



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**Tzvi Gershon ben Yoel (Harvey Felsen) o”h**

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Judging a False Prophet

The *Mishnah* had stated that a false prophet is judged by a Court of seventy-one.

From where do we know this? Rabbi Yosi the son of Rabbi Chanina derives it through a *gezeirah shaveh* (one of the thirteen principles of Biblical hermeneutics; it links two similar words from dissimilar verses in the Torah) of “*hazadah*” “*hazadah*” (willfully) from the laws of a *Zaken Mamrei* (a rebellious sage who issues halachic rulings opposite those of the Sanhedrin even though Sanhedrin has told him he is wrong). Just as the rebellious sage is not put to death unless he rebelled against a court of seventy-one; so too a false prophet is not put to death unless he is judged by a court of seventy-one.

The *Gemara* asks that the “*hazadah*” mentioned by the *Zaken Mamrei* is in reference to his being sentenced to death, and he too may be judged (and put to death) by a court of twenty-three (in the same manner that every other capital case is judged)!?

Rather, Rish Lakish derives this through a *gezeirah shaveh* of “*davar*” “*davar*” (matter) from the rebellion of a *Zaken Mamrei*. Just as his rebellion is against a court of seventy-one; so too a false prophet is not put to death unless he is judged by a court of seventy-one.

The *Gemara* asks: Let us now reverse the *gezeirah shaveh* and use “*hazadah*” “*hazadah*” to teach us that he should not be sentenced to death unless he is judged by a court of twenty-three!?

The *Gemara* answers: The *Tanna* heard the *gezeirah shaveh* of “*hazadah*” “*hazadah*” (from his teacher), but he did not hear the *gezeirah shaveh* of “*davar*” “*davar*” (and therefore he cannot use it for that halachah, for a *gezeirah shaveh* must be passed over by tradition; one is not allowed to invent his own). (16a1 – 16a2)

Judging a Kohen Gadol

The *Mishnah* had stated that the *Kohen Gadol* (who has committed a capital offense) is judged by a Court of seventy-one.

From where do we know this? Rav Adda bar Ahavah derives it from the following verse: *Every great matter they shall bring to you (Moshe)*. This teaches us that the matters of a great person must be brought before Moshe (who is equal to seventy-one).

An objection is raised from a Baraisa: A great matter [means] ‘a difficult case.’ You say, ‘a difficult case’; but perhaps it is not so, the meaning being ‘the matters of the great man’? Since Scripture states further on: The difficult cases they brought to Moshe, it is clear that difficult cases are meant. [Hence great matter means ‘difficult case’]? — His view is that of the following *Tanna*. For it has been taught in a Baraisa: Every great matter, means ‘the matters of a great [man].’ You say so, but may it not mean, ‘every difficult case’? When Scripture further refers to ‘difficult cases,’ these have already been mentioned. How then, do I interpret, ‘great matter’? — ‘The matters of the great [man].’

But according to that *Tanna*, why do we need both verses? — The one states the law itself; the other, its practice. But the



other [Tanna]? — If so, either ‘great’ should be employed in both passages, or ‘difficult’ in both. Why ‘great’ in one passage and ‘difficult’ in the other? We may infer therefrom the two meanings. (16a2 – 16a3)

Rabbi Elazar inquires: How many judges are required to judge an ox of the *Kohen Gadol* (when it goes and kills a person)? Is it compared to the execution of its owner (and we would require seventy-one judges), or is it compared to that of owners in general (and we would require twenty-three judges)?

Abaye said: Since he raised the question with regard to his ox, it seems that in regard to his other monetary cases, he is certain (that only three judges are required). But is not this obvious? No, for you might have that differently, based upon from the verse, “Every great matter.” Perhaps every matter of the great man (the *Kohen Gadol*) is to be brought before the court of seventy-one. Abaye therefore informs us otherwise. (16a3)

Consulting Sanhedrin Prior to Battle

The *Mishnah* had stated: A voluntary war (if they are not waging war against the seven nations that were occupying Eretz Yisroel) requires a Court of seventy-one.

From where do we know this? Rabbi Avahu said: It is written: *And before Elozar the Kohen he shall stand [and Elozar shall inquire for him by the judgment of the Urim before God; by His word shall they go out (to war) and by His word they shall come in from war, both he and all the children of Israel with him and all the congregation]. He refers to the king (Yehoshua); and all the children of Israel with him refers to the Kohen anointed for war; and all the congregation refers to the Sanhedrin.*

The *Gemara* asks: But perhaps the verse is teaching us that it is the *Sanhedrin* (or king or the Kohen anointed for war) whom the Torah tells to inquire of the *Urim ve’Tumim* (but the *Sanhedrin* do not need to be consulted before going to war)!

Rather, it may be derived from a verse cited by Rav Acha bar Bizna in the name of Rabbi Shimon Chasida: There was a harp hanging over David’s bed and when it reached midnight, the north wind would blow on the harp and it played by itself. At that point, David would get up and study Torah until the break of dawn. After the break of dawn, the *Chachamim* came to him and said: “Our master, the king! Your nation Israel requires sustenance.” David replied, “Go and sustain each other.” They said back to him, “A handful cannot satisfy a lion, nor can a pit be filled up with its own earth.” He said to them, “Then go out and stretch your hand against the enemy (for plunder).” They immediately took counsel with Achitofel (as to their battle strategy) and consulted the *Sanhedrin* (for permission and that they should pray for them) and questioned the *Urim Ve’Tumim* (if they would be successful or not).

Rav Yosef said: What is the verse that states this? It is written: *And after Achitofel was Benayahu the son of Yehoyada and Evyasar; and the commander of the king’s army was Yoav. Achitofel is the adviser; Benayahu the son of Yehoyada refers to the Sanhedrin, and Evyasar refers to the Urim ve’Tumim.*

The *Gemara* notes that the *Urim ve’Tumim* are referred to as the *Kereisi* because they gave precise instructions, and *Peleisi* because their acts were wonderful.

The *Gemara* concludes with its proof: Only after this (consulting the adviser, *Sanhedrin* and the *Urim ve’Tumim*) was and the commander of the king’s army was Yoav. [They could not go to war unless the *Sanhedrin* was consulted first.]

Rabbi Yitzchak the son of Rav Adda, and others say it was Rabbi Yitzchak bar avudimi who cites the verse which shows that David awoke before daybreak: *Awake my soul, awake psalter and harp; I will awaken the dawn.* (16a3 – 16b1)

Court of Seventy-One

The *Mishnah* had stated: Yerushalayim and the Courtyards of

the Beis Hamikdash are enlarged by a Court of seventy-one.

From where do we know this? Rav Shimi bar Chiya said: It is written: *According to all that I show you, the formation of the Mishkan and the formation of all the utensils, so shall you make it.* This means that it should be done like so in all future generations (*just as the Mishkan was under the direction of Moshe, who took the place of seventy-one, so too regarding all future Temples*).

Rava asked from the following *Baraisa*: When Moshe made the vessels for the Mishkan, they were sanctified by anointing them with anointing oil. From then on, however, whenever new vessels were made for the Bais Hamikdash, using them in the service of the Bais Hamikdash is what invested the vessels with sanctity. But why? Let us say that the verse “*so shall you make it*” applies to future generations in this respect as well!?

The *Gemara* answers: There it is different, for it is written: *And he anointed them and sanctified them.* Only they were sanctified by anointing, but not those of later generations.

The *Gemara* asks: But why not say as follows: Those could be sanctified only by anointing, whereas the vessels made afterwards might be sanctified either by using them in the service of the Bais Hamikdash or by anointing?

Rav Pappa said: It is written: *The utensils with which they shall minister in the Sanctuary.* The Torah made them dependent on usage.

The *Gemara* asks: If so, why do we need the word “*osam*” — them?

The *Gemara* answers: If not for “*osam*,” I might have thought that the sanctification of the vessels of the future required both anointing and usage, the Torah therefore emphasized “*osam*” i.e., only they (*the original utensils*) need anointing, but not those of future generations. (16b1 – 16b2)

The *Mishnah* had stated: A Court of seventy-one is required to

appoint *Sanhedrins* (of twenty-three) for the tribes.

From where do we know this? It is just like we found by Moshe, who appointed the small *Sanhedrins*, and Moshe took the place of seventy-one.

The *Gemara* cites a *Baraisa*: From where do we know that judges are to be set up for Israel? — From the verse: Judges you shall appoint. From where do we deduce the appointment of officers for Israel? — From the same verse: Officers shall you appoint. From where do we know the appointment of judges for each tribe? — From the words: Judges . . . for your tribes. And the appointment of officers for each tribe? — From the words: Officers . . . for your tribes. From where do we know the appointment of judges for each town? From the words: Judges . . . in all your gates. And the appointment of officers for each town? — From the words: Officers . . . in all your gates. Rabbi Yehudah says: One [judicial body] is set over all the others, as it is written: . . . shall you appoint. Rabban Shimon ben Gamliel said: [The immediate connection] of ‘they shall judge’ and ‘for your tribes’ indicates that the tribal court must judge only those of its own tribe. (16b2 – 16b3)

The *Mishnah* had stated: *An ir hanidachas (if most of the city worshipped idols, the city must be completely burnt)* is declared by a Court of seventy-one.

From where is this derived? — Rabbi Chiya bar Yosef said in Rabbi Oshaya's name: Scripture states: Then you shall take out that man or that woman, [teaching,] an individual man or woman you may bring to your gates, but not a whole town.

The *Mishnah* had stated: They may not declare an *ir hanidachas* on the border (*between the Jews and the idolaters*).

Why? — Because the Torah says: From the midst of you, but not [a city] on the border.



The *Mishnah* had stated: and not three, but one or two.

For it is written: Concerning one of the cities. Yet one or two may be condemned, as it is written: of your cities. (16b3)

At times Rav said that a single court cannot condemn three cities as an *ir hanidachas*, but they may be condemned by two or three courts. At others times he maintained that three cities can never be condemned, even by two or three courts (*it cannot be condemned until the members of the court pass away, and new ones are appointed*).

Rav's reason is because of 'baldness' (*it would cause Eretz Yisroel to become desolated*).

Rish Lakish said: The *halachah* (*of condemning more than two cities*) was only taught regarding a single region (*of Eretz Yisroel*), but if they lie in two or three different regions, they may be condemned. Rabbi Yochanan holds that even in that case, they may not be condemned, for concern of 'baldness.'

The *Gemara* cites a supporting *Baraisa* to Rabbi Yochanan: We cannot condemn three cities in *Eretz Yisroel*, but we may condemn two if they are situated in two regions, e.g., one in Judea and one in Galilee; but two in Judea or two in Galilee may not be condemned; and near the border, even a single city cannot be condemned. Why? We are concerned that the gentiles will become aware of it and destroy the whole of *Eretz Yisroel*.

But may not this be deduced from the fact that the Merciful One wrote: From the midst of you, [implying], but not from the border? — He [the author of the *Baraisa*] is Rabbi Shimon, who always interprets the Biblical law on the basis of its meaning. (16b3 – 16b4)

DAILY MASHAL

The Harp and the Northern Wind

The *Mishnah* had stated: A voluntary war (*if they are not*

waging war against the seven nations that were occupying Eretz Yisroel) requires a Court of seventy-one.

Rabbi Avahu said: It is written: *And before Elozar the Kohen he shall stand [and Elozar shall inquire for him by the judgment of the Urim before God; by His word shall they go out (to war) and by His word they shall come in from war, both he and all the children of Israel with him and all the congregation].* He refers to the king (*Yehoshua*); and *all the children of Israel with him* refers to the Kohen anointed for war; and *all the congregation* refers to the *Sanhedrin*.

The *Gemara* asks: But perhaps the verse is teaching us that it is the *Sanhedrin* (*or king or the Kohen anointed for war*) whom the Torah tells to inquire of the *Urim ve'Tumim* (*but the Sanhedrin do not need to be consulted before going to war*)!?

Rather, it may be derived from a verse cited by Rav Acha bar Bizna in the name of Rabbi Shimon Chasida: There was a harp hanging over David's bed and when it reached midnight, the north wind would blow on the harp and it played by itself. At that point, David would get up and study Torah until the break of dawn. After the break of dawn, the *Chachamim* came to him and said: "Our master, the king! Your nation Israel requires sustenance." David replied, "Go and sustain each other." They said back to him, "A handful cannot satisfy a lion, nor can a pit be filled up with its own earth." He said to them, "Then go out and stretch your hand against the enemy (*for plunder*)." They immediately took counsel with Achitofel (*as to their battle strategy*) and consulted the *Sanhedrin* (*for permission and that they should pray for them*) and questioned the *Urim Ve'Tumim* (*if they would be successful or not*).

Rav Yosef said: What is the verse that states this? It is written: *And after Achitofel was Benayahu the son of Yehoyada and Evyasar; and the commander of the king's army was Yoav. Achitofel is the adviser; Benayahu the son of Yehoyada refers to the Sanhedrin, and Evyasar refers to the Urim ve'Tumim.*

The *Gemara* in *Brochos* (3b) asks: And did David actually know



when midnight was? If Moshe didn't know, is it possible that David knew? [Although it is possible that David had some type of clock, and we know that such things existed in those times as is evident by the Zohar in Lech Lecho, where he mentions a type of alarm clock, which functioned through water, nevertheless, the Zohar states that it was impossible to determine the precise moment of midnight through the use of those man-made items!?!]

The *Gemara* answers: David knew when it was midnight, for he had a sign which notified him, as Rav Acha bar Bizna said in the name of Rabbi Shimon Chasida: There was a harp hanging over David's bed and when it reached midnight, the north wind would blow on the harp and it played by itself. At that point, David would get up and study Torah until the break of dawn.

The *Mefarshim* ask: If so, why couldn't Moshe make use of a harp as well?

The Satmar Rebbe answers based on the following Yonasan ben Uziel in Parshas Yisro: On the night that the Jewish people were about to leave Egypt, the clouds lifted them up and brought them to the place where the Beis Hamikdash would be built in order for them to offer the *korban pesach*.

The *Gemara* in Yevamos (72a) states that for all forty years that the Jewish people were in the Wilderness, the northern wind did not blow for them. One of the reasons cited was because the wind would cause the Clouds of Honor to scatter.

Accordingly, it can be explained that the night of *Yetzias Mitzrayim*, the northern wind could not blow, for if it would have, it would have scattered the Clouds of Honor, and they would not have been able to "fly" to Yerushalayim. It was for this reason that Moshe could not determine the precise time for midnight on that night through the usage of a harp, for the harp would begin to play when the northern wind blew on it, and that night, the northern wind did not blow at all.

HALACHAH ON THE DAF

Tikun Chatzos

The *Gemara* informs us of David Hamelech's custom of waking at midnight and learning until dawn. Today this is known as *Tikun Chatzos*, for that time of night is a particularly auspicious time for learning and prayer, especially to lament the destruction of the Bais Hamikdash and to pray for its speedy rebuilding.

There is a dispute among the *Poskim* as to when exactly *Chatzos* is. Without going into a lengthy explanation of the various opinions, suffice to say that the Mor Uktzia, Shulchan Aruch Harav and the Mishnah Berurah all agree that *Chatzos* is always exactly at midnight, meaning the halfway point between *tzeis hakochovim* (when three stars are seen) and *alos hashachar* (dawn).

Although we see from this *Gemara* that David Hamelech learned after *Chatzos*, and this would imply that we should do so as well, in regard to *Tikun Chatzos*, there are Achronim that hold otherwise. While the Mishnah Berurah, Kaf Hachaim and others advocate that one should learn from *Chatzos* and on, the Arugas Habosem held that one should learn the first half of the night, rather than the second. Similarly, the Chasam Sofer writes that most people that learn at night do so the first half of the night. The Seder Hayom explains why one should rather learn the first half of the night, for the simple reason that he might find it hard to get up in middle of the night to learn, and the night would pass without him learning.

Tikun Chatzos is a great *mitzvah*, but it cannot come at the expense of falling asleep during davening (Elya Rabbah). Similarly, a person who is by nature made of a weaker composition and needs his sleep, he need not arise for *Tikun Chatzos*.