

## OVERVIEW of the Daf

### 1) Burying a מת מצוה on Shabbos (cont.)

Rava concludes his argument against Abaye's assertion that executions should override bringing a korban.

### 2) Where to begin deliberations

Rav reports that he was once a judge in Rebbi's Beis Din and he began the deliberations which contradicts the Mishnah that rules that in monetary matters deliberations begin with the most prominent judge.

The practice in Rebbi's Beis Din is explained.

### 3) The greatness of Rebbi

Rabbah the son of Rava or R' Hillel the son of R' Vales states that from Moshe Rabbeinu until Rebbi we do not find one person who possesses Torah and authority.

Numerous unsuccessful challenges are presented against this assertion.

R' Ada bar Ahava asserts that from Rebbi until R' Ashi we do not find one person who possesses Torah and authority.

This assertion is unsuccessfully challenged.

### 4) Deliberating capital cases from "the side"

Two sources are presented for the halacha that deliberations in capital cases begin from the least eminent judge.

### 5) A student and teacher

Rav rules that a student and teacher may adjudicate together.

This ruling is unsuccessfully challenged.

### 6) Oxen on trial

R' Avahu states that the procedures for capital cases are not implemented when an ox is on trial for a potential execution except that twenty-three judges are needed.

R' Acha bar Pappa identifies the source for this ruling.

The Gemara unsuccessfully challenges R' Avahu's statement that there are ten differences between monetary cases and capital cases.

### 7) Adjudicating monetary cases

R' Yehudah asserts that the term הכל includes a mamzer as one who may adjudicate monetary cases.

This explanation is challenged from another Mishnah.

The Gemara explains that one Mishnah includes a mamzer and the other includes a convert.

### 8) Adjudicating capital cases

An exposition is presented as the source that judges in capital cases must have blemish-free yichus.

This exposition is successfully challenged and R' Acha bar Yaakov suggests an alternative source.

This exposition is successfully challenged and R' Nachman bar Yitzchok presents a definitive source for this halacha.

9) **MISHNAH:** The Mishnah begins to describe the procedure for adjudicating a capital case. ■

## Distinctive INSIGHT

### The seating configuration of the Sanhedrin

סנהדרין היתה כחצי גורן עגולה כדי שיהו רואין זה את זה

The Mishnah describes how the members of the Sanhedrin sat in a row in the shape of a half-circle in order for each person to be able to see everyone else. Why was it necessary for everyone to be able to have direct eye contact with everyone else?

Rashi explains that it is only when people have direct sight of each other that they can listen and then argue and debate with each other. מהרלב"ח elaborates and says that when people argue and express their views, they often rise from their seats. If they did not sit facing each other, it is quite possible that they would not be able to hear when a person turns as he speaks from a standing position. Rambam (Hilchos Sanhedrin 1:3) explains that this arrangement was used in order for the President (נשיא) and the Av Beis Din to be able to see everyone. Lechem Mishneh notes that this was a sign of respect for these leaders to sit in the middle and for everyone to easily be able to listen to them.

Rashi also addresses why the Sanhedrin sat in a half-circle rather than in a full circle. From a technical standpoint, the witnesses and litigants would have to have a way to enter the circle to present themselves in front of the judges (see Rashi, Chullin 5a). Furthermore, if the judges sat in a full circle, while the witnesses would be facing some of the judges, their backs would be turned toward the others. The judges might have a hard time hearing the witnesses and litigants, or they would not be able to see them as they spoke. Facial expressions and other subtleties

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## REVIEW and Remember

1. Why did Rav present his argument ahead of the judges who are more eminent than himself?  
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2. Do a teacher and his student count as one or two votes?  
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3. Why did the Gemara assert that there are nine differences between capital cases and monetary cases when there are ten listed in the Mishnah?  
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4. Why is it necessary to include the mamzer and convert separately in mentioning their qualification to adjudicate monetary cases?  
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 Mindel bas Eliezer, oleho hasholom, Mrs. Mildred Gerber o.b.m.  
 by her children Mr. and Mrs. Alan Gerber

# HALACHAH Highlight

## May a convert serve on the Sanhedrin?

ויש ראוי לדון דיני ממונות ואין ראוי לדון דיני נפשות

*There are those who are fit to adjudicate monetary matter but are unfit to adjudicate capital cases*

Sefer Magen Avos<sup>1</sup> notes that Shemaya and Avtalyon were converts which raises the question of how they could serve as the Nasi and Av Beis Din, respectively. Converts are disqualified from serving on the Sanhedrin. He answers that the restriction against a convert serving on the Sanhedrin applies only when there is someone of equal stature who was born Jewish who could serve on the Sanhedrin. In the case of Shemaya and Avtalyon there was no one more qualified than they and thus they were permitted to serve as Nasi and Av Beis Din. Maharal<sup>2</sup> suggests that Shemaya and Avtalyon were not converts but were descendants of converts married to Jewish women and thus were fully qualified to serve on the Sanhedrin.

Tumim<sup>3</sup> quotes Knesses Hagedolah<sup>4</sup> who answered that the restriction against a convert serving on the Sanhedrin does not apply when the people accept the convert as a member of the Sanhedrin. Tumim proceeds to raise a difficulty with this approach. There is a logical reason that people could accept those who are disqualified for the Sanhedrin for monetary matters rather than for capital cases. Since a person can choose to relinquish (מפקיר) all his money it makes sense that he could choose whom he wants to adjudicate his financial matters even if that person is disqualified. When it comes to capital cases this rationale does not hold true. A person cannot relinquish his life; therefore he should not have the right to choose someone to adjudicate capital cases who is disqualified. Consequently, he suggests another resolution to this question. Although acceptance of the people does not per-

(Insight...continued from page 1)

are essential in communication, and the judges must be able to pick up on any and all such nuances during the deliberations.

The Tosefta (8:1) cites differing opinions regarding the seating position of the President of the Sanhedrin. Tanna Kamma holds that the President sat in the center of the semi-circle, with thirty-five of the members of the Sanhedrin seated on each side of him. R' Elazar b. Tzadok says that when Rabban Gamliel sat in the Sanhedrin in Yavne, one of the sages sat to his right, and all the others sat to his left. Rambam (ibid.) writes that the נשיא sat with the Av Beis Din to his right, and the rest of the sages to his left, seated according to their ages and their wisdom, with the wisest among them to his immediate left, and the rest seated closer according to their level. Radva"z and Kesef Mishneh ask why Rambam does not rule according to Tanna Kamma, and, as he rules according to R' Elazar b. Tzadok, why the row begins with the Av Beis Din, and not with the נשיא himself.

Radva"z explains that it was not *only* the Av Beis Din who sat to the right of the נשיא, but the נשיא sat in the middle, as Tanna Kamma explains, with the Av Beis Din to his immediate right.

Radva"z explains that Rambam rules according to R' Elazar b. Tzadok because he cites the actual case of Rabban Gamliel. ■

mit a convert to serve on the Sanhedrin, if the king appoints a convert to the Sanhedrin he may serve. The rationale behind this approach is that a king has the power to execute people for the good of the country. By extension it is logical to assume that the king could appoint someone to adjudicate capital cases and we may assume that Shemaya and Avtalyon were appointed by the Hashmoneim kings who were still in power during that period of history. ■

1. ספר מגת אבות לפרקי אבות פ"א משנה י'.

2. דרך החיים לאבות שם ד"ה התבאר.

3. תומים סי' ז' סק"א.

4. כנסת הגדולה סי' ז' הגב"י אות א' ד"ה מעתה. ■

# STORIES Off the Daf

## "Torah and greatness is one place"

"מימות משה ועד רבי לא מצינו תורה וגדולה במקום אחד..."

Rav Moshe Chaim Rosenbaum, zt"l, the av beis din of Kleinwardein, recounted an experience that made an indelible impression upon him as a young man.

"When the Kol Aryeh, zt"l, passed away, a multitude of people thronged to his funeral to pay him their last respects as befits such a Torah giant. Rav Dovid Schick, zt"l, the author of Imrei Dovid, eulogized him in such a poignant manner that it is fitting to tell over his moving words for all

to hear so they can learn the greatness of the Kol Aryeh.

"The Imrei Dovid intoned in an emotionally charged voice, 'Rabbosai, the gemara in Sanhedrin 36 tells us that from the time of our teacher Moshe until Rebbe Yehudah HaNasi, we didn't find Torah and gedulah, extravagant material wealth, together in one place. The Vilna Gaon zt"l, explains that while a person's Torah ascends on high when his soul leaves the world, his material wealth does not accompany him to the next world. It follows that, usually, Torah and gedulah do not remain in one place, since the Torah is on high and the material wealth remains below. But Moshe Rabbeinu gave us the Torah. Not

only whatever material wealth he had remained in this world, but even his Torah also remained here since it was only due to Moshe that we received the Torah as our heritage. And the same is true with Rebbe, the codifier of the Mishnah.'

"Here the Imrei Dovid raised his voice, 'Oy vey! Here, too, we find that the tzaddik has Torah and gedulah together, but in a tragically different way. His Torah certainly went with him. But what where was the gedulah? It was his own presence, since he was the pride and joy of his city! Surely when the illustrious Kol Aryeh left the world, both Torah and gedulah passed away from this realm!" ■

1. הקול אריה, ח"א, ע"י שלי"ט