



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

### Sanhedrin Daf Lamed Beis

#### PEREK ECHAD DINEI MAMANOS -- PEREK REVI'I

##### MISHNA

- The pasuk of “mishpat echad yihiyeh lachem” teaches that monetary cases and capital cases both require a “drisha and chakira” (the two types of questions asked to the witnesses).
- The differences between monetary cases and capital cases are:
  - Monetary cases require 3 judges, capital cases require 23.
  - Monetary cases open with statements of acquittal or conviction, capital cases only open with statements of acquittal.
  - Monetary cases are decided on a simple majority of one, whether for acquittal or conviction, capital cases follow a majority of one for acquittal, but need a majority of two for conviction.
  - Monetary cases may have verdicts reversed to acquittal or to conviction, capital cases may only be reversed from conviction to acquittal, but not from acquittal to conviction.
  - Monetary cases may have anyone (even talmidim who are not judges) put forth arguments to acquit or convict, in capital cases a talmid may only offer an argument to acquit, not convict.
  - Monetary cases may have a judge that offered an argument to convict to change and offer an argument to acquit, and visa-versa, in capital cases a judge who previously argued to convict may later argue to acquit, but not visa-versa.
  - Monetary cases are heard during the day and may even be decided at night, capital cases are heard during the day and must be decided during the day as well.
  - Monetary cases may be decided the same day as the deliberations, whether they decided to acquit or convict, capital cases may be decided the same day if they are deciding to acquit, but must wait until the following day if they are deciding to convict.
    - This is the reason that a court may not begin a capital case on Erev Shabbos or Erev Yom Tov.
  - Monetary cases and cases of tumah and tahara are decided by first asking the most prestigious judge for his opinion, capital cases are decided by first asking the least prestigious judge for his opinion.
  - All are valid to be a judge for monetary cases, but not all are valid for capital cases – only Kohanim, Levi'im, and Yisraelim whose yichus allows their daughters to marry Kohanim may judge capital cases.

##### GEMARA

- **Q:** Do monetary cases need drisha and chakira? A Braisa says that witnesses signed on a loan document that is dated in Nisson of shmitta cannot be made into eidim zomeimim, because we say that it is possible that the loan was done before that date and the document was later written and postdated. Now, if they need drisha and chakira we should already know with certainty the date on which the loan was given!? [The Gemara asks that we could have asked the same question from a Mishna that says that postdated documents are valid, and if drisha and chakira are needed, a postdated document should be viewed as a false document!? The Gemara says that we asked from the Braisa because it is a bigger chiddush. Even though it was dated in shmitta (when loans become canceled) when people would normally not lend and one would not want his document postdated to shmitta, we still say that we assume it was postdated]. The Braisa seems to contradict our Mishna!? **A:** The Gemara presents a number of answers:

- **R' Chanina** said that D'Oraisa, monetary cases need drisha and chakira (which is what our Mishna was referring to), but the **Rabanan** removed that requirement so as not to discourage people from lending money (through drisha and chakira the witnesses can be found to be invalid, causing the lender not to be able to collect on his loan).
  - **Q:** If so, if the judges arrive at a wrong monetary decision they should not have to pay for it, because they were not given the opportunity to fully vet the witnesses!? **A:** If they would not have to pay for a mistake, that would certainly discourage people from lending.
- **Rava** said, the Mishna is discussing penalty cases and the Braisa is discussing other monetary cases such as loans.
- **R' Pappa** said, both are discussing regular monetary cases such as loans. The Mishna is discussing a case where the testimony seems fraudulent, and the judges therefore must investigate more fully. The Braisa is discussing a case where there is no such concern.
  - This is similar to the teaching of **Reish Lakish**, who asked, that one pasuk says "b'tzedek tishpot es amisecha" and another says "tzedek tzedek tirdof" (the double verbiage seems to require an additional level of investigation by Beis Din). He answers, that the second pasuk is discussing a case where the testimony seems fraudulent.
  - **R' Ashi** said, that the Mishna and Braisa can be understood using any of the previous answers. The double use of "tzedek tzedek" in the pasuk refers to two different cases: one refers to actual decision of law, and the other refers to compromise. A Braisa gives this explanation as well.
  - A Braisa says, the pasuk of "tzedek tzedek" teaches that one should try and seek out the best court to go and have his case heard there. For example, one should go to **R' Eliezer** to Lod and to **R' Yochanan ben Zakai** to Bror Chayil.
    - A Braisa says, when the mill was heard loud in Borni, it was a secret message to let people know that a bris was taking place (it had to be kept secret from the Romans). When candles were lit in Bror Chayil during the day (or many more than usual were lit at night), it was a secret message that a wedding seudah was taking place.
  - A Braisa says, the pasuk of "tzedek tzedek" teaches that one should try and seek out the best court to go and have his case heard there. For example, one should go to **R' Eliezer** to Lod, to **R' Yochanan ben Zakai** to Bror Chayil, to **R' Yehoshua** to Peki'in, to **R' Gamliel** to Yavneh, to **R' Akiva** to Bnei Brak, to **R' Masya** to Rome, to **R' Chananya ben Tradyon** to Sichni, to **R' Yose** to Tzipori, to **R' Yehuda ben Beseira** to Netzivin, to **R' Chanina** the nephew of **R' Yehoshua** to the Gola, to **Rebbi** to Beis She'arim, and to the **Chachomim** in the Lishkas Hagazis.

#### DINEI MAMANOS POSCHIN...

- **Q:** What do we say to "open with a statement of acquittal"? **A:** **R' Yehuda** said, we say to the witnesses, "who said that it took place like you say it did?"
  - **Q:** **Ulla** asked, that would "muzzle" the witnesses (it would make them retract their testimony when they hear that the judges don't believe them)!? [The Gemara asks, what would be wrong with doing that? We find a Braisa where **R' Shimon ben Eliezer** says we move the witnesses from place to place to confuse them so that they will retract their testimony!? The Gemara answers, that case is different, because we are not directly causing the retraction. In **R' Yehuda's** case we are directly causing the retraction]. **A:** Rather, **Ulla** said, the judges say to the defendant, "do you have witnesses who can come and make these witnesses into eidim zomeimim?"
  - **Q:** **Rabbah** asked, because we want to start with a statement of acquittal for the defendant, we begin with a statement of conviction for the witnesses!? [The Gemara says, this would not be considered a statement of conviction, because eidim zomeimim are punished only if they become zomeimim after the verdict has been reached. **Rabbah** explained, what he meant to ask is, that since if the defendant waits until after the verdict to bring witnesses to make the first witnesses into zomeimim, the first witnesses would be punished, it seems wrong for Beis Din to begin with this statement]. **A:** Rather, **Rabbah** said, the judges ask the defendant whether he has witnesses that can contradict the testimony of the witnesses (a contradiction does not make eidim zomeimim).

- **R' Kahana** said that the judges say to the witnesses, "from your words it would appear that the defendant will be found not guilty".
- **Abaye and Rava** both said that they tell the defendant, "if you did not commit the murder you should not worry".
- **R' Ashi** said, they announce, "anyone who has an argument to acquit this defendant should come and make the argument".
- A Braisa gives the same answer as that of **Abaye and Rava**.