Shabbos (overrides Shabbos) like a ‘meys mitzvah’.

Avodah (sacrificial service) is Doche Shabbos.

אֵין רְצִיחָה דוֹחָה אוֹתָהּ

Execution does not override it.

A Kohen who murdered, may not raise his hands in blessing the people.

What is the law regarding a Kohen who physically cannot raise his hands and arms?  
Is his ability to bless the people, likewise, not permitted?

Shvus Yaakov - Only needs to raise his hands if he is going to give the blessing in the Beis Hamikdash.

Noda B'Yehudah - No, raising of the hands is essential and a Kohen, who cannot do so, may not bless the people.

Mishnah Berurah - Agrees with Noda B'Yehudah.

וְהָאֵלֹהִים פָּנָחָס

But, there was Pinchas.

A Kohen who kills, is disqualified from the service of the Beis Hamikdash.

A Kohen blesses with his hands (and mouth) and we say that the same hands that kill, may not be the hands that bless.

Why was it necessary for HaShem to promise priesthood to Pinchas? He was already a Kohen, since he was a descendant of Aaron. Pinchas thought that by his act of killing, he had lost his right to give the Nesi'as Kapayim. But, since he acted for the sake of Heaven, his priestly blessing was acceptable. If a Kohen accidentally kills a child in circumcising the baby, he may still give the priestly blessing, because he intended no harm, but to do a mitzvah.

וְיֵשׁ רְאִי לְדוֹן דִּינֵי מְמוֹנוֹת וְאֵין רְאִי לְדוֹן דִּינֵי נַפְשׁוֹת

There are those who are fit to adjudicate on monetary matters, but not fit to adjudicate capital cases.  
Shemaya and Avtalyon were converts.

How could they serve as Nasi and Av Bais Din when converts are disqualified from serving on the Sanhedrin?

They may serve on the Sanhedrin if:

1. No one of equal stature, who was born Jewish, could serve instead.

In this case there was no one more qualified.

2. If the litigants accept them.

If a person wished, he may give away all his money. so he can certainly choose whom he wants to adjudicate his monetary matters. But, he has no such option in regard to his life and should have no right to choose a judge in capital cases, who is not qualified.

3. The King appoints him to the court.

The King holds life and death of his subjects in his power, so he can appoint the judge.

4. Some say Shemaya and Avtalyon were not converts, but sons of converts, who had married Jewish women and therefore, were not converts at all.

סְנֵהֲדְרִין הָיְתָה כְּחֻצֵי גֹרֶן עֲגוּלָה כְּרִי שִׁיְהוּ רֹאִין זֶה אֶת זֶה

The Sanhedrin was arranged in a half circle, so that each member could see everyone else.

The Sanhedrin was seated, arranged in a half circle while discussing the procedure for trying a capital case.

The shape of the Sanhedrin and why:

Scribes 2: 1 to right 1 to left

To record the words - 1 writes for those arguing for acquittal

- 1 writes the words for those arguing for a conviction.

R Yehudah suggest that there was a 3<sup>rd</sup> scribe, writing the words for both.

Why? To check for error

The first two would concentrate on their orientation, the 3<sup>rd</sup> without bias.

Three rows of disciples of the sages - 23 in each row, so as to add to create a Sanhedrin of 71.

Why 23 in each row? Disciples should be no greater in number than the 23 judges.

סְנֵהֲדְרִין הָיְתָה כְּחֻצֵי גֹרֶן עֲגוּלָה כְּדִי שִׁיהוּ רֹאִין זֶה אֶת זֶה

The Sanhedrin was arranged in a half circle, so that each member could see everyone else.

- Rashi -They would have direct sight of each other and could more easily hear each other.
- No one would have their back to the others.
  - Witnesses could enter the half circle, be seen and see all the judges.
  - All could see the facial expression of witnesses and the other judges.

כִּי נִיִּידִי כּוֹלָהוּ נִיִּידִי

When one moves, all move.

If they needed to ordain a disciple (i.e., one judge died!).

Use one from first row, and one from the second row would move up, then the third row would move up.

Gemara:

Shape – Semicircle . The shape is compared to:

Navel – center of the body.

Basin - center of the world. Center of justice and wisdom.

Moon – crescent.

If one judge needs to leave, he must be certain, that 23 judges (at least), remain in the great Sanhedrin.

He, who moves from the head of one line, to the end of another may complain.

The Gemara says:

-It is better to be the tail of a lion, than the head of a fox.

-It is better to be a small fish in a large pond, than a large fish in a small pond.

-It is better to be a lesser member of an elite group, than the head of a lesser group.



## כִּיצַד מְאִימִין אֶת הָעֵדִים עַל עֵיִדֵי נַפְשׁוֹת

How to instruct the witnesses in capital cases.

In monetary cases, one can always pay back the money.

In capital cases:

Cain killed Abel – means, not ‘dom’, “blood”, but ‘demaï’, “bloods”, plural.

This refers to multiple stabs wounds, or that all of his future descendants were killed.

Man was created- Singly

A Single life = The whole world.

“My father is greater than your father”, can’t be said because we all originate from the same man, Adam.

„דְּמֵי אָחִיךָ צֹעֲקִים”

“The bloods of your brother cry out.”

Cain killed Abel by shedding the bloods of his brother.

We learn from the plural form of the word, ‘bloods’, that Cain stabbed Abel many times to create many bleeding areas, because he did not know from which wound, the soul would escape.

He killed, not only Abel, but all of Abel’s unborn descendants, until eternity.

לְפִיכֶן נִבְרָא אָדָם יְחִידִי

Therefore, Adam was created as a single individual.

Maharsha – Man was created alone and Chava, his wife, was later formed from him.

As opposed to all other creatures, who were initially created as male and female.

Mishnah - This was done so people could not say, “I am better than you, because my ancestor was greater than yours”.

- Scoffers could not claim that other powers created other entities, called man. There was only one, original man.
- This principle demonstrates the greatness of HaShem. That from one, original man, he could fashion so many different types of faces and forms of people.

Yad Ramah – It also demonstrates that every person is a complete world.

אַף עַל פִּי שְׁבִטָּה סְנֵהְדְּרִי אַרְבַּע מִיתוֹת לֹא בָטְלוּ

Even though we no longer have a Sanhedrin, the punishment of the four types of execution has not ceased.

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Once upon a time, a Jewish man was murdered and the burial society wondered if it was proper to bury him in a Jewish cemetery.

“After all,” they claimed, “we learn, that God arranges that people will die in the manner of execution they deserve. If this man was murdered, he must have deserved a capital punishment and should not be buried in his family plot.”

Chasam Sofer ruled that those who deserve capital punishment, will die by the manner they deserve. But, it does not mean that everyone who dies that way, is guilty of a capital offense.

See Note 23 in Gemara

	<b>AC</b>	<b>BCE</b>
Abraham's birth	1948	
Exodus from Egypt	2448	1312
Building of Solomon's Temple	2488	
480 years after Exile	2928	
Babylonian Exile	3338	

The Temple stood for 410 years.

Therefore, 890 years from Exodus to exile.

AC= After creation (Jewish Calendar)

BCE= Before the common era (Secular calendar)

בְּשִׁלְשָׁה דְּבָרִים אָדָם מִשְׁתַּנֶּה מִחֲבִירוֹ בְּקוֹל בְּמַרְאֵה

In three things man differs from his fellow: in voice, appearance and mind.

Rabbi Menachem Mendel of Kotzk - Just as it does not bother him, that his neighbor's voice and appearance differs from his, so it should not concern him when his neighbor's ideas differ from his.

(Brachos 58a) The mind of each is different from each other, just as the face of each is different from each other.

שְׁתֵּים עָשָׂרָה שָׁעוֹת הָיָה הַיּוֹם

Adam's creation day was 12 hours long.

Hour:

- 1 - Adam's dust gathered.
- 2 - Made into a shapelessness.
- 3 - Limbs were stretched out.
- 4 - Soul was placed into him.
- 5 - He stood on his feet.
- 6 - He named all the animals.
- 7 - Eve was paired with him.
- 8 - Went to bed 2 and 4 came out of bed.
- 9 - He was commanded not to eat from the tree of knowledge.
- 10 - He ate it.
- 11 - He was judged.
- 12 - He was banished from the Garden of Eden.

זֶה סֵפֶר תּוֹלְדֵי אָדָם

“This is the book of the generations of Adam.”

God showed him the future generations, its leaders and its sages.

Why show Adam the leaders and the generations of the future?

-Because Adam would get pleasure knowing that what he started, would continue into the future.

-Because Adam was a heretic and that which he was so skeptical about, actually survived for generations

-Because Adam would see the gradual deterioration in scholarship and observance by the population. For example, Yiftach, in his generation, was like Shmuel, in his generation (Rosh Hashanah 25b).

(Arakin 17a) - As the leader, so the generation.



אֱלֹהֵיכֶם גָּנַב הוּא

Heretic: Your God is a thief.

The heretic said, “He cast Adam into a deep sleep and he slept, and while Adam slept, God took a rib from him. This proves that God was a thief.”

The daughter of Rabban Gamliel asked for the right to answer the heretic.

She said, If we were to ask a judge the following question: While we were sleeping, thieves came and stole a silver pitcher and they left a golden pitcher in its stead. Have they done us harm?”

One should know how to answer heretics; know the Torah so well, that if a heretic quotes the Torah, you can respond.

## Daf Digest

יָדַעְנָא אֱלֹהֵינוּ מַאי קָא עָבִיד (וְהִיכֵן יָתִיב)

A heretic says, “I know what God is doing and where He is sitting”.

Rabban Gamliel says, “I have a beloved son traveling on the seas, where is he”?

Heretic: How do I know?

Rabban Gamliel: What is here on earth you don’t know? And what is in Heaven you claim to know?

Heretic: God counts the stars. Big deal! I also can count the stars.

Rabban Gamliel put quinces in a sieve and whirled them around and asked the Heretic to count them.

Heretic: Hold still, so I can count.

Rabban Gamliel: The Heavens also spin around. How can you count the stars?

Heretic: I know how many stars there are.

Rabban Gamliel: How many teeth are in your mouth?

The Heretic started to count them.

Rabban Gamliel: You don’t even know the number of teeth in your head and you claim to know the number of stars in the Heaven?!

כָּל בֵּי עֲשָׂרָה שְׂכִינָתָא שְׂרִיָא כַּמָּה שְׂכִינָתָא אִיכָא

The Divine Presence rests on 10 Jews.

Even if the 10 are completely wicked and divorced from Judaism, if they join a minyan to daven, the Shekinah rests upon them.

היו בודקין

They would question the witnesses with 7 questions.

1. In which Schmittah cycle?
2. What year in the Schmittah cycle?
3. Which month?
4. Which day of the month?
5. Which day of the week?
6. Which hour?
7. What place?

אֶחָד אוֹמֵר בְּסִיּוֹף הָרֶגוּ וְאֶחָד אוֹמֵר בְּאִרְיָן הָרֶגוּ אֵין זֶה נָכוֹן

One says the murder weapon was a knife, while the other (witness) says it was a battle-ax.  
This is not correct.

Their testimonies contradict and are therefore, invalid. What if one said, “I don’t know”.  
Mishnah says their testimony would still be valid.

If saying, ‘I don’t know’ causes the testimony to be invalid, R Chisda would have used that example to invalidate, rather than give the example of the battle-ax.

Rambam says – (Hilchus Eidus 2:1) The testimony of a witness who says, “I don’t know”,  
is invalid.

In the sefer Kris Melech Rav, it is explained that saying, ‘I don’t know’ would be accepted by R Chisda as long as the witnesses do not actually contradict each other.

Rambam would accept, ‘I don’t know’, if the information is not part of the essential matter of the victim being murdered. The ‘not knowing’ can be ignored.