



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

Sanhedrin Daf Mem

PEREK HAYU BODKIN -- PEREK CHAMISHI

MISHNA

- They would examine the witnesses with 7 chakiros questions: During which shmitta cycle of the Yovel did this take place? In which year? In which month? Which day of the month? Which day of the week? Which hour of the day? In which place? **R' Yose** says, they only asked: which day, which hour, and which place.
- In murder cases they would then ask them: Did you recognize the victim? Did you warn the defendant? In cases of avodah zarah they would ask: What avodah zarah did he worship and how did he worship?
 - Whoever increases these bedikos questions is praiseworthy. It once happened that **Ben Zakai** asked them regarding the stems of figs on a fig tree that they said was at the murder scene.
- What is the difference between chakiros and bedikos? With regard to chakiros, if one of the witnesses says he does not know, the testimony is batel. With regard to bedikos, if one or even both of them say they do not know, the testimony remains valid. With regard to chakiros and bedikos, if the witnesses contradict each other with their answers, the testimony becomes batel.
 - If one witness says the incident took place on the 2nd of the month and the other says it was on the 3rd, the testimony remains valid, because we assume that the first one knew that the previous month had 30 days and the second one thought it only had 29 days. However, if one says it was on the 3rd of the month and the other says it was on the 5th, the testimony is batel.
 - If one witness says the incident took place in the 2nd hour of the day and the other says it was in the 3rd hour, the testimony remains valid. However, if one says it was in the 3rd hour and the other says it was in the 5th, the testimony is batel. **R' Yehuda** says, that even in this case the testimony would remain valid. However, if , one says it was in the 5th hour and the other says it was in the 7th, the testimony is batel, because during the 5th hour the sun is in the east and during the 7th it is in the west.
- After questioning the first witness, they bring in the second witness and examine him as well. If all their statement are in agreement with each other, the judges begin deliberation with a statement for acquittal. If one of the witnesses say that he has an argument for acquittal, or if one of the talmidim say that they have an argument to convict, we don't listen to them. If one of the talmidim say that he has an argument for acquittal, he is elevated and given a seat among the judges and would not be removed from there the entire day. If there is substance to what he is saying, we listen to him. Even if the defendant himself says that he has an argument to acquit himself, we listen to him, as long as there is substance to his words.
- If they find a reason to acquit him, they acquit him. If they do not, they push off giving the verdict until the next day. Beis Din then leaves in pairs. They would minimize any eating, would not drink any wine that entire day, and would continue to deliberate the entire night. The next day they come to Beis Din early. The one who argued for acquittal says, "I argued for acquittal and I maintain that position". The one who argued to convict says, "I argued for conviction and I maintain that position". A judge who argued to convict may change and now argue for acquittal, but one who argued to acquit cannot now change his mind and argue to convict. If they make a mistake in saying what they held, the two sofrim remind them of what they held. If they now found enough to acquit him, they acquit him. If not, they move on to the next step of taking an actual vote.

- If 12 judges vote to acquit and 11 vote to convict, he is acquitted. If 12 vote to convict and 11 vote to acquit, or even if 11 vote to acquit and 11 vote to convict and one says he does not know how to vote, or even if 22 vote to acquit or to convict and one says he does not know how to vote, they add more judges. How many do they add? They keep adding two until they reach 71. If at that point there are 36 votes to acquit and 35 to convict, he is acquitted. If there are 36 to convict and 35 to acquit, we have the judges debate until they can convince one of the judges who voted to convict, to change his mind and acquit.

GEMARA

- **Q:** How do we know that these 7 chakiros must be asked? **A: R' Yehuda** said, the pasuk regarding ihr hanidachas says, “v'darashta v'chakarta v'sha'alta heiteiv” and another pasuk regarding one who worshipped avodah zarah says “v'hugad licha v'shamata v'darashta heiteiv” and a third pasuk regarding eidim zomeimim says “v'darshu hashoftim heiteiv”. In these pesukim there are 7 references to questions, which teaches that there are 7 chakiros that are asked.
 - **Q:** Maybe each pasuk only teaches for the type of case regarding which it is written, and is not meant to be combined and teach regarding all capital cases? **A:** Since they all teach a requirement to ask questions, it is as if they are all written together, and therefore teach regarding all cases.
 - **Q:** These 3 cases are very different than each other, so how can they be learned from each other? Ihr hanidachas is different in that all the possessions are destroyed. Avodah zarah is different in that it is punishable by skila, whereas the others get sayif. Eidim zomeimen are different in that there is no requirement that they be warned. **A:** We learn a gezeira shava on the words “heiteiv” to combine them all together. Moreover, all the words “heiteiv” in these pesukim are extra, which makes for a stronger gezeira shava that cannot be refuted.
 - Now that we have established the chakiros requirement for these 3, we can learn that the witnesses to a case where the punishment is chenek must also be subject to chakiros based on a kal v'chomer from a case of skila and sayif (if we examine those witnesses in the stringent case of skila and sayif to try and get him acquitted, then we will surely do so for a case of chenek) and can learn all cases of sreifah from a kal v'chomer from the more stringent skila.
 - **Q:** This makes sense according to the **Rabanan** who say that skila is more stringent than sreifah, but according to **R' Shimon** who says the reverse, how will we learn that cases of sreifah require chakiros? **A:** Rather, **R' Yehuda** said, the pesukim regarding ihr hanidachas and avodah zarah both say “emes nachon”. These are 4 extra words which can teach for 4 more chakiros. With the 7 we have previously learned, we now have a total of 11 drashos. From those 11, we can say that the 3 mentions of “heiteiv” are not to be darshened, and should rather be left open for the gezeira shava (so that it cannot be refuted). This brings the total to 8. **R' Shimon** would say we use one drasha to teach that this applies to sreifa as well. We are left with 7 drashos to teach that there are 7 chakiros that must be asked. The **Rabanan** would say, that although we could have learned sreifa through a kal v'chomer, the Torah went ahead and wrote a word for a drasha anyway.
 - **Q: R' Avahu** asked, maybe say that the last drasha does not teach regarding sreifa, but instead teaches that there must be an 8th chakira question that is asked? **A:** There is no 8th question that needs to be asked. The 7 get us all the information that we need.
 - **Q:** Why can't the 8th question be how long into the hour the incident took place? In fact, a Braisa says that there are 8 chakiros!? **A:** This question would only be valid according to **Abaye's** understanding of **R' Meir**, which says that people do not mistaken time in the hour at all. However, according to **Abaye's** understanding of **R' Yehuda**, that people make mistakes up to half an hour's time, and according to **Rava** who

says that people even make bigger mistakes than that, there would be no point in asking this as the 8th question.

- **Q:** Why can't the 8th question be what year in the Yovel cycle the incident took place? **A:** This is essentially covered when we ask which shmitta cycle in Yovel it took place.
- **Q:** Maybe the 8th question should be which Yovel cycle the incident took place in? **A:** Since we ask in which shmitta cycle it took place, there is no need to ask in which Yovel it took place.

R' YOSE OMER

- A Braisa says, **R' Yose** said to the **Rabanan**, according to you, if witnesses come and say that the person killed someone yesterday, would we still have to ask him which shmitta, which year, which month, and which day in the month? Of course not! You see that 7 questions are not always needed! The **Rabanan** said to **R' Yose**, according to you, if witnesses come and say the person killed someone now would we ask him what day in the week, what time and what place? You see that even your 3 are not always needed. However, even though they are not needed to be asked, we ask it anyway, to bother the witnesses. The same would be with regard to all 7 questions.
 - The Gemara says, **R' Yose** would say that "we saw him kill yesterday" is common, but "we saw him kill now" is not. That is why the basic three questions must always be asked, but the other four need not be asked.