



Revealing a Secret

The *Mishnah* (3:7) teaches that once the judges on a case reached a conclusion, the head judge would reveal the verdict. The *Aruch HaShulchan* explains that this was to conceal the different opinions of the judges. The *Mishnah* continues that a judge is forbidden to reveal that he disagreed with the final ruling but was unfortunately the minority opinion in the case. The *Mishnah* appears to explain that the prohibition is based on two verses. The first from *parashat Kedoshim* (19:16): "do not go as a talebearer amongst your people". The second, from *Mishlei* (11:13): "he who gossips revels secrets." We shall try to understand the requirement of two verses.

The *Tosfot Yom Tov* explains that had the *Mishnah* only included the *passuk* from *Kedoshim*, one might have thought that the prohibition only applies if the judge shared the details in order to incite an argument. If however the judge was sharing the details with the guilty party in order that there be no animosity between them, one might think that might be permitted. Consequently, the second *passuk* is required to teach that simply revealing a "secret" – the position of the judges – is also covered by the prohibition talebearing.

The *Tosfot Yom Tov* continues that there are versions of the *Mishnah* that do not include the first *passuk*; both in the *Yerushalmi* and *Bavli*. Furthermore, the *Rambam*, *Rif* and *Rosh* do not cite the first *passuk* when teaching this law either. The *Tosfot Yom Tov* continues that when the *Gemara* comments on the *Mishnah*, it cites a *Beraita* that does include both verses. If our *Mishnah* also included both verses, then the *Gemara's* citing the *Beraita* would be unnecessary.

Considering the *Tosfot Yom Tov's* conclusion about the difference between the number of verses cited in the *Mishnah* and *Beraita* we need to probe the basis for the difference. In other words, why was one verse enough for the *Mishnah* but not the *Beraita*? When the *Gemara* cited the *Beraita*, what was it adding.

The *Tur* (ChM 19:2) also only cites the *passuk* from *Mishlei* when teaching the law referred to in our *Mishnah*. The *Bach*

cites the *Mahari Shtein* who adds that it is even more obvious that it would be prohibited for anyone else to comment to the party that lost the case, that the judges were incorrect. He basis this on the first *passuk* (see also the *Aruch HaShulchan*). In other words, the first *passuk* teaches that it is incorrect for anyone to comment that the judges made a mistake, while the second *passuk* teaches that the judges themselves cannot reveal the internal positions. Considering that the law based on the first *passuk* is more obvious once we have learnt the law from the second *passuk* (and also considering that it specifically focuses on the *dayanim*) we can possibly understand why the version of our *Mishnah* omits the first *passuk*. Once having the derivation of the second *passuk*, the first one appears unnecessary.

That possibly explains the *Mishnah*. Why then does the *Beraita* include both *pesukim*?

One might suggest an answer based on the comment of the *Ketzut*, who also cites the *Bach*. The *Ketzut* however continues citing the *Knesset HaGadola* who explains that the prohibition is only if one went up to the party that lost and, unprompted, presented his opinion on the case. If however that party come to one for advice regarding the case, and he sees a side of the case that was missed by the judges that could result in a retraction of the ruling, then there is no issue in sharing his opinion.

We find from the *Ketzut*, that the first *passuk* can also be understood as restricting the prohibition. One might suggest, that it is for this reason the *Beraita*, that cites two *pesukim*, was necessary. The *Mishnah* broadened the scope of the prohibition. In other words, expressing an opinion on the case or a judge revealing the "secret" of the deliberation, even for noble intentions is prohibited. One may be left with the understanding, that there is never a context when reflecting on the ruling is permitted. Consequently, the *Beraita* teaches that it is prohibited only when falling under the prohibition of talebearing. In the case, where one is specifically consulted and he his opinion could revert the ruling, then there is no prohibition.

Revision Questions

סנהדרין ג' ב' – ה' בי

- Can the parties accept to have an invalid judge? What is the debate regarding this issue? (ג' בי)
- What other case brought in the *Mishnah* is debated in a similar manner to the previous question? (ג' בי)
- Which four people are invalid witnesses? (ג' ג')
- What qualifier does *R' Yehuda* place on the answer to previous question? (ג' ג')
- List the relatives that cannot act as witnesses? (ג' ד')
- Regarding the previous question, what is the difference between the opinion of *R' Akiva* and the *Mishnah Rishona*? (ג' ד')
- Are “ex-relatives” able to testify? In which case does *R' Yehuda* disagree? (ג' ד')
- What are the definitions of a close friend and enemy that cannot be witnesses? (ג' ה')
- Does everyone agree with the law brought in the previous question? (ג' ה')
- Describe how the witnesses are examined? (ג' ו')
- What is the verdict if: (ג' ו')
 - Two judges rule guilty and one rules innocent?
 - Two judges rule innocent and one rules guilty?
 - Two judges rule guilty and one does not know?
- Who would supply the verdict? (ג' ו')
- What is the source that prohibits a judge, after the case, from revealing that he held a dissenting opinion but was overruled? (ג' ו')
- Can one bring evidence after a case is closed? (ג' ז')
- Explain the two cases that are debated relating to the previous question and the case where everyone agrees. (ג' ז')
- What is the source for the requirement of *drisha ve'chakira* in both monetary and capital cases? (ג' ז')
- List eight differences between monetary and capital cases? (ג' ז')
- What is different about the way *beit din* answer a question regarding issues of purity and impurity as apposed to ruling in a capital case? (ג' ז')
- Which people are valid as witnesses for monetary cases but not for capital cases? (ג' ז')
- How was the building housing the *Sanhedrin* structured? (ג' ז')
- Other than the judges and parties to the case, who else was present and what were they doing? (ג' ז')
- In a *sanhedrin katana*, explain how they would replace a judge. (ג' ז')
- What is the *passuk* brought from *Bereshit* that is used to demonstrate to the witnesses of a capital case, the seriousness of the case and how it differs from a monetary cases? (ג' ז')
- List three reasons why Man was initially created alone? (ג' ז')
- What two *p'sukim* are brought to encourage the witness to a capital offence to testify? (ג' ז')
- What are the seven *chakiot*? (ג' ז')
- How many *chakiot* does *R' Yosi* require and what are they? (ג' ז')
- What other questions were asked of the witnesses? (ג' ז')
- What other questions were asked of witnesses in a case of idol worship? (ג' ז')
- How many *bedikot* were performed? (ג' ז')
- What is the difference between *chakiot* and *bedikot*? (ג' ז')

Melbourne, Australia

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

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

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Shiur in English

Sunday -Thursday
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Rabbi Chaim Brown
www.shemayisrael.com/mishna/

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<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
7 April ב' ניסן	8 April ג' ניסן	9 April ד' ניסן	10 April ה' ניסן	11 April ו' ניסן	12 April ז' ניסן	13 April ח' ניסן
Sanhedrin 5:3-4	Sanhedrin 5:5-6:1	Sanhedrin 6:2-3	Sanhedrin 6:4-5	Sanhedrin 6:6-7:1	Sanhedrin 7:2-3	Sanhedrin 7:4-5

