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בס"ד

Intro

Today we will Be"H learn מסכת סנהדרין of דף ל"ו of מסכת. Some of the topics we will learn about include:

דיני ממונות ודיני נפשות

The Gemara compares and contrasts monetary and capital cases regarding many Halachos, including:

1.

מתחילין מן הגדול

מתחילין מן הצד

Whether the preeminent judge or a lesser judge opens the deliberations by stating his opinion;

2.

ממזר וגר

Whether a ממזר or a convert can serve as a judge?

3.

זקן וסריס ומי שאין לו בנים

Whether an elderly person, or someone who cannot or does not have children, can serve as a judge.

רבי

The Gemara discusses several attributes of Rebbe, including:

ענוה יתירה

His extreme humility;

AND

מימות משה ועד רבי לא מצינו

תורה וגדולה במקום אחד

He was the first person since משה רבינו who in his time was both the preeminent Torah scholar and the principal authority over כלל ישראל.

מונין אחד או שנים B

The Gemara discusses cases where several opinions are counted as one, including:

1.

שונה אדם לתלמידו

ודן עמו בדיני נפשות

If a judge teaches his student the law, whether he can then include him in the court? AND

האב ובנו

הרב ותלמידו

If a father and his son, or a teacher and his student, are both on the court;

שור הנסקל

The laws of a case of an ox that gored are compared to capital cases in some regards.











So let's review...

The Mishnah on דף ל"ב continues contrasting monetary and capital cases:

דיני ממונות

הטמאות והטהרות

מתחילין מן הגדול

In monetary cases and rulings regarding purity, the preeminent judge opens the deliberations by stating his opinion. However,

דיני נפשות

מתחילין מן הצד

In capital cases, one of the lesser judges states his opinion first, because the Pasuk says

לא תענה על רב

The word ייב is spelled without the letter יי", and so we expound

לא תענה על רַב

Not to argue with the preeminent scholar. Therefore,

Rashi explains,

לא מתחלינן מיניה

דלמא חזא ליה חובה

ולא פלגינא עילויה

If the greatest scholar begins by stating his opinion to convict, a lesser judge may refrain from offering a reason to acquit.

The Gemara relates

שאני מניינא דבי רבי

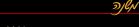
דכולהו מנינייהו

מן הצד הוו מתחלי

In Rebbe's בית דין, even monetary cases began with the lesser judges, and Rashi explains

מפני ענוה יתירה שהיתה בו

Because of Rebbe's extreme humility, he never began the deliberations.



דיני ממונות הממאות והמהרות מתחילין מן הגדול

In monetary cases and rulings regarding purity, the preeminent judge opens the deliberations by stating his opinion. However,

דיני נפשות מתחילין מן הצד

In capital cases, one of the lesser judges states his opinion first,

because the Pasuk says

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Therefore, Rashi explains, לא מתחלינן מיניה

דלמא חזא ליה חובה ולא פלגינא עילויה

If the greatest scholar begins by stating his opinion to convict, a lesser judge may refrain from offering a reason to acquit.

> שאני מניינא דבי רבי דכולהו מנינייהו מן הצד הוו מתחלי

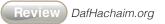
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The Gemara digresses to discuss Rebbe's unique status: מימות משה ועד רבי

לא מצינו תורה וגדולה במקום אחד

From the times of משה רבינו , there was never one person who was both the preeminent Torah scholar and the principal authority over כלל ישראל, in the way משה was the מלך and Rebbe was the נשיא. Similarly,

מימות רבי עד רב אשי

לא מצינו תורה וגדולה במקום אחד

From the times of רב אשי, there was never such a person.

The Gemara asks that apparently there were others? הוה יהושע

יהושע was the greatest Torah scholar AND the leader of his time?

The Gemara answers

הוה אלעזר

אלעזר was an equally great Torah scholar.

After listing several other similar cases, the Gemara asks הוה דוד

דוד המלך was the greatest Torah scholar AND the leader of his time?

The Gemara answers

הוה עירא היאירי

עירא היאירי was greater than him in Torah.

Even though

נח נפשיה

He died in דוד 's lifetime, and דוד then attained this unique status; however,

כוליה שניה קאמרינן

We are only listing those who retained this status the entire time of their greatness.

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מימות משה ועד רבי לא מצינו תורה וגדולה במקום אתד

From the times of מיה רביכו until מיה, there was never one person who was both the preeminent Torah scholar and the principal authority over כלל ישראל, in the way מלך was the כשיה and Rebbe was the כשיה.

Similarly,

מימות רבי עד רב אשי לא מצינו תורה וגדולה במקום אתד

From the times of רב אשי until רב אשי, there was never such a person.



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Even though

נח נפשיה

He died in דוד's lifetime, and דוד המלך then attained this unique status;

3

The Gemara cites a related Halachah:

שונה אדם לתלמידו

ודן עמו בדיני נפשות

In capital cases, a judge may teach his student the law, and then include him in the court and count him as a separate opinion. 3

שונה אדם לתלמידו ודן עמו בדיני נפשות

In capital cases, a judge may teach his student the law, and then include him in the court and count him as a separate opinion.







The Gemara challenges this ruling from a ברייתא:
הטהרות והטמאות

Regarding rulings on matter of purity,

האב ובנו

הרב ותלמידו

מונין להם שנים

A father and his son, or a teacher and his student, are counted as separate opinions, because as Rashi explains הוראתן ביחיד

ואין בהם מנין

אלא אם כן חולקין

An individual can decide these cases, and we only need to count opinions if there is a disagreement. Therefore, we are merely determining the view of the majority of scholars, and every individual is counted.

However,

דיני ממונות ודיני נפשות ודיני מכות

קידוש החדש ועיבור שנה

Regarding rulings on monetary cases, capital cases, administering lashes, or establishing the new month or leap year;

אב ובנו

הרב ותלמידו

אין מונין להן אלא אחד

A father and his son, or a teacher and his student, are only counted as a single opinion, because as Rashi explains מנין שלהם אף בתחילת הדין מן התורה

שזה צריך ג'

וזה צריך כ"ג

They initially require a certain number of judges, either 3 or 23, and so these closely related people only count as one opinion.

The Gemara answers

כָגון רב כהנא ורב אסי

דלגמריה דרב הוו צריכי

ולסבריה דרב לא הוו צריכי

רב אמs referring to students such as רב כהנא ורב אס', who needed Rav's Torah knowledge, but did not need his assistance with their reasoning skills. Therefore, even though they learned the law from the same source, each opinion regarding the law's application is counted separately.

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הטהרות והטמאות

Regarding rulings on matter of purity,

האב ובנו הרב ותלמידו מונין להם שנים

A father and his son, or a teacher and his student, are counted as separate opinions,

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An individual can decide these cases, and we only need to count opinions if there is a disagreement. Therefore, we are merely determining the view of the majority of scholars, and every individual is counted.

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דיני ממונות – ודיני נפשות ודיני מכות קידוש החדש – ועיבור שנה

Regarding rulings on monetary cases, capital cases, administering lashes, or establishing the new month or leap year;

אב ובנו הרב ותלמידו אין מונין להן אלא אחד

A father and his son, or a teacher and his student, are only counted as a single opinion,

because as Rashi explains מנין שלהם אף בתחילת הדין מן התורה שזה לריך ג' וזה לריך כ"ג

They initially require a certain number of judges, either 3 or 23, and so these closely related people only count as one opinion.

כגון רב כהנא ורב אסי דלגמריה דרב הוו צריכי ולסבריה דרב לא הוו צריכי

רב was referring to students such as רב, רב כהנא ורב אסי who needed Rav's Torah knowledge, but did not need his assistance with their reasoning skills.

Therefore, even though they learned the law from the same source, each opinion regarding the law's application is counted separately.







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Having listed the many differences between דיני ממונות and דיני נפשות, the Gemara comments:

עשרה דברים יש

בין דיני ממונות לדיני נפשות

The Mishnah listed ten differences between monetary and capital cases. However, even though we derive from a Pasuk

כמיתת הבעלים כך מיתת השור

The sentencing of a goring ox is compared to a capital case, and therefore

בעי עשרים ושלשה

It also requires a court of 23 judges;

Nevertheless.

כולן אין נוהגין בשור הנסקל

All other laws of capital cases do not apply to the sentencing of an ox, because the Pasuk says

לא תטה משפט אביונך בריבו

And we expound

משפט אביונך אי אתה מטה

אבל אתה מטה משפט של שור הנסקל

We cannot convict a person with the majority of a single vote, but we can convict a שור הנסקל with the majority of a single vote.

Therefore, Rashi explains, היקש אתי לכ"ג שהוא עיקר הדין ותחילתו We assume that the compa

We assume that the comparison of כמיתת הבעלים כך מיתת השור

Is regarding the requirement of 23 judges, because this is the primary and initial aspect of the case, while מהכא גמיר לכולהו

All other aspects of capital cases are derived from the Halachah regarding the majority, and we do NOT compare שור הנסקל to capital cases, because להצלה אתי

ומה לנו לחוס על שור המועד

Those are special leniencies to save the defendant, and there is no reason to spare a dangerous animal. ${\mathbb R}$

Therefore, even though they learned the law from the same source, each opinion regarding the law's application is counted separately.

עשרה דברים יש בין דיני ממונות לדיני נפשות

The Mishnah listed ten differences between monetary and capital cases.

However, even though we derive from a Pasuk

כמיתת הבעלים כך מיתת השור

The sentencing of a goring ox is compared to a capital case, and therefore

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כולן אין נוהגין בשור הנסקל

All other laws of capital cases do not apply to the sentencing of an ox,

because the Pasuk says

לא תשה בישפט אביוצך בריבו

אלכל אבינוך אי אחדי ואלדי אבא אחדי נואל לא לוד דין סקא

We cannot convict a person with the majority of a single vote,

but we can convict a שנר with the majority of a single vote.

Therefore, Rashi explains, היקש אתי לכ"ג שהוא עיקר הדין ותחילתו

We assume that the comparison of כמיתת הבעלים כך מיתת השור

Is regarding the requirement of 23 judges, because this is the primary and initial aspect of the case while

מהכא גמיר לכולהו

All other aspects of capital cases are derived from the Halachah regarding the majority, and we do not compare from 118 to capital cases,

> שפנמנגפי להצלה אתי

ומה לנו לחום על שור המועד

Those are special leniencies to save the defendant, and there is no reason to spare a dangerous animal



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Having mentioned ten differences, the Gemara asks עשרה

הא ט' הוו

There are actually only nine, because

אין הכל כשרין

ועשרים ושלשה

חדא היא

A panel of 23 judges is called a סנהדרץ, and only the judges of a סנהדרץ must be of a certain lineage. Therefore, these two laws are essentially one?

The Gemara concedes the point, and cites a ברייתא that lists a tenth difference:

אין מושיבין בסנהדרין זקן וסריס ומי שאין לו בנים

An elderly person, or someone who cannot or does not have children, cannot serve as a judge for a capital case, because he does not have sufficient compassion.

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The Mishnah concludes

הכל כשרין לדון דיני ממונות ואין הכל כשרין לדון דיני נפשות

, אלא כהנים לויים וישראלים המשיאין לכהונה

Every Jew is eligible to serve as a judge in monetary cases, but not everyone is eligible to serve as a judge in capital cases.

And the Gemara explains

הכל לאתויי ממזר

 \boldsymbol{A} ממזר can serve as a judge in monetary cases, even though

אינו ראוי לבא בקהל

He cannot marry into the general populace; AND לאחויי גר

A convert can serve as a judge in monetary cases, even though

לא בא מטיפה כשרה

He was not born a Jew.

However,

ואין הכל כשרין לדון דיני נפשות

אלא כהנים לויים וישראלים המשיאין לכהונה

Only Kohanim, Levi'im, and Yisraelim of pure lineage, whose families are permitted to intermarry with the Kohanim, can serve as a judge for a capital case, because כשם שב"ד מנוקין בצדק

כך מנוקין מכל מום

Just as ב"ד must be completely righteous, they also must be free of impure lineage, as the Pasuk says ונשאו אתר

And we expound

בדומין לך ליהוי

They should be similar to you, משה רבינו, of pure lineage.





