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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

### **Amounts of People and Judges**

The *Mishna* had stated: [How many people should there be in the city that it should be eligible for a Sanhedrin (of twenty-three)? One hundred and twenty.] Rabbi Nechemyah says: Two hundred and thirty, corresponding to rulers of tens.

The *Gemora* cites a *braisa*: Rebbe said: The population (of a city in order to establish a small Sanhedrin) must be two hundred and seventy-seven (two hundred and thirty in accordance with Rabbi Nechemyah, and forty-seven held in reserve for increasing the number of the court of twenty-three, in the case where one is uncertain and the rest equally divided (eleven voting to convict and eleven to acquit), adding two at a time, up to a maximum of seventy according to Rabbi Yehudah).

The *Gemora* asks: But has it not been taught in a *braisa* that Rebbe said that the population must be two hundred and seventy-eight?

The *Gemora* answers: There is no difficulty: The first *braisa* is according to Rabbi Yehudah (who holds that the Sanhedrin is composed of seventy men), and the other *braisa* is following the opinion of the Rabbis (who maintain that seventy-one men make up the Great Sanhedrin).

The *Gemora* cites a *braisa*: And you shall place over them officers of thousands, officers of hundreds, officers of fifties and officers of tens. [There were six hundred thousand Jews at that time.] The officers of thousands amount to six

hundred; those of hundreds - six thousand; those of fifties - twelve thousand; and those of tens - sixty thousand. Hence the total number of judges in Israel was seventy-eight thousand and six hundred. (17b – 18a)

WE SHALL RETURN TO YOU,  
DINEI MAMONOS BISHLOSHAH

### **Mishna**

The *Kohen Gadol* may judge and be judged; he may testify and others may testify about him; he may submit to *chalitzah* (to his brother's wife) and they may perform *chalitzah* or *yibum* for his widow, but he does not perform *yibum*, because he is prohibited to a widow.

If one of his relatives died, he may not follow directly behind the bier (*lest he become tamei*), but rather, when they (*the followers*) are hidden (*from him; i.e., he cannot see them any longer*) he may reveal himself, and when they are revealed he remains hidden. And he goes out with them until the entrance gates of the city; these are the words of Rabbi Meir. Rabbi Yehudah says: He does not go out from the Temple, as it is written: *He shall not go out of the Temple*.

When he consoles other mourners (*after the burial*), it is customary for the people to pass (*before the mourners*) in a row one after the other, here, the appointed one (*as the assistant to the Kohen Gadol*) places himself between him (*on his right side*) and the people (*on his left*). When he is consoled by others, all the people say to him, "May we be



your atonement,” and he says to them, “May you be blessed from Heaven.” When they prepare the funeral meal for him, all the people sit on the ground and he reclines on a stool.

The king may not judge, nor be judged; he may not testify, nor be testified against; he does not submit to *chalitzah* (to his brother's wife), nor is it performed for his widow; he does not perform *yibum*, nor is it performed for his widow. Rabbi Yehudah says: If he wanted to perform *chalitzah* or *yibum*, he is remembered favorably. They said to him: We do not listen to him.

One may not marry his widow. Rabbi Yehudah says: A king may marry the widow of a king, for we find that David married the widow of Shaul, as it is written: *And I gave you your master's house, and your master's women into your bosom.* (18a)

### **Kohen Gadol and King**

The *Mishna* had stated: The *Kohen Gadol* may judge.

The *Gemora* asks: But is this not obvious?

The *Gemora* answers: It is necessary to state that he may be judged.

The *Gemora* asks: But isn't that too obvious, for if he cannot be judged, how can he judge? Doesn't the verse say, “*Search yourself and search others,*” which Rish Lakish says implies that you should first make sure your own behavior is appropriate and only then, tell others to do so as well!?

The *Gemora* answers: Since it was necessary for the *Tanna* to state that a king may not judge, nor be judged, he also taught us that the *Kohen Gadol* may judge and be judged. Alternatively, the *Tanna* is informing us of that which was taught in the following *braisa*: If a *Kohen Gadol* killed

someone; if it was done intentionally, he is executed; if it was done inadvertently, he is exiled. He transgresses a positive and negative commandment, and is regarded as a common man in all respects.

The *Gemora* asks: Is it not obvious that he is executed if he kills intentionally?

The *Gemora* answers: It is necessary to state that he is exiled if he killed inadvertently.

The *Gemora* asks: But isn't that too obvious?

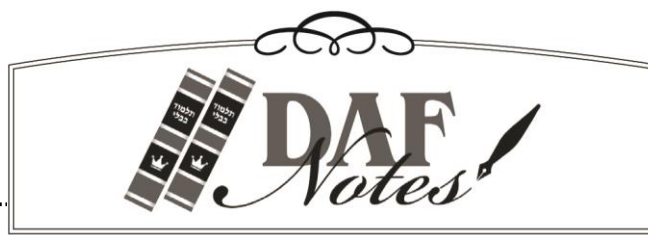
The *Gemora* answers: It is necessary; for you might have thought that he is not exiled, for it is written: *And he shall dwell in the city of refuge until the death of the Kohen Gadol.* Perhaps only someone who has the remedy of returning home is exiled, but one who does not have such a remedy is not exiled. For we learned in a *Mishna*: One who inadvertently killed the *Kohen Gadol* or if the *Kohen Gadol* inadvertently killed a person never returns from his city of refuge (*for the halachah is that one can leave the city of refuge when the Kohen Gadol who was in office at the time that he was sentenced died, and in these cases, that is not possible*). Based upon this, you might have thought that he should not be exiled in the first place. The *Tanna* of the *braisa* (and the *Mishna*) informs us that he is sentenced to exile.

The *Gemora* asks: But perhaps it is indeed so?

The *Gemora* answers: It is written: *Every murderer shall flee there;* implying even the *Kohen Gadol*.

The *braisa* had stated: He transgresses a positive and negative commandment.

The *Gemora* explains that this means to say that if he transgresses a positive and negative commandment, he is judged like a common man (*in a court of three*).



The *Gemora* explains the novelty of this *halachah*: since we learned in a *Mishna*: A tribe (*that intentionally served idols*), a false prophet, and the *Kohen Gadol* (*who has committed a capital offense*) are judged by a Court of seventy-one. And Rav Ada bar Ahavah derives this 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*). Perhaps then, even for lashes, he should be brought before a court of seventy-one. The *braisa* teaches us otherwise, for the “*great matter*” refers only to capital cases.

The *Mishna* had stated: The *Kohen Gadol* may testify and others may testify about him

The *Gemora* asks from a *braisa*: *And you will look away*. This teaches that sometimes one looks away (*from returning a lost article*), and sometimes one cannot look away. What is the case? If a *Kohen* saw a lost object in the cemetery, or an elderly man saw an object that it was not honorable for him to carry, or if his work is more valuable than the lost object of his friend, this is why it says: *And you will turn away from them*. [Seemingly, it should not be respectful for a *Kohen Gadol* to testify on behalf of a common person!?!]

Rav Yosef answers that our *Mishna* is referring to a case where the *Kohen Gadol* is testifying on behalf of a king (*which is not demeaning at all*).

The *Gemora* asks from our *Mishna*: The king may not judge, nor be judged (*so when is the Kohen Gadol testifying for him*)!?

Rabbi Zeira answers: The *Mishna* is referring to a case where the king is one of the judges (*and therefore it is not beneath the dignity of the Kohen Gadol to testify*).

The *Gemora* asks: But surely the king may not be installed on the *Sanhedrin*!?

The *Gemora* answers: For the sake of the *Kohen Gadol's* dignity, he comes and sits down until his testimony is received. After that he leaves and then we deliberate on his case.

The *Gemora* had stated above: The king may not be installed on the *Sanhedrin*; nor may the king or the *Kohen Gadol* be members of the *Beis Din* involved with the intercalation of the year.

The *Gemora* explains: The king may not be installed on the *Sanhedrin* because it is written: You shall not respond to an argument. This means that you shall not speak against the master of the judges (*so the other members of the Beis Din would not be able to dispute his view*).

The king or the *Kohen Gadol* may not be members of the *Beis Din* involved with the intercalation of the year. The king cannot on account of the upkeep of his army (*since they are paid annually, he might wish to make a leap year in order to save money*). The *Kohen Gadol* cannot because of the cold the following year (*since he might be against intercalation of this year, for if the year is extended, Yom Kippur, being a month later, will be colder, and it will cause him distress during his five immersions on that day*).

Rav Pappa said: This proves that the weather of the year fall in with the normal lunar months (*if they hadn't made it into a leap year*).

The *Gemora* asks: But is this so? Were there not three herdsmen who were standing conversing, and who were overheard by the Rabbis? One of them said, “If the early (*wheat*) and late (*barley*) planting sprout together (*due to the ground's heat*), the month is Adar; if not, it is not Adar (*but Shevat, the month beforehand*).” The second said, “If in the morning, the cold is severe enough to kill an ox, but

in the afternoon the ox lies in the shade of the fig tree and scratches itself (*due to the heat*), then it is Adar, if not, it is not Adar.” And the third one said, “When a strong east wind is blowing and your breath can prevail against it (*for the air is not so cold*), the month is Adar; if not, it is not Adar.” Thereupon, the Rabbis intercalated the year? [Evidently, the purpose of intercalation is to readjust the weather patterns, and the second Adar then has the climate of the first Adar in normal years. Accordingly, Tishrei will have its usual degree of heat in an intercalated year. This is contrary to what we asserted before that it will change due to a leap year!?!]

The Gemora answers: did you really assume that the Rabbis intercalated the year by relying upon the herdsmen? They relied on their own calculations, and the herdsmen merely corroborated their proposed decision. (18a – 18b)

## INSIGHTS TO THE DAF

### Freezing Mikvah

The king or the *Kohen Gadol* may not be members of the *Beis Din* involved with the intercalation of the year. The king cannot on account of the upkeep of his army (*since they are paid annually, he might wish to make a leap year in order to save money*). The *Kohen Gadol* cannot because of the cold the following year (*since he might be against intercalation of this year, for if the year is extended, Yom Kippur, being a month later, will be colder, and it will cause him distress during his five immersions on that day*).

Tosfos asks from a Gemora in Yoma (31b) which states that if the *Kohen Gadol* found it difficult to immerse in a cold mikvah, iron bars were heated prior to Yom Kippur and placed into the mikvah to warm it up!?

Tosfos learns that the *Kohen Gadol* would be cold from the floor of the Beis Hamikdash, since he performed the

Temple service while barefoot.

The Margoliyos Hayam answers Tosfos’ question by saying that the *Mishna* in Yoma states that they would only do that if the *Kohen Gadol* was finicky or elderly; otherwise, it would not be done for him. Accordingly, a healthy *Kohen Gadol* would not want the year extended.

Alternatively, he answers based upon Reb Akiva Eiger, who asserts that this allowance was not permitted for his first immersion on Yom Kippur, since that did not take place in the sanctified part of the Temple; rather, it was done outside. The Rabbinic prohibition against throwing a heating element into the cold mikvah was only permitted in the Mikdash (*based upon the dictum of “ein sh’vus ba’Mikdash*). Accordingly, the *Kohen Gadol* would not want the year extended, for there was no way to avoid the cold water of the first immersion.

## HALACHAH ON THE DAF

### When is One Exempt from Returning a Lost Item

The *Mishna* had stated: The *Kohen Gadol* may testify and others may testify about him

The Gemora asks from a braisa: *And you will look away*. This teaches that sometimes one looks away (*from returning a lost article*), and sometimes one cannot look away. What is the case? If a *Kohen* saw a lost object in the cemetery, or an elderly man saw an object that it was not honorable for him to carry, or if his work is more valuable than the lost object of his friend, this is why it says: *And you will turn away from them*. [Seemingly, it should not be respectful for a *Kohen Gadol* to testify on behalf of a common person!?!]

The Shulchan Aruch (Choshen Mishpat 263:1) clarifies that even a young Torah scholar, or a well respected person (Aruch Hashulchan), is exempt from returning a lost item



which is below their dignity to deal with, for example a bale of hay.

Although they are usually exempt from returning a lost item that is beneath their dignity to deal with, they will be required to do so if they actually moved or picked up the item, since they started the *mitzvah* (ibid 263:2).

The Shach directs us to a *halachah* (in 261:2) where the Shulchan Aruch rules that if one found an animal grazing in someone else's vineyard or field, then he is obligated to return it, because the animal is damaging that property. This is termed *aveidas karka* (*in other words, the owner of the vineyard is being caused a loss, so the person seeing the animal grazing has an obligation to return it to his owner, so as not to cause a loss to the owner of the field*).

At first glance it is difficult to see the apparent connection. Rabbi Akiva Eiger explains that the Shach is proving that since the Shulchan Aruch does not state that he should just simply move the animal to a ownerless field, that shows that once he moved the animal he is obligated to return to its owner. However, the Or Zerua cites Ritva who disagrees and maintains that it is enough if he merely moves it to an ownerless field.

The Shulchan Aruch (ibid 263:3) rules that if these people want to go beyond the call of duty and lower themselves to return the lost item, they may do so. The Rema disagrees, and quotes Rosh that the most such people are allowed to do is to pay the owner for the lost item.

#### DAILY MASHAL

##### A Rabbi Is Better Than a Doctor

A Torah scholar must not reside in a town lacking any of these ten things.

A poor Lithuanian town lacked both a rabbi and a physician

and the community disagreed as to whether they should hire a rabbi or use their meager budget to employ a doctor. Rabbi Yaakov Kaminetzky zt"l heard the different opinions and ruled in favor of a rabbi since, as our *sugya* explains, a rabbi knows that one mustn't live in a town without a doctor, whereas a doctor would not demand the presence of a rabbi... Indeed, Rabbi Kaminetzky obeyed this principle. Upon his appointment as the Rabbi of Tzitzivan, he discovered that the town lacked a physician. He troubled to find a medical book in Russian and devoted a whole night to its study. Stories were later told about his medical expertise resulting from that night (*Rabbi Yaakov*, 130, 139).