

מתני' דיני ממונות בשלשה.
גזילות וחבלות בשלשה. נזק וחצי
נזק, תשלומי כפל ותשלומי ארבעה
וחמשה בשלשה.

MISHNA Cases concerning **monetary law** are adjudicated **by three judges**.^H Cases concerning **robbery and personal injury** are adjudicated by **three judges**. Cases concerning **damage** that one is responsible for because he or his property caused the damage are adjudicated by three judges as well. Likewise, cases concerning payment for **half the damage**, which is paid in the event that an ox whose owner has not been warned that it gored more than two times gores another animal (see Exodus 21:35); cases concerning **payment of double** the principal by a thief who was caught stealing (see Exodus 22:3); and cases concerning **payment of four or five times** the principal by a thief who slaughtered or sold a stolen ox or a lamb (see Exodus 21:37) are all adjudicated by **three judges**.

האונס, והמפתה, והמוציא שם רע
בשלשה; דברי רבי מאיר.

Cases concerning **one who rapes or one who seduces** a virgin girl, and must therefore pay the girl's father fifty silver shekels (see Deuteronomy 22:29, Exodus 22:15); and cases concerning a **defamer**^H who falsely asserts that his wife was not a virgin when she married him, and brings false witnesses who testify that she committed adultery while betrothed to him and who must therefore pay the girl's father one hundred silver shekels as well as receive lashes (see Deuteronomy 22:13–19): All of these are adjudicated by **three judges**; this is the **statement of Rabbi Meir**.

וחכמים אומרים: מוציא שם רע
בשלושים ושלשה, מפני שיש בו
דיני נפשות.

And the Rabbis say: Cases concerning a **defamer** are adjudicated by a court of **twenty-three judges**, which is the type of court authorized to judge cases of capital law, **because this case includes** the possibility of becoming a case of **capital law**. The husband brings witnesses that his wife committed adultery. If she is found guilty, she is liable to receive the death penalty. This punishment applies to the witnesses if they are exposed as conspiring witnesses.

מכות בשלשה. משום רבי ישמעאל
אמר: בעשרים ושלשה.

Cases concerning the violation of prohibitions that render one liable to receive **lashes** are adjudicated by **three judges**. The Sages **stated in the name of Rabbi Yishmael:** Cases concerning lashes are adjudicated by **twenty-three judges**.

עיבור החודש בשלשה. עיבור השנה
בשלשה; דברי רבי מאיר. רבן
שמעון בן גמליאל אומר: בשלשה
מתחילין, ובחמשה נושאים ונותנים,
וגומרין בשבעה. ואם גמרו בשלשה,
מעוברת.

The **intercalation of the month**^{HB} is performed by a panel of **three judges**. The **intercalation of the year**,^{HB} meaning the decision to add an extra month to the year when necessary, is also decided by a panel of **three judges**; this is the **statement of Rabbi Meir**. **Rabban Shimon ben Gamliel says:** The deliberations **begin with three judges, and they debate the matter with five judges, and they conclude the matter with seven judges**, due to the significance of the decision. **And Rabban Shimon ben Gamliel concedes that if they concluded the matter with only three judges, the intercalation is valid and it is a leap year.**

BACKGROUND

Intercalation of the month – עיבור החודש: The duration of the moon's monthly cycle is slightly more than twenty-nine and a half days. In the Talmud, a standard month has twenty-nine days. Consequently, it was frequently necessary to add an additional day to the month. During the long period in antiquity when the Hebrew calendar was established by the court based on the testimony of witnesses who had seen the new moon, the addition of an extra day to a month was determined by their testimony. If the moon was sighted on the night after the twenty-ninth day of the month, that night and the following day constitute the first day of the following month. If the moon was not sighted that night, or the moon was sighted but the witnesses to the new moon did not arrive at the Great Sanhedrin to testify the following day, an extra day was added to the month. From the fourth century CE, the Jewish calendar has operated on a fixed, astronomically based system in which, generally speaking, months of twenty-nine days alternate with those of thirty days.

Intercalation of the year – עיבור השנה: The annual Jewish calendar, which follows a lunar cycle of twelve months of twenty-nine or thirty days, is also tied to the solar year, because the Festivals must be held in their appropriate seasons. In particular, Passover must be observed in the spring, at the time of the barley harvest, and *Sukkot* near the time of the autumnal equinox.

The solar year is slightly more than eleven days longer than the lunar year. To compensate for this difference, a thirteenth lunar month is occasionally added after the month of Adar, and is referred to as Second Adar. Additional factors besides the requirement for the Festivals to fall in their appropriate seasons were taken into account.

From the fourth century CE, the Jewish calendar has operated on a fixed nineteen-year cycle that correlates the lunar and solar calendars. Second Adar is added in the 3rd, 6th, 8th, 11th, 14th, 17th, and 19th years of each cycle.

HALAKHA

Cases of **monetary law** are adjudicated by **three judges** – דיני ממונות בשלשה: Cases of monetary law are generally adjudicated by three judges, although there are some cases that can be handled by one expert judge, and some can be adjudicated by three non-ordained lay judges, as explained later in this tractate.

The following cases are adjudicated by three judges: Theft and personal injury; damages and half the damage; payments of double and of four and five times the principal where there is theft; and rape and seduction. Furthermore, cases concerning transgressions for which one is liable to receive lashes are also adjudicated by three judges, in accordance with the opinion of the Rabbis (Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 5:4, 8; *Shulhan Arukh, Hoshen Mishpat* 13:1).

Defamer – מוציא שם רע: A defamer is judged by twenty-three judges, in accordance with the opinion of the Rabbis (Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 5:3).

Intercalation of the month – עיבור החודש: The intercalation of the month is decided on by a court of three judges (Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 5:6).

Intercalation of the year – עיבור השנה: The deliberations about the intercalation of the year are begun with three judges, discussed by five, and settled by seven (Rambam *Sefer Zemanim, Hilkhot Kiddush HaHodesh* 4:9–10 and *Sefer Shofetim, Hilkhot Sanhedrin* 5:7).

BACKGROUND

Laying of hands by the Sages – קְמִיבַת זְקֵנִים: A communal sin-offering is brought when an unwitting transgression is committed by the Jewish people as a result of an erroneous halakhic decision handed down by the Great Sanhedrin (Leviticus 4:12). This offering is brought when the infraction is one that would incur *karet*, the penalty of excision from the World-to-Come, if performed intentionally, or demand a sin-offering from an individual if committed unintentionally.

Before the animal is slaughtered, a procedure known as placing hands [*semikha*] must be performed. This procedure requires one to press down on the bull's head with all of his strength and confess the sin. Members of the Sanhedrin perform this ritual, and Rabbi Shimon and Rabbi Yehuda dispute how many people are needed for the ceremony.

It is possible that the mishna here refers to an entirely different procedure: The ordination of Sages [*semikha*], which also requires laying of hands. According to this understanding, suggested on 13b, this procedure must also be performed by three ordained Sages.

Consecrated property – הִקְדָּשׁוֹת: It is possible to dedicate an item for Temple use, although most possessions are of no direct use to the daily functions of the Temple. Items presented as gifts have their value assessed and are then redeemed from sanctity by being sold. The funds raised in such sales are used for maintenance of the Temple.

Valuations...and of a person – עֲרֵכִין...וְאָדָם: The *halakhot* of valuations appear in Leviticus 27:1–8, and are clarified in tractate *Arakhin*. A valuation [*erekh*] is a special type of consecration by which a fixed sum is given for each person in accordance with his age and sex, regardless of his importance or his actual monetary worth as a slave. One who says: I am obligated to pay the valuation of my hand, has not said anything of consequence, as valuation applies only to a whole person. By contrast, one can vow to give the monetary value of a hand or foot.

NOTES

The breaking of the heifer's neck – עֲרִיפַת עֵגְלָה: To be precise, the breaking of the heifer's neck is not done in the presence of a court of three. The mishna was actually referring to the measurement of the distance to the site where the body was found in order to locate the nearest city (*Tosafot*).

And the refusal before a court of three – וְהִמְיָאוּיִן בְּשִׁלְשָׁה: A number of commentaries ask why divorce is not mentioned among the procedures requiring a court of three judges. Some suggest that it can be derived from a form of an *a fortiori* inference: If refusal, which ends a marriage that was effected by rabbinic law, is performed before three judges, this is certainly the *halakha* with regard to divorce, which ends a marriage effected by Torah law. Other authorities arrive at the opposite conclusion: Refusal is performed before a court of three judges, but in the case of divorce the court merely assists in the writing of the bill of divorce and does not have a halakhic role in the procedure itself (see *Hamra VeHayaeyi*; Maharam Schiff; *Hiddushei Ri Haver*; Rashash).

קְמִיבַת זְקֵנִים וְעִרְיַת עֵגְלָה בְּשִׁלְשָׁה; דְּבָרֵי רַבִּי שְׁמַעוֹן. רַבִּי יְהוּדָה אוֹמֵר: בְּחִמְשָׁה. הַחֲלִיצָה וְהִמְיָאוּיִן בְּשִׁלְשָׁה.

נָטַע רְבִיעִי, וּמַעֲשֵׂר שְׁנֵי שָׁאִין דְּמִיּוֹ יְדוּעִין, בְּשִׁלְשָׁה. הַהֲקָדְשׁוֹת בְּשִׁלְשָׁה. הָעֲרֵכִין הַמְשֻׁלְטִים בְּשִׁלְשָׁה. רַבִּי יְהוּדָה אוֹמֵר: אֶחָד מֵהֶן כֹּהֵן.

וְהִקְדָּשׁוֹת – תְּשֻׁעָה וְכֶהֵן. וְאָדָם כִּיּוֹצֵא בְּהֵן.

דִּינֵי נִפְשׁוֹת בְּעֲשָׂרִים וּשְׁלֹשָׁה. הָרוֹבֵעַ וְהַנְּרָבֵעַ בְּעֲשָׂרִים וּשְׁלֹשָׁה, שְׁנָאֵמַר: "וְהָרַגְתָּ אֶת הָאִשָּׁה וְאֶת הַבְּהֵמָה." וְאוֹמֵר: "וְאֶת הַבְּהֵמָה תִּהְרַגוּ."

Both the laying of hands by the Sages^{BH} and the breaking of the heifer's neck^{NH} in a case where a person was found murdered and it is not known who killed him (see Deuteronomy 21:1–9) are performed in front of a panel of three judges; this is the statement of Rabbi Shimon. Rabbi Yehuda says: These rituals are performed in front of five judges. Both *halitza*,^H the ritual through which the *yavam*, a surviving brother of a married man who died without sons, frees the *yevama*, the widow, of her levirate bond in a case where the *yavam* does not wish to marry the *yevama* (see Deuteronomy 25:5–10), and the refusal of a girl before reaching majority to remain married to the man to whom her mother or brother married her off, are performed before a court of three judges.^N

The *halakha* concerning fruit of a fourth-year sapling and second-tithe produce is that they are to be brought to Jerusalem and eaten there. If this is impractical, the produce can be redeemed and the redemption money brought to Jerusalem, where it is used to purchase food and drink. Valuation of fruit of a fourth-year sapling^H or second-tithe^H produce in cases where their value is not known is performed by three judges. The valuation of consecrated property^B for purposes of redemption is performed by three judges, and the valuations that are movable property (see Leviticus 27:1–8)^H are performed by three judges. Rabbi Yehuda says: One of the three judges must be a priest.

And the valuation of consecrated land^H is performed by nine judges and, in addition, one priest. And the valuation of a person^B for the purpose of a vow is performed in a similar manner to that of land.

S Cases of capital law^H are judged by twenty-three judges. An animal that copulated with a person and an animal that was the object of bestiality are judged by twenty-three judges, as it is stated: "And if a woman approaches any animal to lie with it, you shall kill the woman and the animal" (Leviticus 20:16), and it states: "And if a man lies with an animal, he shall be put to death and you shall kill the animal" (Leviticus 20:15). In cases of bestiality, the verse juxtaposes the execution of the animal to the execution of the person, and therefore the case of the animal is adjudicated in the same way as cases of capital law.

HALAKHA

Laying of hands by the Sages – קְמִיבַת זְקֵנִים: The laying of the Elders' hands, whether it is on communal offerings, e.g., the bull for an unwitting communal sin and the scapegoat, or it is for the appointing of Sages, are done by three members of the Sanhedrin (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 3:10 and *Sefer Shofetim*, *Hilkhot Sanhedrin* 4:3).

The breaking of the heifer's neck – עֲרִיפַת עֵגְלָה: The breaking of the heifer's neck is performed in front of a panel of five judges (Rambam *Sefer Nezikin*, *Hilkhot Rotze'ah UShmirat HaNefesh* 9:1 and *Sefer Shofetim*, *Hilkhot Sanhedrin* 5:5).

Halitza – הַחֲלִיצָה: The *halitza* procedure for a woman whose husband died without offspring is performed in front of a court of three judges (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaHalitza* 4:5; *Shulhan Arukh*, *Even HaEzer* 169:1).

Fruit of a fourth-year sapling – נָטַע רְבִיעִי: Redemption of the fruit of a fourth-year sapling is done according to the assessment of three judges (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser Sheni* 9:6).

Second tithe – מַעֲשֵׂר שְׁנֵי: The redemption of the second tithe, in a situation where its value is undetermined, is done on the basis of the assessment of three merchants, one of whom may even be a gentile, or the owner himself, or his wife (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser Sheni* 4:20).

Valuation of consecrated property...movable property – הַהֲקָדְשׁוֹת...הָעֲרֵכִין הַמְשֻׁלְטִים: The redemption of consecrated property and the valuation of movable property or animals that need valuation are done on the basis of an assessment of three experts (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaHaramim* 8:2).

Land – קִרְקָעוֹת: When calculating the valuation of land, or when the value of a person must be collected from land, the valuation is done by ten judges, one of whom is a priest (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaHaramim* 8:2).

Cases of capital law – דִּינֵי נִפְשׁוֹת: Cases of capital law, whether relating to a person or relating to an animal, are adjudicated by twenty-three judges. Included in this *halakha* is the case of an ox that is to be stoned for killing a person, as well as an ox that was involved in bestiality with a man or a woman, and any animal, even a domesticated one, that killed a person (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 5:2).

שור הנסקל בעשרים ושלשה, שנאמר: "השור יסקל וגם בעליו יומת". במיתת בעלים כך מיתת השור. הזאב והארי הדוב והנמר והברדלס והנחש – מיתתן בעשרים ושלשה. רבי אליעזר אומר: כל הקודם להורגו זכה. רבי עקיבא אומר: מיתתן בעשרים ושלשה.

אין דנין לא את השבט, ולא את נביא השקר, ולא את בהן גדול, אלא על פי בית דין של שבעים ואחד. ואין מוציאין למלחמת הרשות אלא על פי בית דין של שבעים ואחד. אין מוכיפין על העיר ועל העורות אלא על פי בית דין של שבעים ואחד. אין עושין סנהדריות לשבטים אלא על פי בית דין של שבעים ואחד.

אין עושין עיר הנדחת אלא על פי בית דין של שבעים ואחד. אין עושין עיר הנדחת בספר, ולא שלש. אבל עושין אחת או שתים.

סנהדרין גדולה היתה של שבעים ואחד, וקטנה של עשרים ושלשה. מנין לגדולה שהיא של שבעים ואחד? שנאמר: "אספה לי שבעים איש מוקני ישראל", ומשה על גביהן. רבי יהודה אומר: שבעים.

Similarly, an ox that is to be stoned because it killed a person is judged by twenty-three judges, as it is stated: "But if the ox was wont to gore in time past, and warning has been given to its owner, but he did not guard it and it kills a man or a woman the ox shall be stoned and also its owner shall be put to death" (Exodus 21:29). From this verse it is derived that just as the manner of the death of the owner, so is the manner of the death of the ox. The same halakha applies in the case of a wolf or a lion, a bear or a leopard, or a cheetah,^{LB} or a snake that killed a person: Their death is decreed by twenty-three judges. Rabbi Eliezer says these dangerous animals do not need to be brought to court; rather, anyone who kills them first merits the performance of a mitzva. Rabbi Akiva says: Their death is decreed by twenty-three judges.

§ The court judges cases involving an entire tribe that sinned, or a false prophet (see Deuteronomy 18:20–22), or a High Priest^H who transgressed a prohibition that carries a possible death sentence, only on the basis of a court of seventy-one judges, i.e., the Great Sanhedrin. And the king may bring the nation out to an optional war,^H i.e., a war that was not mandated by the Torah and is not a war of defense, only on the basis of a court of seventy-one judges. They may extend the city of Jerusalem or the courtyards of the Temple^H only on the basis of a court of seventy-one judges. And they may appoint a lesser Sanhedrin^L of twenty-three judges for the tribes^H only on the basis of a court of seventy-one judges.

A city may be designated as an idolatrous city, i.e., a city whose residents all practice idolatry, and therefore according to Torah law all the residents must be killed and the city must be destroyed (see Deuteronomy 13:13–19), only in accordance with the ruling of a court^H of seventy-one judges. Additionally, the court may not designate a city as an idolatrous city if it is on the frontier,^H close to the borders of Eretz Yisrael, and three adjoining cities may not be designated as idolatrous cities. But the court may designate one city, or two adjoining cities, as idolatrous cities.

§ With regard to the number of judges in the different courts the mishna presents a halakhic midrash: The Great Sanhedrin was composed of seventy-one judges, and a lesser Sanhedrin was composed of twenty-three.^H From where is it derived that the Great Sanhedrin was composed of seventy-one judges? As it is stated: "Gather Me seventy men of the Elders of Israel, whom you know to be the Elders of the people and officers over them, and bring them into the Tent of Meeting, and they shall stand there with you" (Numbers 11:16), and together with Moses at the head of this body, there are a total of seventy-one. Rabbi Yehuda says: Moses was indeed at the head of the body, but he is not counted as part of the group. Consequently, a future Great Sanhedrin modeled after these Elders is to be composed of seventy judges.

HALAKHA

השבט – ... An entire tribe or a false prophet or a High Priest – נביא השקר... בהן גדול: An entire tribe that sinned by idolatry, or a false prophet, or the High Priest who transgressed a prohibition that carries a possible death sentence are judged only by a court of seventy-one judges (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 5:1).

מלחמת הרשות – The king may bring the nation out to an optional war only in accordance with the ruling of a court of seventy-one judges (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 5:1).

Extending the city of Jerusalem or the courtyards of the Temple – הוקפה לעיר ולעורות: Extensions to the city of Jerusalem or the courtyards of the Temple can be accomplished only by a court of seventy-one judges (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 5:1).

A lesser Sanhedrin for the tribes – סנהדריות לשבטים: A lesser Sanhedrin may be appointed for each tribe and each city only

on the basis of the ruling of the Great Sanhedrin of seventy-one judges (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 5:1).

A city may be designated as an idolatrous city only in accordance with the ruling of a court, etc. – אין עושין עיר הנדחת – אלא על פי בית דין וכו': A city can be designated as an idolatrous city only in accordance with the ruling of the Great Sanhedrin, composed of seventy-one judges (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 5:1).

An idolatrous city on the frontier, etc. – עיר הנדחת בספר וכו': A city on the frontier cannot be deemed an idolatrous city, nor can two adjoining cities be deemed idolatrous cities (Rambam *Sefer HaMadda*, *Hilkhot Avoda Zara* 4:4).

Number of judges in the Sanhedrin – מנין חברי הסנהדרין: The Great Sanhedrin is composed of seventy-one judges and a lesser Sanhedrin is composed of twenty-three, as explained in the mishna (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 1:3, 5:3).

LANGUAGE

Cheetah [bardelas] – ברדלס: This word derives from the Greek *πάρδαλις*, *pardalis*, meaning a panther, and was then expanded to refer to any creature or item that is spotted like a leopard.

Sanhedrin – סנהדרין: From the Greek *συνέδριον*, *sunedrion*, meaning council, in particular an important council of judges or rulers.

Rabbi Ovadya Bartenura and others homiletically interpret the term *Sanhedrin* as an acronym for the words *sonei hadrat panim*, which means: Hates impressive appearances, considering the term a way of praising the Sanhedrin as a judicial body that shows no favoritism in judgment.

BACKGROUND

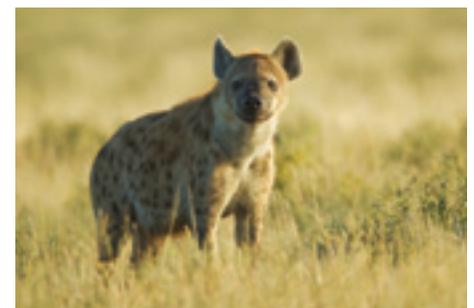
Cheetah [bardelas] – ברדלס: In the Talmud, the word *bardelas* is used to refer to at least three distinct species of animals.

There is a small *bardelas* that is likely a polecat (see Rashi and *Tosafot* on 15b). In other instances *bardelas* refers to the hyena, and some identify it in this way here. Others identify it here with the cheetah, *Acinonyx jubatus*, a spotted animal from the cat family found in Asia and Africa.

The cheetah can reach a length of up to 180 cm including the tail, and is colored yellowish-brown with dark spots. As the cheetah is regarded as the fastest land animal and is also easy to train, it has been used in many places to help hunt various animals, usually by army units. Although the cheetah is usually reluctant to attack humans, it is still large and dangerous enough to cause serious injury to people or even to kill them.



Polecat



Hyena



Two cheetahs hunting

HALAKHA

Inclination after the majority to exonerate or to convict – הַטְיָה לְטוֹבָה וְלְרָעָה: When a court judges a case of capital law it may vote to acquit the accused on the basis of a majority of one judge. A decision to convict the accused may be taken only when there is a majority of two or more judges (Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 8:1).

וּמִנֵּין לְקַטְנָה שֶׁהִיא שְׁלֹשָׁה עָשָׂר וְשִׁשָּׁה?
שֶׁנֶּאֱמַר: "וְשִׁפְטוּ הָעֵדָה... וְהִצִּילוּ הָעֵדָה".
עֵדָה שׁוֹפְטֵת וְעֵדָה מְצַלָּה, הֲרֵי בְּאֵן
עָשָׂרִים.

וּמִנֵּין לְעֵדָה שֶׁהִיא עֶשְׂרֵה? שֶׁנֶּאֱמַר: "עַד
מֵתֵי לְעֵדָה הָרָעָה הָזֹאת?" יֵצְאוּ יְהוֹשֻׁעַ
וְכָלֵב.

וּמִנֵּין לְהִבְיֵא עוֹד שְׁלֹשָׁה? מִמִּשְׁמַע
שֶׁנֶּאֱמַר: "לֹא תִהְיֶה אַחֲרֵי רַבִּים לְרַעַת",
שׁוֹמֵעַ אֲנִי שְׂאֵהִיָּה עִמָּהֶם לְטוֹבָה. אִם
כֵּן, לָמָּה נֶאֱמַר: "אַחֲרֵי רַבִּים לְהִטָּת?"
לֹא כְּהִטָּתֶךָ לְטוֹבָה הִטָּיתֶךָ לְרָעָה.
הִטָּיתֶךָ לְטוֹבָה עַל פִּי אֶחָד, הִטָּיתֶךָ
לְרָעָה עַל פִּי שְׁנַיִם.

And from where is it derived that a lesser Sanhedrin is composed of twenty-three judges? As it is stated: "And the congregation shall judge between the assailant and the avenger... and the congregation shall save the manslayer from the hands of the avenger" (Numbers 35:24–25). Therefore, there must be a **congregation**, which consists of at least ten judges, that **judges** the accused and attempts to convict him, **and** there must be a **congregation**, also consisting of at least ten judges, which attempts to **save** the accused by finding him innocent. Together, **there are twenty judges here**.

Before proceeding to derive the requirement for the final three judges, the mishna clarifies: **And from where is it derived that a congregation consists of at least ten men? As it is stated** concerning the spies: "**How long shall I bear with this evil congregation** that keep complaining about me?" (Numbers 14:27) There were twelve spies; **excluding Joshua and Caleb**, who did not complain, there would be ten men who are called: A congregation. Accordingly, the verses describing a congregation that attempts to convict the accused and a congregation that attempts to acquit him together add up to twenty judges.

And from where is it derived to bring three more judges to the court? From the implication of that which is stated: "**You shall not follow a multitude to convict**" (Exodus 23:2), I would derive that I may not convict a person on the basis of a majority but I should follow the majority to exonerate. If so, why is it stated in the same verse: "**To incline after a multitude**," from which it can be understood that the majority is followed in all cases? In order to resolve the apparent contradiction it must be explained: **Your inclination** after the majority to exonerate is not like your inclination after the majority to convict.¹⁴ **Your inclination** after the majority to exonerate can result in a verdict by a majority of one judge. But **your inclination** after the majority to convict a transgressor must be by a more decisive majority of at least two. Therefore, the court must have at least twenty-two judges.

Perek I
Daf 2 Amud b

HALAKHA

A city that is eligible for the Sanhedrin – עִיר הֲרֵאוּיָהּ – לְסַנְהֶדְרִין: A city that has 120 residents within it is eligible to have a lesser Sanhedrin (Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 1:3).

וְאֵין בֵּית דִּין שְׁקוּל, מוֹסִיפִין עֲלֵיהֶם עוֹד
אֶחָד, הֲרֵי בְּאֵן עָשָׂרִים וְשִׁלְשָׁה.

וְכַמָּה יִהְיֶה בְּעִיר וְתֵהָא רְאוּיָהּ לְסַנְהֶדְרִין?
מֵאַה וְעָשָׂרִים. רַבִּי נְחֵמְיָה אָמַר: מֵאַתֵּיִם
וְשִׁלְשִׁים, כְּנֶגֶד שְׁרֵי עֲשָׂרוֹת.

And since there is a principle that a court may not be composed of an even number of judges, as such a court may be unable to reach a decision, therefore they add another one to them, and there are twenty-three judges here.

And how many men must be in the city for it to be eligible for a lesser Sanhedrin?¹⁵ One hundred and twenty. Rabbi Nehemya says: Two hundred and thirty, corresponding to the ministers of tens, as outlined by Moses and Yitro in the wilderness (Exodus, chapter 18). That is to say, each member of the Sanhedrin can be viewed as a judge with responsibility for ten residents. If there are not enough men in the city to enable this calculation, it would not be honorable to appoint a Sanhedrin, as their members will each preside over less than the minimum of ten residents.

גַּמ' אִטּוּ גְזֵילוֹת וְחִבְלוֹת לָאוּ דִינֵי
מְמוֹנוֹת נִנְהוּ? אָמַר רַבִּי אֲבָהוּ: "מָה
הֵן" קָתַנִּי. מָה הֵן דִּינֵי מְמוֹנוֹת? גְּזֵילוֹת
וְחִבְלוֹת. אֲבָל הוֹדָאוֹת וְהִלְאוֹת לֹא.

GEMARA The mishna states that cases of monetary law are adjudicated by three judges, and that cases of robbery and personal injury must also be adjudicated by three judges. The Gemara asks: **Is that to say** that cases of robbery and personal injury are not cases of monetary law? Obviously they are; why did the mishna delineate them separately? **Rabbi Abbahu says:** The mishna teaches this clause employing the style: **What are these**, meaning that the expression: Cases of monetary law, is a description of a category, followed by the specification. Accordingly, the mishna should be read as follows: **What are these** cases of monetary law that are adjudicated by three judges? Cases of robbery and personal injury. **But** cases of admissions, where one party admits that he owes another money, **and** cases of loans that were not repaid are **not** included in this halakha.

וְצִרְכָּא, דְּאֵי תְּנָא דִּינֵי מְמוֹנוֹת, הָוּה אֲמִינָא דְּאֶפִּילוּ הוֹדָאוֹת וְהִלְאוֹת. תְּנָא גְזִילוֹת וְחֻבְלוֹת. וְאֵי תְּנָא גְזִילוֹת וְחֻבְלוֹת, וְלֹא קִתְּנֵי דִּינֵי מְמוֹנוֹת, הָוּה אֲמִינָא: הוּא הִדִּין דְּאֶפִּילוּ הוֹדָאוֹת וְהִלְאוֹת. וְהֵאֵי דְּקִתְּנֵי גְזִילוֹת וְחֻבְלוֹת מְשׁוּם דְּעִיקָר שְׁלִישָׁה דְּכִתְּבִי, בְּגִזְלוֹת וְחֻבְלוֹת כְּתִיבִי.

גְזִילוֹת, דְּכִתְּבִי: "וְנִקְרַב בְּעַל הַבַּיִת אֶל הָאֱלֹהִים", חֻבְלוֹת, מַה לִּי חֻבֵּל בְּגוֹפוֹ, מַה לִּי חֻבֵּל בְּמִמּוֹנִי. תְּנָא: מַה הֵן דִּינֵי מְמוֹנוֹת? גְזִילוֹת וְחֻבְלוֹת. אֲבָל הוֹדָאוֹת וְהִלְאוֹת לֹא.

וְלִמָּאי? אֵילִימָא דְּלָא בְּעִינֵי שְׁלִישָׁה – וְהָאֵמֵר רַבִּי אֲבָהוּ: שְׁנַיִם שְׂדֵנֵי דִּינֵי מְמוֹנוֹת, לְדַבְּרֵי הַכֹּל אֵין דִּינֵיהֶם דִּין!

אֵלָא דְּלָא בְּעִינֵי מוֹמְחִין.

מֵאי קִסְבֵּר? אֵי קִסְבֵּר עִירוּב פְּרָשִׁיּוֹת כְּתוּב כָּאן, לִיבְעֵי נְמִי מוֹמְחִין. וְאֵי קִסְבֵּר אֵין עִירוּב פְּרָשִׁיּוֹת כְּתוּב כָּאן, שְׁלִישָׁה לְמָה לִּי?

לְעוֹלָם קִסְבֵּר עִירוּב פְּרָשִׁיּוֹת כְּתוּב כָּאן. וְבִדִּין הוּא דְּלִיבְעֵי נְמִי מוֹמְחִין. וְהֵאֵי דְּלָא בְּעִינֵי מוֹמְחִין מְשׁוּם דְּרַבִּי חֲנִינָא. דְּאֵמֵר רַבִּי חֲנִינָא: דְּבַר תּוֹרָה, אֲחַד דִּינֵי מְמוֹנוֹת וְאֲחַד דִּינֵי נְפְשׁוֹת בְּדְרִישָׁה וּבְחֻקְיָהּ.

And this specification is necessary, as had the *tanna* taught only that cases of **monetary law** are adjudicated by three judges, I would say that this applies **even** to cases of **admissions and loans**. Therefore, to avoid this misunderstanding, **he taught**: Cases of **robbery and personal injury**, in order to clarify that only they are included in the *halakha*. **And had he taught** only cases of **robbery and personal injury** and **had not taught** cases of **monetary law**, I would say that **the same is true even** with regard to **admissions and loans**, that they are adjudicated in the same manner. **And I would understand this fact, that the mishna teaches** specifically cases of **robbery and personal injury**, by saying that these are mere examples and that the mishna mentions them **because** in the **primary** cases in which the requirement for **three judges is written** in the Torah, **it is written with regard** to cases of **robbery and personal injury**.

The Gemara explains this assertion. With regard to cases of **robbery**, as it is written with regard to a bailee who accepted a deposit from another and then claims that it was stolen: “**The owner of the house shall come near the court [ha’elohim]**,”^N to see whether he has not put his hand upon his neighbor’s property” (Exodus 22:7). And with regard to cases of **personal injury**, they are adjudicated in the same manner as cases of robbery, because **what difference is there to me if another injured one’s body and what difference is there to me if another injured one’s property?** Therefore, in order to clarify that the *halakha* applies only to cases of robbery and injury, the *tanna* taught: **What are these cases of monetary law?** Cases of **robbery and personal injury**. But this *halakha* does **not** apply with regard to cases of **admissions and loans**.

The Gemara asks: **And with regard to which halakha** are cases of admissions and loans unlike cases of robbery and injury? **If we say that we do not need** a court of **three judges** to adjudicate such cases, **but doesn’t Rabbi Abbahu say**: With regard to a court of **two judges that adjudicated cases of monetary law**^H of any type, which would include cases of admissions and loans, **everyone agrees that their judgment is not a valid judgment**, as a court with fewer than three judges is invalid?

The Gemara answers: This is not the difference between the categories; **rather**, the difference is **that** for cases of admissions and loans **we do not require expert**, ordained judges who have studied extensively and received permission to judge; any three laymen can serve as a court for these types of cases.^H The mishna singled out cases of robbery and personal injury in order to indicate that for those cases expert judges are necessary.

The Gemara clarifies: **What does the tanna hold? If he holds that a merging of Torah portions is written here**, then **he should also require expert** judges for cases of admissions and loans. The passage from which the *halakha* requiring three judges is derived (Exodus 22:6–8) discusses several different *halakhot*. According to the understanding that these portions should be considered as merged, they are interpreted to indicate equivalence between those *halakhot*. **And if he holds that there is no merging of Torah portions written here**, meaning that the *halakhot* are to be derived only from verses that discuss them directly, then **why do I need three judges** for admissions and loans? The requirement for three judges is derived from the repetition of the word *elohim* three times in the context of cases of robbery and personal injury.

The Gemara answers: **Actually**, the *tanna* holds that **a merging of Torah portions is written here, and by right he should have required expert judges** to judge cases of admissions and loans **as well**. **And this fact, i.e., that we do not require expert judges** for these cases, is **due to** the reasoning of Rabbi Hanina, as **Rabbi Hanina says**: **By Torah law, both cases of monetary law and cases of capital law require inquiry and interrogation** of witnesses^H in order to conclusively determine the time, place, and circumstance of the incident, with the purpose of finding any possible contradiction in the witnesses’ testimony.

NOTES

The court [ha’elohim] – הָאֱלֹהִים: The Hebrew word *elohim* is used in the Torah with several different meanings. In some cases it is used in a sacred context as a name of God, and at other times it has a secular meaning, referring to great men or rulers, and particularly to judges. Sometimes both meanings are used in the same verse, such as: “God [*Elohim*] stands among the congregation of God; among the judges [*elohim*] does He judge” (Psalms 82:1). In the verses addressing civil law it is clear that it refers to judges in the courtroom.

HALAKHA

Two that adjudicated monetary law – שְׁנַיִם שְׂדֵנֵי דִּינֵי מְמוֹנוֹת: If two judges adjudicated a case of monetary law, their judgment is not a valid judgment unless the litigants explicitly accepted them as judges, in accordance with the opinion of Rabbi Abbahu (Rambam *Sefer Shofetim, Hilkhoh Sanhedrin* 2:10; *Shulhan Arukh, Hoshen Mishpat* 3:2).

A case adjudicated by three non-ordained lay judges – דִּין בְּשְׁלִישָׁה הֵדְיוֹטוֹת: A panel of three non-ordained laymen constitutes a valid court, provided that one of them is learned. If none of them is learned, the court is not qualified to judge, and its ruling is not binding (Rambam *Sefer Shofetim, Hilkhoh Sanhedrin* 5:8; *Shulhan Arukh, Hoshen Mishpat* 3:1).

Inquiry and interrogation of witnesses – בְּדְרִישָׁה וּבְחֻקְיָהּ: Although by Torah law all cases of monetary law require inquiry and interrogation of witnesses, the Sages instituted that this be done in cases of monetary law only with regard to robbery and personal injury (Rambam *Sefer Shofetim, Hilkhoh Eduh* 3:1; *Shulhan Arukh, Hoshen Mishpat* 30:1).

NOTES

As it is stated, you shall have one manner of law – שְׁנַאמְרֵי מִשְׁפָּט אֶחָד יִהְיֶה לָכֶם: Some commentaries suggest that the proof is not from this verse alone, but in conjunction with the previous verse: “And he that kills an animal shall pay for it, and he that kills a man shall be put to death. You shall have one manner of law” (Leviticus 24:21–22). The first verse compares a case of monetary law, killing an animal, with a case of capital law, killing a person (Ramah). Taken together, the two verses teach that cases of monetary and capital law are adjudicated according to the same principles.

So as not to lock the door – בְּדֵי שְׂלֵא תִנְעוּל דְּלֵת: One may question by what authority the Sages issued these ordinances, which uproot matters of Torah law. With regard to the requirement of inquiry and interrogation of witnesses, it can be explained that the Sages invoked their authority to uproot a matter of Torah law by instructing people to be passive, in this case, to not conduct the inquiry and interrogation of witnesses. This would not explain the authorization granted to laymen to judge, which violates Torah law by enabling them to actively judge the case. Therefore, it must be explained that this ordinance is based on the authority granted to a court to institute decrees relating to monetary law and to expropriate property from its legal owner when the judges deem it necessary to do so (*Sanhedri Ketanna*).

If they err they should not be liable to pay compensation – טַעוּ לֹא יִשְׁלְמוּ: According to Rashi and *Tosafot*, this assumption is based on the *halakha* that expert judges are exempt from paying compensation in a case where they err in judgment. Since the Sages granted these laymen permission to judge as if they were expert judges, the Gemara assumes that the same exemption should apply to them. Rashi also suggests a second explanation, that since the Sages prevented the judges in this case from conducting a complete inquiry and interrogation of witnesses, they could claim that this is why they erred in judgment; had they been allowed to conduct a thorough investigation, they would have discovered the error and corrected it.

One judge is also valid – חַד נָמִי בִּשְׂרָר: This single judge must be a Torah scholar. This *halakha* is derived from the same verse, which specifies: “In righteousness shall you judge your neighbor” (Leviticus 19:15), which is understood to mean that the judge must be someone who can be relied upon to render righteous judgment (Ramah).

LANGUAGE

Non-ordained laymen [*hedyotot*] – הֶדְיוֹטוֹת: The root of this word is the Greek ἰδιώτης, *idiotēs*, whose basic meaning is an ordinary person who does not hold any office. The word generally appears in the Talmud as part of a compound noun, such as *kohen hedyot*, a common priest, in contrast to the High Priest, and as a general definition of one who holds no office or particular status.

BACKGROUND

Those who sit idly on street corners – יוֹשְׁבֵי קַרְנוֹת: Most commentaries explain that this term refers to people who are completely idle; they neither go to the study hall nor work, but instead spend their time sitting and chatting on street corners (*Aruk*). Some understand the expression to be referring to storekeepers, whose shops are often located at street corners.

שְׁנַאמְרֵי: “מִשְׁפָּט אֶחָד יִהְיֶה לָכֶם.” וְמֵה טַעַם אָמְרוּ דִּינֵי מְמוֹנוֹת לֹא בְּעֵינֵי דְרִישָׁה וְחִקְיָה? בְּדֵי שְׂלֵא תִנְעוּל דְּלֵת בְּפִנֵי לוֹוִין.

אֵלָא מֵעַתָּה טַעוּ לֹא יִשְׁלְמוּ! כֵּל שְׂבִין אִתָּה נֹעֵל דְּלֵת בְּפִנֵי לוֹוִין.

אִי הָכִי, תְּרַתִּי קְתַנִּי: דִּינֵי מְמוֹנוֹת בְּשִׁלְשָׁה הֶדְיוֹטוֹת. גְּזִילוֹת וְחִבְלוֹת בְּשִׁלְשָׁה מוֹמְחִין.

וְעוֹד: “שִׁלְשָׁה” “שִׁלְשָׁה” לָמָּה לִי?

אֵלָא, אָמַר רַבָּא: תְּרַתִּי קְתַנִּי, מִשּׁוּם דְּרַבִּי חֲנִינָא. רַב אֶחָא בְּרִיהַ דְּרַב אִיקָא אָמַר: מְדַאֲרִייתָא חַד נָמִי בִּשְׂרָר, שְׁנַאמְרֵי: “בְּצַדִּיק תִּשְׁפֹּט עַמִּיתְךָ.” אֵלָא מִשּׁוּם יוֹשְׁבֵי קַרְנוֹת.

אִטוּ בְּתַלְתָּא, מִי לֹא הוּוּ יוֹשְׁבֵי קַרְנוֹת? אִי אֶפְשָׁר דְּלִית בְּהוּ חַד דְּגַמְיָר. אֵלָא מֵעַתָּה טַעוּ לֹא יִשְׁלְמוּ! כֵּל שְׂבִין דְּנַפְיָשִׁי יוֹשְׁבֵי קַרְנוֹת.

The source for this is as it is stated: “You shall have one manner of law” (Leviticus 24:22),ⁿ from which it is derived that all judges must judge in the same manner. And since with regard to cases of capital law it is stated: “And you shall inquire and investigate, and ask diligently” (Deuteronomy 13:15), the same should apply to cases of monetary law. And what is the reason that the Sages said that in cases of monetary law we do not require inquiry and interrogation of witnesses? The Gemara answers: The Sages established this exemption so as not to lock the doorⁿ in the face of potential borrowers. If inquiry and interrogation of the witnesses would be required in order to have the court rule that the lender can collect payment of a loan, lenders would be deterred by the difficulty of proving the matter and might cease to lend money to the poor. For the same reason, the Sages also waived the need for expert judges in these cases.

The Gemara asks: If that is so, then if these laymen err they should not be liable to pay compensationⁿ to the party unfairly wronged by their judgment, just as expert judges are not liable. The Gemara responds: If this is the *halakha*, you are all the more so locking the door in the face of potential borrowers; wealthy people will not want to lend money, as they will fear that a court of laymen will judge the case incorrectly.

With regard to Rabbi Abbahu’s method of explaining the mishna, the Gemara asks: If that is so, then instead of explaining the mishna employing the style: What are these, Rabbi Abbahu could more easily say that two matters are taught in the mishna, and explain it as follows: Cases of monetary law, meaning cases of admissions and loans, are adjudicated by three judges who could be non-ordained laymen [*hedyotot*],^l and cases of robbery and personal injury are adjudicated by three ordained, expert judges.

And furthermore, according to Rabbi Abbahu’s explanation that the term: Cases of robbery and personal injury, simply clarifies the meaning of the term: Cases of monetary law, why do I need the repetitive statement that cases of monetary law are adjudicated by three judges and cases of robbery and injury are adjudicated by three judges? The repetition seems to indicate that these are two separate matters.

Rather, Rava said: Two matters are in fact taught in the mishna, because of the statement of Rabbi Hanina that the Sages instituted leniencies with regard to cases of monetary law so as not to lock the door in the face of potential borrowers. Rav Aha, son of Rav Ika, said: By Torah law, the adjudication of one judge is also validⁿ in cases of admissions and loans, as it is stated: “In righteousness shall you judge your neighbor” (Leviticus 19:15), in the singular. But by rabbinic law, three judges are required, due to the concern that a single judge may be one of those who sit idly on street corners,^b i.e., unlearned people who are not involved in business and are unlikely to judge the case correctly.

The Gemara asks: Is that to say that with three judges they will not be among those who sit idly on street corners? How is this concern addressed by increasing the number of judges? The Gemara answers: When there are three judges it is impossible, i.e., highly unlikely, that there is not among them one who is learned. The Gemara asks: If that is so, then if they err they should not be liable to pay compensation, since rabbinic law authorizes laymen to judge cases of this nature. The Gemara answers: If the judges will be exempt from paying compensation in the event that they err in their judgment, this lack of accountability will lead all the more so to having many of those who sit idly on street corners assume the role of judges.

מאי איכא בין רבא לרב אחא בריה דרב איקא? איכא בינייהו דאמר שמואל: שנים שדנו – דיניהן דין, אלא שנקראו בית דין חצוף. לרבא לית ליה דשמואל. לרב אחא בריה דרב איקא אית ליה דשמואל.

The Gemara asks: **What are the implications of the difference between the opinion of Rava, who says that cases of monetary law may be adjudicated by three laymen due to the statement of Rabbi Hanina, and the opinion of Rav Aha, son of Rav Ika, who holds that according to the Torah one judge is sufficient?** The Gemara answers: The difference between them is with regard to **that which Shmuel says: If two people adjudicated a case, their judgment is a valid judgment, but they are called an impudent court. Rava is of the opinion that the halakha is not in accordance with the opinion of Shmuel, as he holds that three judges are required by Torah law. Rav Aha, son of Rav Ika, is of the opinion that the halakha is in accordance with the opinion of Shmuel, as he holds that fundamentally, even one judge may judge a case of monetary law.**

”נוק וחצי נוק” וכו'. נוק היינו חבלות! משום דקא בעי למיתנא חצי נוק, תני נמי נוק שלם.

S The mishna teaches that cases involving payment for **damage** and payment for **half the damage**⁸ are adjudicated by three judges. The Gemara challenges: **Damage is the same as injury**, since the term: Injury, includes various damages one causes another directly or by his property. The Gemara explains: **Since he needed to teach the halakha with regard to payment of half the cost of the damage, he also taught the halakha with regard to payment of the full cost of the damage.**

חצי נוק נמי היינו חבלות! תנא ממונא, וקתני קנסא.

The Gemara challenges: Payment of **half the damage is also the same as personal injury**, so it did not need to be stated separately. The Gemara explains: There is a difference. The *tanna* taught the *halakha* with regard to a case of **monetary matters**, and he also taught the *halakha* with regard to a case of **a fine**, such as payment of half the damage in a case where an innocuous ox gored another animal. Consequently, payment of half the cost of the damage needed to be stated separately from payment for injury, and once he needed to teach the *halakha* with regard to payment for half the cost of the damage, he first mentioned general payments for damages.

הניחא למאן דאמר: פלגא נזקא קנסא. אלא למאן דאמר פלגא נזקא ממונא, מאי איכא למימר?

The Gemara asks: **This works out well according to the one who says that the payment for half the cost of the damage⁹ is considered a fine**, meaning that according to the standard *halakhot* of damages the owner of the goring ox should be exempt, and the Torah instituted a payment of half the cost of the damage as a penalty for not being exceedingly careful. **But according to the one who says that the payment for half the cost of the damage is an actual monetary payment**, meaning that according to the standard *halakhot* of damages the owner of the goring ox should be fully liable but the Torah exempted him from part of his liability due to the unusual nature of the damage, **what can be said?** Therefore, this explanation must be rejected.

אלא: אידי דקא בעי למיתנא תשלומי כפל ותשלומי ארבעה וחמשה, דממון

Rather, since the tanna needed to teach the halakha with regard to cases involving payment of double the principal and payment of four or five times the principal, which are cases of money

BACKGROUND

Half the damage – חצי נוק: The owner of an ox or any other animal that had no history of causing malicious damage is required to pay one-half of the cost of the damage maliciously caused by his animal to other animals (see Exodus 21:35). The Sages disagreed whether the reason for the payment of half the cost of the damage was that the owner should have been liable to pay the entire sum and the Torah reduced his liability, or whether by right no payment should have been required at all and the Torah rendered him liable to pay half the cost of the damage as a fine.

HALAKHA

Half the damage – פלגא נזקא: Payment of half cost of the damage by the owner of an innocuous ox that gored is considered a fine, as is ruled in tractate *Bava Kamma*. Therefore, such a case is adjudicated only by expert judges (Rambam *Sefer Nezikin, Hilkhot Nizkei Mamon* 2:7; *Shulhan Arukh, Hoshen Mishpat* 1:1).

Perek I
Daf 3 Amud b

שאינו משתלם בראש הוא, תנא נמי חצי נוק, דממון שאינו משתלם בראש הוא. ואידי דקא בעי למיתנא חצי נוק, תנא נמי נוק.

that is not paid according to its value, meaning that the payment is not equal to the cost of the damage but is actually more than that amount, **he also taught the halakha with regard to payment of half the cost of the damage, which is also money that is not paid according to its value**, as he pays less than the full cost of the damage. **And since he needs to teach the halakha with regard to payment of half the cost of the damage, he also taught the halakha with regard to payment of the full cost of the damage.**