



Variable Beif Din

Masechet Sanhedrin opens by discussing the court system, and how different cases required specific courts that varied with the number of judges. One interesting case (1:2) is *ibur ha'shanah*; where the court determined whether a month must be added to the year. It is unique because, according to *R' Shimon ben Gamliel*, the case "starts with three [judges], is deliberated upon with five and concludes with seven." He adds that if they concluded with three judges then it is valid.

The *Bartenura* explains that three judges would sit to determine whether the year required an extra month. If two felt it was unnecessary, then they would stop. If two however thought it was required and one disagreed, then they would add another two judges. Once again, if a majority felt it was unnecessary, it would end the case. If three however felt it was necessary, the number of judges would be increased to seven. If a majority in the negative was enough to end the case, why does a positive majority require additional judges?

The *Tosfot Yom Tov* cites the *Mefarsh (Kiddush HaChodesh 4:10)* who explains that with the additional month, the year is being taken out of its normal cycle, which is like finding one guilty of a capital offence.¹ That being the case, we require a majority of two judges when ruling "guilty". The *Tosfot Yom Tov* notes that this would mean that even once they have seven judges, a simple majority would be insufficient until there are five who maintain that an extra month is required. Based on the *Tosfot Yom Tov's* deduction, it would follow that the a point that there were five judges, if four maintained that the year needed an additional month, then the case could be concluded based on there being a majority of more than one.

The *Tosfot Yom Tov* however prefers to explain that the reason why a majority was insufficient, is because the *Chachamim* specifically instituted that the judgement should be executed in this three-five-seven pattern.

Before explaining the necessity of the pattern, this debate appears to be connected to another one. What would be the ruling if in the first instance all the three judges agreed that an additional month was required. The *Yad Rama* understands that no further judges are required – they have reached agreement. This appears to be consistent with the opinion of the *Mefarsh* that the reason why judges are added is because a simple majority was insufficient to conclude the case. The *Ran* (10b) however argues that even if all three agreed, additional judges would still be added. This appears to be consistent with the *Tosfot Yom Tov* who explains that the three-five-seven pattern was critical to *ibur ha'shana*. Why? One explanation in the *Gemara* for the pattern is that it matches the pattern of the words in *birkat kohanim*. How does this relate to *ibur ha'shana*?

The *Yad Rama* explains that with *birkat kohanim*, one *beracha* should be sufficed. Nonetheless, since *Am Yisrael* is dear to *Hashem*, *birkat kohanim* included three *berachot*. Consequently, we imitate *Hashem* and replicate that when fulfilling *Hashem's* will of performing *ibur ha'shana* and unnecessarily add additional judges in the same pattern.

The *Tosfot Yom Tov* explains that since part of the motivation of *ibur ha'shana* is that the spring, produce and gathering should be at the right time, we attempt to arouse the *berachot* contained in *birkat kohanim*.

Finally, the *Ben Yohayda* (second explanation) explains that there is a strong parallel between *ibur ha'shana* and *birkat kohen*. *Chazal* explain that the light of the *shechina* would preside on the hands of the *kohanim* when they recited *birkat kohanim* indicating that *Hashem* agreed to the *berachot*. He explains that the same thing would happen when the *Beit Din* decided to add an extra month. The light of the *shechina* would fill the *Beit Midrash* indicating the *Hashem* agreed with their decision. Both of these, human activities with a profound worldly impact that *Hashem* ultimately showed his agreement.

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¹ The *Rashash* explains that the *Mefarsh's* opinion appears to be motivated by the *Rambam's* opinion that for *ibur ha'shana* we open with the most junior judge, like in capital cases. He suggests that perhaps the reason is that the addition of an extra month can have implications for capital cases, as it would delay when a child would be defined as a *bar* or *bat mitzvah* (or nine or three for cases of *arayot*).

One might find this explanation difficult since by adding the additional month, if it affected a change in status, it would result in a leniency, acquitting the accused. Furthermore, it appears from the language of the *mefarsh* that the ruling of changing the year from its natural course is itself tantamount to a conviction. צ"ע

Revision Questions

בבא בתרא י"ז – ח'

- What is the limitation placed on an inherited olive press and when does this limitation apply? (י"ז: י')
- What is the law regarding documents where the name of the borrower is shared by a number of people in that town? (י"ז: י')
- What is a solution offered to the case in the previous question? (י"ז: י')
- What is the law regarding a case where, on his death bed, the father tells his son that one of the loan documents in his collection has already been paid? (י"ז: י')
- Regarding the previous case, what if there were two documents in the collection applying to a single borrower? (י"ז: י')
- At the foreclosure of a loan, when can the debt be collected from the guarantor? (י"ז: י')
- What case is brought that is similar to the previous case and what is the law regarding that case? (י"ז: י')
- In which three cases is a debt collected from *nechasim bnei chorin*? (י"ח: י')
- Which area of *Torah* should one learn if he wishes to "acquire wisdom"? (י"ח: י')

סנהדרין א' – ג' א'

- Provide three areas in law where everyone agrees that a *beit din* of three judges is required. (א': א')
- Explain the debate between *R' Meir* and the *Chachamim* regarding the number of judges required for a case of *motzi shem ra*. (א': א')
- How many judges does *R' Yishmael* require for a case involving lashes? (ב': א')
- What are the two opinions regarding the number of judges required for *ibur shannah*? (א': ב')
- What are the two opinions regarding the number of judges required for *arifat eglah*? (א': ג')
- What is special about the judges that *R' Yehuda* requires for the redemption of *erachin*? How many judges does he require? (ג': א')
- How many judges are required for capital cases? (ד': א')
- Do capital cases also apply to animals? Who disagrees and when? (ד': א')
- List seven cases where a *beit din* of seventy-one is required? (ה': א')
- What are the sources for the sizes of a large and small *sanhedrin*? (ו': א')
- How large must a city be in order to have its own small *sanhedrin*? (ו': א')
- Can a *kohen gadol* be called to trial? Can he be a witness? (א': ב')
- What are the two opinions regarding the extent to which a *kohen gadol* can engage in *levayat ha'met*? (א': ב')
- If a *kohen gadol* is a mourner, how do the masses console him? (א': ב')
- With respect to legal issues, in what ways is a king different to a *kohen gadol*? (ב': ב')
- Explain the debate regarding whether a king can leave the palace to bury a relative. (ג': ב')
- How many wives can a king have? How many horses? How much money? (ג': ב')
- What would the king take with him everywhere? (ד': ב')
- What three items belonging to a king is one not allowed to use? (ה': ב')
- In what three situations is one not allowed to see the king? (ה': ב')
- What are the two opinions regarding how the judges are selected for a financial dispute? (ג': א')
- What two rights does *R' Meir* afford to parties of a financial dispute within the trial? (ג': א')

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Efrat, Israel
Shiur in English

Sunday -Thursday
Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

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mishnahyomit.com/shiurim

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
31 March כ"ד אדר	1 April כ"ה אדר	2 April כ"ו אדר	3 April כ"ז אדר	4 April כ"ח אדר	5 April כ"ט אדר	6 April א' ניסן
Sanhedrin 3:2-3	Sanhedrin 3:4-5	Sanhedrin 3:6-7	Sanhedrin 3:8-4:1	Sanhedrin 4:2-3	Sanhedrin 4:4-5	Sanhedrin 5:1-2

