

NOTES

In the morning in the east and in the evening in the west – שחרית במערב וערבית במזרח: Rashi provides two explanations of this incident. The first is that they saw the waning moon in the morning and the new moon in the evening, as explained in the Jerusalem Talmud. The second explanation is that they saw the new moon in the morning in one point of the sky and then again that night in a different, distant location, indicating that it traveled more quickly than is possible. Others suggest that they saw the waning moon on the morning of the twenty-eighth day and the new moon on the evening of the twenty-ninth (*Meiri*). Although this too is a shorter time than usual, Rabban Gamliel learned that sometimes the moon travels by a short path.

Rabban Gamliel accepted them – קיבלן רבן גמליאל: Rashi and others explain that Rabban Gamliel relied on the tradition of his forefathers that sometimes the moon travels by a short path, in which the new moon is seen sooner than usual after the old moon. Most commentaries claim, based on their knowledge of astronomy, that this is impossible even in a deficient month. Consequently they explain, in the manner of the Rambam, that Rabban Gamliel disregarded the sighting of the waning moon as irrelevant. Presumably the witnesses saw a cloud and thought it was the moon (Rabbi Zerahya HaLevi).

They are false witnesses, etc. – עדי שקר הנוכח: The commentaries dispute this point. Some maintain that Rabban Gamliel did disregard the testimony that the moon was not seen on the night of the thirtieth, as irrelevant. Perhaps clouds, fog, or similar phenomena obscured the new moon (Rambam). Others maintain that in this case Rabban Gamliel indeed erred in his acceptance of unreliable testimony; however, he had reasons for not changing his mind (Rabbi Zerahya HaLevi). Yet others contend that the phrase: On the night of a full moon it was not seen, means that according to Rabban Gamliel's calculations the moon could not have been visible on the following night, and yet he accepted their testimony regardless; in actual fact, Rabban Gamliel erred in his calculations (Rabbeinu Yehonatan).

Rabban Gamliel sent to him – שלח לו רבן גמליאל: The commentaries ask: Why did Rabban Gamliel send a message to Rabbi Yehoshua, not to Rabbi Dosa ben Horkinas? Some say that Rabbi Dosa was merely offering a logical argument, not a halakhic decision. Indeed, Rabbi Dosa's statement later in the Gemara discussion indicates that he relied on the ruling of the court. Consequently, Rabban Gamliel did not need to respond to him (*Arukh LaNer*). Others explain that Rabbi Dosa was not a public figure, whereas Rabbi Yehoshua was a head of the court and his opinion in the matter soon became well known (Maharsha). Yet others explain simply that Rabbi Dosa was a venerable and wise Sage, greater than all others of his generation, and that consequently Rabban Gamliel did not want to treat him harshly (Rabbi Avraham min HaHar).

HALAKHA

When they arrived in Yavne Rabban Gamliel accepted them – כשָׁבְאוּ לִבְנֵה קִיבְלָן רַבָּן גַּמְלִיאֵל: With regard to witnesses who said that they saw the moon on the morning of the twenty-ninth in the east, and in the evening they saw it in the west, their testimony is reliable and the court may sanctify the New Moon based on it. The testimony of the morning sighting is of no concern, as it is irrelevant to the matter at hand (Rambam *Sefer Zemanim, Hilkhhot Kiddush HaHodesh* 2:6).

וערבית במערב. אמר רבי יוחנן בן נורי: עדי שקר הם. כשָׁבְאוּ לִבְנֵה קִיבְלָן רַבָּן גַּמְלִיאֵל.

ועוד באו שנים ואמרו: ראינוהו בזמנו, ובליל עיבורו לא נראה, וקיבלן רבן גמליאל.

אמר רבי דוסא בן הורקנים: עדי שקר הן. היאך מעידים על האשה שילדה, ולמחר פריסה בין שיניה? אמר לו רבי יהושע: וואה אני את דבריך. שלח לו רבן גמליאל: גזרני עליך שתבא אצלי במקלך ובמעוטיך ביום הכפורים שחל להיות בחשבונך.

הלך ומצאו רבי עקיבא מיצר. אמר לו: יש לי ללמוד שכל מה שעשה רבן גמליאל עשוי, שנאמר: "אלה מועדי ה' מקראי קדש אשר תקראו אתם" – בין בזמן בין שלא בזמן. אין לי מועדות אלא אלו.

and that same day we saw the new moon in the evening in the west.^N Rabbi Yohanan ben Nuri said: They are false witnesses, as it is impossible to see the new moon so soon after the last sighting of the waning moon. However, when they arrived in Yavne, Rabban Gamliel accepted them^{NH} as witnesses without concern.

And there was another incident in which two witnesses came and said: We saw the new moon at its anticipated time, i.e., on the night of the thirtieth day of the previous month; however, on the following night, i.e., the start of the thirty-first, which is often the determinant of a full, thirty-day month, it was not seen. And nevertheless Rabban Gamliel accepted their testimony and established the New Moon on the thirtieth day.

Rabbi Dosa ben Horkinas^P disagreed and said: They are false witnesses;^N how can witnesses testify that a woman gave birth and the next day her belly is between her teeth, i.e., she is obviously still pregnant? If the new moon was already visible at its anticipated time, how could it not be seen a day later? Rabbi Yehoshua^P said to him: I see the logic of your statement; the New Moon must be established a day later. Upon hearing that Rabbi Yehoshua had challenged his ruling, Rabban Gamliel sent a message to him:^N I decree against you that you must appear before me with your staff and with your money on the day on which Yom Kippur occurs according to your calculation; according to my calculation, that day is the eleventh of Tishrei, the day after Yom Kippur.

Rabbi Akiva went and found Rabbi Yehoshua distressed that the head of the Great Sanhedrin was forcing him to desecrate the day that he maintained was Yom Kippur. In an attempt to console him, Rabbi Akiva said to Rabbi Yehoshua: I can learn from a verse that everything that Rabban Gamliel did in sanctifying the month is done, i.e., it is valid. As it is stated: "These are the appointed seasons of the Lord, sacred convocations, which you shall proclaim in their season" (Leviticus 23:4). This verse indicates that whether you have proclaimed them at their proper time or whether you have declared them not at their proper time, I have only these Festivals as established by the representatives of the Jewish people.

PERSONALITIES

Rabbi Dosa ben Horkinas – רבי דוסא בן הורקנים: Rabbi Dosa ben Horkinas was apparently the cousin of Rabban Yohanan ben Zakkai, and it is related that he knew the greatest Sages of the generation of Yavne, Rabbi Eliezer and Rabbi Yehoshua, when they were still young. Although it seems that he was no longer active when the Great Sanhedrin sat in Yavne, his influence was felt even then. Rabbi Dosa ben Horkinas merited a very long life as well as great wealth. Rabbi Dosa was one of the Elders of Beit Hillel, and his younger brother, Yonatan, was one of the heads of Beit Shammai. When Rabbi Dosa is mentioned in the Mishna without further specification, the reference is to Rabbi Dosa ben Horkinas.

Rabbi Yehoshua – רבי יהושע: This is Rabbi Yehoshua ben Hananya the Levite, one of the leading Sages in the generation after the destruction of the Second Temple. Earlier, Rabbi Yehoshua served as one of the Levite singers in the Temple.

After its destruction, he was among the students who accompanied their teacher, Rabban Yohanan ben Zakkai, to Yavne. Unlike his colleague Rabbi Eliezer, Rabbi Yehoshua entirely adhered to the opinion of his teacher and that of Beit Hillel.

Rabbi Yehoshua was recognized by Jews and gentiles alike as a leading scholar not only in Torah matters, but in general knowledge as well. He was renowned as an expert in science, from astronomy to zoology. Rabbi Yehoshua was unimpressive in appearance, and the Talmud quotes the Caesar's daughter as exclaiming that his brilliant knowledge was contained in an ugly vessel.

Despite living a life of poverty, working as a blacksmith, Rabbi Yehoshua was widely recognized as one of the leading religious authorities. Although he disagreed with many of Rabban Gamliel's rulings, he accepted the authority of the *Nasi*. Ultimately, after the death of Rabban Gamliel, he was appointed leader of the Sages.

פְּעָמִים שָׁבָא – פְּעָמִים שָׁבָא – Sometimes it comes by a long path – **בְּאַרוּכָה**: Some commentaries maintain that Rabban Gamliel is not providing an explanation for his acceptance of the testimony of the witnesses. Rather, he is suggesting a new halakhic insight on a related topic, that the standard principles with regard to the time differences between the waning moon and the new moon are merely averages, as in reality there are deviations and the actual length of time can be shorter or longer (Rambam).

Go to Ein Tav – זֵיל לְעֵין טַב – See Rashi for two interpretations of this story. Some sources allude to another explanation: In accordance with tradition the Sages tried as much as possible to announce the full, thirty-day month specifically in the region of the kingdom of Judea. Although the Great Sanhedrin sat at that time in the northern Galilee, they wanted to conduct the ceremony in Judea (*Tosafot*). Others maintain that Ein Tav is not the name of a place, but a concept meaning: Look into it well [*ayen tav*], and you will understand that I was correct in my calculations (Rambam; Rabbi Avraham min HaHar).

דָּוִד מֶלֶךְ יִשְׂרָאֵל – דָּוִד מֶלֶךְ יִשְׂרָאֵל: Rashi explains that this is based on a verse that compares the monarchy of David to the moon (Psalms 89:38). This is also interpreted as a reference to the entire Jewish people, which is continually renewed despite its small size (*Pardes Rimmonim*). According to the opinion that at that time there was a decree against studying Torah, it is clear why they relayed the message by means of a secret code. However, it is also possible that Rabbi Yehuda HaNasi simply wanted to send the message through a phrase connected to the moon. The commentaries explain the symbolism connecting the moon to David and the monarchy of David at length (see *Otzar HaKavod* and *Maharal*). In any case, this link is the reason why the phrase: David, king of Israel, lives and endures, is recited every time one blesses the new moon.

בָּא לוֹ אֶצֶל רַבִּי דּוֹסָא בֶן הוֹרְקִינָס. אָמַר לוֹ: אִם בָּאִין אָנוּ לְדוֹן אַחַר בֵּית שְׁל רַבִּין גַּמְלִיאֵל – צְרִיכִין אָנוּ לְדוֹן אַחַר כָּל בֵּית דִּין וּבֵית דִּין שְׁעֵמַד מִיּוֹת מִשָּׁה וְעַד עַכְשָׁיו, שְׁנַנְיָמֵר: "וַיַּעַל מֹשֶׁה וְאַהֲרֹן נָדָב וַאֲבִיהֶוּא וְשִׁבְעִים מִזִּקְנֵי יִשְׂרָאֵל". וְלָמָּה לֹא נִתְפָּרְשׁוּ שְׁמוֹתָן שֶׁל זְקֵנִים? אֵלֶּא לְלַמֵּד שֶׁכָּל שְׁלֹשָׁה וְשִׁלְשָׁה שְׁעֵמַדוּ בֵּית דִּין עַל יִשְׂרָאֵל הֲרֵי הוּא כְּבֵית דִּין שֶׁל מֹשֶׁה.

Rabbi Yehoshua then came to Rabbi Dosa ben Horkinas, who said to him: **If we come to debate and question the rulings of the court of Rabban Gamliel, we must debate and question the rulings of every court that has stood from the days of Moses until now.** As it is stated: **"Then Moses went up, and Aaron, Nadav and Avihu, and seventy of the Elders of Israel"** (Exodus 24:9). **But why were the names of these seventy Elders not specified? Rather, this comes to teach that every set of three judges that stands as a court over the Jewish people has the same status as the court of Moses.** Since it is not revealed who sat on that court, apparently it is enough that they were official judges in a Jewish court.

נָטַל מִקְלוֹ וּמֵעוֹתָיו בְּיָדוֹ, וְהֵלֵךְ לִיְבֵנָה אֶצֶל רַבִּין גַּמְלִיאֵל בְּיוֹם שֶׁחָל יוֹם הַכַּפּוּרִים לְהִיּוֹת בְּחַשְׁבוֹנוֹ. עָמַד רַבִּין גַּמְלִיאֵל וְנִשְׁקָו עַל רֹאשׁוֹ, אָמַר לוֹ: בּוֹא בְּשָׁלוֹם רַבִּי וְתִלְמִידִי! רַבִּי – בְּחֻבְרָה, וְתִלְמִידִי – שְׁקִיבֵלֵת אֶת דְּבָרֵי.

When Rabbi Yehoshua heard that even Rabbi Dosa ben Horkinas maintained that they must submit to Rabban Gamliel's decision, **he took his staff and his money in his hand, and went to Yavne to Rabban Gamliel on the day on which Yom Kippur occurred according to his own calculation.** Upon seeing him, **Rabban Gamliel stood up and kissed him on his head. He said to him: Come in peace, my teacher and my student. You are my teacher in wisdom, as Rabbi Yehoshua was wiser than anyone else in his generation, and you are my student, as you accepted my statement, despite your disagreement.**

גַּמְ' תִּנְיָא. אָמַר לְהֶם רַבִּין גַּמְלִיאֵל לְחַכְמֵי: כִּךְ מְקוּבְלֵי מִבֵּית אָבִי אָבָא: פְּעָמִים שָׁבָא בְּאַרוּכָה, וּפְעָמִים שָׁבָא בְּקַצְרָה.

GEMARA It is taught in a *baraita* that Rabban Gamliel said to the Sages, in explanation of his opinion that it is possible for the new moon to be visible so soon after the last sighting of the waning moon: **This is the tradition that I received from the house of my father's father: Sometimes the moon comes by a long path^{MB} and sometimes it comes by a short one.**

אָמַר רַבִּי יוֹחָנָן: מֵאֵי טַעְמָא דְּבִי רַבִּי? דְּכֵתִיב: "עֲשֵׂה יָרֵחַ לְמוֹעֲדִים שְׁמֵשׁ יָדַע מְבוֹאוֹ" – שְׁמֵשׁ הוּא דִּידַע מְבוֹאוֹ, יָרֵחַ לֹא יָדַע מְבוֹאוֹ.

Rabbi Yoḥanan said: **What is the reason for the opinion of the house of Rabbi Yehuda HaNasi, i.e., the house of the heads of the Great Sanhedrin, the source of Rabban Gamliel's ruling? As it is written: "Who appointed the moon for seasons; the sun knows its going down"** (Psalms 104:19). This verse indicates that **it is only the sun that knows its going down, i.e., its seasons and the times that it shines are the same every year. In contrast, the moon does not know its going down,^B as its course is not identical every month.**

רַבִּי חֵיָיָא חֲזוּיָא לְסִיְהָרָא דְּהוּהָ קָאֵי בְּצַפְרָא דְּעֵשְׂרִים וְתֵשְׁעָה. שְׁקַל קְלָא פְּתַק בֵּיהּ, אָמַר: לְאוֹרְתָא בְּעֵינֵין לְקְדוּשֵׁי בְּדָן, וְאֵת קִיּוּמֵתָּהּ הֲכָא? זֵיל אִיבְסִין אָמַר לֵיהּ רַבִּי לְרַבִּי חֵיָיָא: זֵיל לְעֵין טַב וְקַדְשֵׁיהּ לִירְחָא, וְשִׁלְחָ לִי סִימְנָא: דָּוִד מֶלֶךְ יִשְׂרָאֵל חֵי וְקָיָם.

S The Gemara relates that Rabbi Hiyya once saw the waning moon standing in the sky on the morning of the twenty-ninth of the month. **He took a clump of earth and threw it at the moon, saying: This evening we need to sanctify you, i.e., the new moon must be visible tonight so that we may declare the thirtieth of the month as the New Moon, and you are still standing here? Go and cover yourself for now, so that the new moon will be seen only after nightfall.** The Gemara further relates that **Rabbi Yehuda HaNasi once said to Rabbi Hiyya: Go to a place called Ein Tav^N and sanctify the New Moon there, and send me a sign that you have sanctified it. The sign is: David, king of Israel,^N lives and endures.**

BACKGROUND

פְּעָמִים שָׁבָא בְּאַרוּכָה – פְּעָמִים שָׁבָא בְּאַרוּכָה – Sometimes it comes by a long path – Although there is an average time from the precise moment of the appearance of the moon of one month until the appearance of the next one, because of the movement of the earth-sun system and due to the elliptical orbit of most of the celestial bodies, the precise moment of the appearance of the new moon can vary from the average by up to thirteen hours. These deviations from the average are due to the elliptical orbit of the celestial bodies, including that of the earth. Therefore, sometimes the moon comes by a long path, meaning that the actual month is longer than

average, while at other times it is shorter. Nevertheless, over the course of a year the average is maintained.

יָרֵחַ לֹא יָדַע מְבוֹאוֹ – יָרֵחַ לֹא יָדַע מְבוֹאוֹ – In addition to the discrepancies in the length of the month, there are also differences in the location of the rising of the moon and its apparent height that follow a nineteen-year cycle and other cycles as well. Due to many factors, including the complicated relationship between the movement of the earth, the moon, and the sun, the moon's precise location in relation to the sun and the earth changes from month to month.

BACKGROUND

The renewal of the moon – חידושה של לבנה: The time that Rabban Gamliel set: 29 days, 12 hours, 44 minutes, and 3/5 seconds, accurately matches the synodic month, which is 29 days, 12 hours, 44 minutes, and 2.9 seconds, especially when taking into account that the moon's orbit has slowed somewhat over the years. This is the average time between the appearance of the moon from one month to the next, although, as noted, there are recognizable deviations from this average.

HALAKHA

The time of the renewal of the moon – זמן חידוש הלבנה: The renewal of the moon occurs every twenty-nine days plus twelve hours and 793 subsections, which amount to forty-four minutes and three and one-third seconds. Based on this formula the Sages calculated which months should be deficient, with twenty-nine days, and which are full, thirty-day, months (Rambam Sefer Zemanim, Hilkhoh Kiddush HaHodesh 8:1).

Unwittingly...intentionally...misled – מוטרעין...מזידין...מוטעין: If the court sanctifies the month, their declaration is always valid, even if they are deceived or unwittingly mistaken, or if they erred by unavoidable accident, and the Festivals are established accordingly. This is true even if it becomes common knowledge that the judges erred, as the establishment of the Festivals depends exclusively on the court (Rambam Sefer Zemanim, Hilkhoh Kiddush HaHodesh 2:10).

NOTES

Who was distressed – מי מיצר: Apparently, in the sentence: Rabbi Akiva went and found him distressed, the pronoun: Him, is referring to Rabbi Yehoshua. Some versions read: He went and found Rabbi Akiva distressed, in which case the pronoun: He must be referring to Rabbi Yehoshua (Dikdukei Sofrim; Ritva). Conversely, it is recorded in the Jerusalem Talmud that Rabbi Akiva went to inform Rabbi Yehoshua about Rabban Gamliel's decree.

It is fitting for one to fall sick in bed – ראויו לו שיפול למטה: The commentaries explain that Rabbi Yehoshua was distressed because although he was sure that Rabban Gamliel was wrong, it is a mitzva to heed the court, in accordance with the verse: "And you shall do according to the tenor of the sentence which they shall declare to you" (Deuteronomy 17:10). The commentaries analyze the different aspects of this problem at length. Some maintain that although all are obligated to accept rulings of the court, nevertheless a great Sage who knows that the judges are in error must not rely on their ruling and thereby transgress the Torah. Since he would otherwise have felt compelled to violate Rabban Gamliel's command, Rabbi Yehoshua was pleased with Rabbi Akiva's explanation that the Festivals are established by the ruling of the court, and that they have no absolute time (see Ritva and Maharsha).

You have consoled me, you have consoled me – נחמתני, נחמתני: Some explain that this double expression conveys the idea that Rabbi Yehoshua was comforted both with regard to an unwitting act, i.e., Rabban Gamliel's mistaken ruling, and with regard to an intentional one, that Rabban Gamliel would have treated the day that Rabbi Yehoshua maintained should be Yom Kippur as an ordinary weekday. This is especially true according to those commentaries who maintain that Rabban Gamliel ultimately agreed with Rabbi Yehoshua (Rabbi Zerahya HaLevi). Others explain that the double words of comfort are referring both to the fact that he was desecrating Yom Kippur according to his calculations and that he was observing the Festival on the wrong day (see Maharsha, Rif, and Arukh LaNer).

Why were the names of these Elders not specified – למה לא נאמרו שמותם של זקנים הללו: These elders were prophets, as it states: "And he took of the spirit" (Numbers 11:25), and therefore they were worthy of having their names mentioned (Maharsha). The commentaries explain that their names were not mentioned so that their respective ages should remain unknown, to teach that all the members of the court are considered equal in stature (Tiferet Yisrael).

תנו רבנן: פעים אחת נתקשרו שמים בעבים ונראית דמות לבנה בעשרים ותשעה לחדש. כסבורים העם לומר: ראש חדש, ובקשו בית דין לקדשו. אמר להם רבן גמליאל: כך מקובלני מבית אבי אבא: אין חידושה של לבנה פחותה מעשרים ותשעה יום ומחצה ושני שלישי שעה ושבעים ושלשה חלקים.

ואותו היום מתה אמו של בן זוא, והספידה רבן גמליאל הספד גדול. לא מפני שראויה לכך, אלא כדי שידעו העם שלא קידשו בית דין את החדש.

"הלך רבי עקיבא ומצאו מיצר" כו'. איבעיא להו: מי מיצר? רבי עקיבא מיצר, או רבי יהושע מיצר? תא שמע, דתנאי: הלך רבי עקיבא ומצאו רבי יהושע בשהוא מיצר. אמר לו: [רבי] מפני מה אתה מיצר? אמר לו: רבי עקיבא, ראוי לו שיפול למטה שנים עשר חדש ואל יגזור עליו גזירה זו.

אמר לו: רבי תרשיני לומר לפניך דבר אחד שלמדתני. אמר לו: אמור. אמר לו: הרי הוא אומר "אתם" "אתם" "אתם" שלש פעמים.

"אתם" – אפילו שוגגין; "אתם" – אפילו מזידין; "אתם" – אפילו מוטרעין. בלשון הזה אמר לו: עקיבא, נחמתני, נחמתני.

"בא לו אצל רבי דוסא בן הורקנים" כו'. תנו רבנן: למה לא נתפרשו שמותם של זקנים הללו? שלא יאמר אדם: פלוני כמשה ואהרן? פלוני כגדב ואביהוא? פלוני כאלדד ומיידד?

The Sages taught in a baraita: Once the sky was covered with clouds, and the form of the moon was visible on the twenty-ninth of the month. The people thought to say that the day was the New Moon, and the court sought to sanctify it. However, Rabban Gamliel said to them: This is the tradition that I received from the house of my father's father: The monthly cycle of the renewal of the moon⁸ takes no less than twenty-nine and a half days, plus two-thirds of an hour, plus seventy-three of the 1,080 subsections of an hour.⁹

The baraita continues: And on that day the mother of the Sage ben Zaza died, and Rabban Gamliel delivered a great eulogy on her behalf. He did this not because she was worthy of this honor; rather, he eulogized her so that the people would know that the court had not sanctified the month, as eulogies are prohibited on the New Moon.

§ The mishna taught that Rabbi Akiva went and found him distressed that the head of the Great Sanhedrin was forcing him to desecrate the day that he maintained was Yom Kippur. A dilemma was raised before the Sages: Who was distressed?¹⁰ Was Rabbi Akiva distressed or was Rabbi Yehoshua distressed? The Gemara answers: Come and hear, as it is taught in a baraita: Rabbi Akiva went and found Rabbi Yehoshua in a state of distress, and he said to him: My teacher, for what reason are you distressed? Rabbi Yehoshua said to him: Rabbi Akiva, it is fitting for one to fall sick in bed¹¹ for twelve months, rather than to have this decree issued against him that he should have to desecrate Yom Kippur.

Rabbi Akiva said to him: My teacher, allow me to say before you one matter that you yourself once taught me. He said to him: Speak. He said to him: It states with respect to the Festivals: "The appointed seasons of the Lord, which you shall proclaim them [otam] to be sacred convocations (Leviticus 23:2). And it is written: "These are the appointed seasons of the Lord, sacred convocations; you shall proclaim them [otam] in their season" (Leviticus 23:4). And it is written: "These are the appointed seasons of the Lord; you shall proclaim them [otam] to be sacred convocations" (Leviticus 23:37). Three times the verses use the term: Them [otam], which can also be read as you [atem], in plural.

This comes to teach: You [atem] are authorized to determine the date of the new month, even if you unwittingly establish the New Moon on the wrong day; you, even if you do so intentionally; you, even if you are misled by false witnesses.¹² In all cases, once the court establishes the day as the New Moon, it is sanctified, and God grants His consent. After hearing this, Rabbi Yehoshua said to him in these words: Akiva, you have consoled me; you have consoled me.¹³

§ The mishna taught that Rabbi Yehoshua next came to Rabbi Dosa ben Horkinas, who proved to him that the court of Rabban Gamliel has the same legal status as the court of Moses. The Sages taught in a baraita: Why were the names of these seventy Elders who sat together with Moses on his court not specified?¹⁴ The reason is so that a person not say: Is so-and-so the judge in my time, like Moses and Aaron? Is so-and-so like Nadav and Avihu? Is so-and-so like Eldad and Medad? Therefore, the names of the other elders were not specified, so that there is no way of knowing the qualifications of the elders in the time of Moses to compare them to later judges.

ואומר: "ויאמר שמואל אל העם: ה' אשר עשה את משה ואת אהרן." ואומר: "וישלח ה' את ירובעל ואת בדרן ואת יפתח ואת שמואל." ירובעל – זה גדעון. ולמה נקרא שמו ירובעל? שעשה מריבה עם הבעל. בדרן זה שמשון. ולמה נקרא שמו בדרן? דאתי מדרן. יפתח – כמשמעו.

And similarly it says: "And Samuel said to the people: It is the Lord Who made Moses and Aaron" (1 Samuel 12:6). And it says further: "And the Lord sent Jerubaal and Bedan and Jephthah and Samuel" (1 Samuel 12:11). The Gemara explains: Jerubaal, this is Gideon. And why is he called Jerubaal? The reason is that he waged a quarrel against Baal. Bedan, this is Samson. And why is he called Bedan? As he came from the tribe of Dan. Jephthah, in accordance with its regular meaning, i.e., this is referring to Jephthah himself and is not a nickname.

Perek II
Daf 25 Amud b

ואומר: "משה ואהרן בכהניו ושמואל בקוראי שמו." שקל הכתוב שלשה קלי עולם בשלשה חמורי עולם.

And it says in another verse: "Moses and Aaron among His priests, and Samuel among those who call His name; they called upon the Lord, and He answered them" (Psalms 99:6). This verse equates Samuel to Moses and Aaron. In this manner, the verse weighed^N three light ones of the world,^N i.e., it considered the three less distinguished figures of Gideon, Samson, and Jephthah as equal to three significant ones of the world, Moses, Aaron, and Samuel, three of the greatest leaders of the Jewish people.

לומר לך: ירובעל בדרו – כמשה בדרו; בדרן בדרו – כאהרן בדרו; יפתח בדרו – בשמואל בדרו. ללמדך שאפילו קל שבקליו ונתמנה פרנס על הצבור – הרי הוא כאביר שבאבירים.

This comes to tell you that Jerubaal in his generation is worthy of being treated like Moses in his generation; Bedan in his generation is like Aaron in his generation; and Jephthah in his generation^N is like Samuel in his generation. This serves to teach you that even the lightest of the light,^N i.e., the least distinguished individual, once he has been appointed as a leader over the community, he must be treated like the greatest of the great, and all are required to heed him and obey his rulings.

ואומר: "ובאת אל הכהנים הלויים ואל השופט אשר יהיה בימים ההם." וכי תעלה על דעתך שאדם הולך אצל הדיין שלא היה בימיו? הא אין לך לילך אלא אצל שופט שבבימו. ואומר: "אל תאמר מה היה שהימים הראשונים היו טובים מאלה."

And it further says: "And you shall come^N to the priests, the Levites, and to the judge who shall be in those days" (Deuteronomy 17:9). But can it enter your mind that a person can go to a judge that is not alive in his days? What, then, is the meaning of the phrase "in those days"? It teaches that you need to go only to the judge in one's days,^N i.e., he is authorized to judge and decide matters. And it also says: "Do not say: How was it that the former days were better than these? For it is not out of wisdom that you inquire concerning this" (Ecclesiastes 7:10). Instead, one must accept the rulings of the leaders of his generation.

"נטל מקלו ומעותיו בידו." תנו רבנן: בין שראה אותו עמד מפסאו, ונשקו על ראשו. אמר לו: שלום עליך רבי ותלמידי! רבי – שלמדתני תורה ברבים; ותלמידי – שאני גזור עליך גזירה ואתה מקיימה בתלמיד. אשרי הדור שהגדולים נשמעים לקטנים, קל וחומר קטנים לגדולים.

§ The mishna taught: Rabbi Yehoshua took his staff and his money in his hand, and appeared before Rabban Gamliel on the day on which Yom Kippur occurred according to his calculation, as Rabban Gamliel had ordered him to do. The Sages taught in a baraita: When Rabban Gamliel saw Rabbi Yehoshua, he rose from his chair and kissed him on his head and said to him: Peace be on you, my teacher and my student. My teacher, as you have taught me Torah in public, and my student, as I issue a decree against you and you fulfill it like a student of mine. Fortunate is the generation in which the greater heed the lesser, and it is an *a fortiori* inference that the generation in which the lesser^N heed the greater is certainly fortunate as well.

קל וחומר! חייבא הוא! אלא: מתוך שהגדולים נשמעים לקטנים – נושאין קטנים קל וחומר בעצמן.

The Gemara questions this last point: Is this derived by an *a fortiori* inference? This is incorrect, as it is an obligation for the lesser to heed those who are greater than them. Rather, Rabbi Gamliel meant the following: Since the greater heed the lesser, the lesser apply an *a fortiori* inference to themselves and heed the leaders of the generation.

NOTES

The verse weighed – שקל הכתוב: In the Jerusalem Talmud it is noted that the names of Moses, Aaron, and Samuel are separated in the verses (1 Samuel 12:6, 12:11) by the mention of the less important figures.

Light ones of the world – קלי עולם: The reason that these leaders are called the light ones of the world is not only because they were from less important tribes, but also due to the fact that each one had a stain on his character: Gideon fashioned an ephod that the people used for idol worship (Judges 8:27); Samson married Philistine women; and Jephthah vowed to sacrifice the first item to leave his house, which led to tragedy when his daughter came out to greet him (Judges, chapter 11).

Jephthah in his generation – יפתח בדרו: The phrase: The court, is added in the Jerusalem Talmud, i.e., the court of Jephthah and the court of Samuel.

The lightest of the light, etc. – קל שבקליו וכו': Some explain that the lightest of the light is referring to Jephthah as compared to Samuel, who is the greatest of the great, as he is likened to Moses and Aaron. The reason Jephthah is called the lightest of the light is because the other two individuals in the list of the light ones, Gideon and Samson, either received a revelation of prophecy or were the subject of a prophecy, whereas Jephthah did not.

And it says, And you shall come, etc. – ובאת וכו': The Gemara cites three different verses for the following reason: If someone says that the change over the generations indicated by the verse: "Moses and Aaron among His priests, and Samuel among those who call His name" (Psalms 99:6), should be acceptable only with regard to prophets and kings, one can cite the verse: "To the judge who shall be" (Deuteronomy 17:9). If he retorts that this is speaking only of the Great Sanhedrin, contrary proof can be derived from the verse: "Do not say: How was it that the former days were better than these?" (Ecclesiastes 7:10; see Ritva).

To the judge in one's days – אצל שופט שבבימו: Even if there are greater Sages in that generation, nevertheless the community must obey the one appointed as their leader (Rif; see Rashash).

An *a fortiori* inference in which the lesser, etc. – קל וחומר: Apparently, Rabban Gamliel said this to Rabbi Yehoshua to appease him after being so severe. He explained that his harsh behavior was necessary to demonstrate to the public the importance of accepting the authority of the head of the Great Sanhedrin (Arukh LaNer).

מתני' ראוהו בית דין וכל ישראל, נחקרו העדים, ולא הספיקו לומר "מקודש" עד שחשיכה - הרי זה מעובר.

ראוהו בית דין בלבד - יעמדו שנים ויעידו בפניהם, ויאמרו "מקודש מקודש". ראוהו שלשה והן בית דין - יעמדו השנים, וישבו מחביריהם אצל היחיד, ויעידו בפניהם, ויאמרו "מקודש מקודש" - שאין היחיד נאמן על ידי עצמו.

גמ' למה לי למיתנא ראוהו בית דין וכל ישראל? איצטריך, סלקא דעתך אמינא: הואיל וראוהו בית דין וכל ישראל - איפרסמא לה, ולא ליעברוה. קא משמע לן.

ובין דתנא ליה ראוהו בית דין וכל ישראל - נחקרו העדים למה לי? הכי קאמר: אי נמי נחקרו העדים ולא הספיקו לומר "מקודש" עד שחשיכה - הרי זה מעובר.

ובין דתנא עד שחשיכה הרי זה מעובר - למה לי למיתנייה תקירת העדים כלל?

MISHNA If the court and all of the Jewish people^N saw the new moon, and the witnesses were interrogated, but the court did not manage to say: Sanctified, before nightfall, so that the thirtieth day already passed, the previous month is rendered a full, thirty-day month, and the following day is observed as the New Moon.^H

If the court alone saw the new moon, two members of the court should stand and testify before the others, and the court should say: Sanctified, sanctified. If three people saw the new moon, and they are themselves members of a court for this purpose, two of them should stand and seat two of their colleagues next to the individual^N who remains of the three, thereby forming a new court of three. The two standing judges should then testify before the three seated judges that they saw the new moon and the seated judges say: Sanctified, sanctified. This procedure is necessary because an individual is not authorized to declare the month sanctified by himself. Rather, a court of three is required.

GEMARA The Gemara asks: Why do I need the mishna to teach: If the court and all of the Jewish people saw the new moon? Merely stating that the court saw the moon would have sufficed, since its sanctification depends on them. The Gemara answers: It was necessary for the mishna to teach that even in that case, the month is intercalated. As it might enter your mind to say that since the court and all of the Jewish people saw the new moon, it was publicized^N that it was the New Moon that day, and let them no longer intercalate the month. Therefore, the *tanna* of the mishna teaches us that even in the case where all the Jewish people saw the new moon, the New Moon must be declared by the court.

The Gemara asks further: But once the mishna states: If the court and all of the Jewish people saw the new moon, why do I need it to say: And the witnesses were interrogated? Why are witnesses necessary if the new moon was already seen by the court? The Gemara answers that this is what the *tanna* is saying: Alternatively, if the witnesses were interrogated, but the court had no time to say: Sanctified, before nightfall, the previous month is intercalated and rendered a full month of thirty days.

The Gemara raises another difficulty. But once the mishna taught: But the court did not manage to say: Sanctified, before nightfall, the previous month is rendered a full, thirty-day month, why do I need the mishna to teach about the interrogation of the witnesses? This *halakha* was already stated with regard to a case where the court itself saw the new moon.

HALAKHA

If the court saw it, etc. - ראוהו בית דין וכו' - If the court and all of the Jewish people saw the moon on the thirtieth day, even if witnesses arrived at the court and were interrogated but the court did not manage to say: Sanctified, before nightfall, the thirty-first day is proclaimed the New Moon because the New Moon cannot be determined in the absence of a court decision, as implied in the mishna (Rambam *Sefer Zemanim, Hilkhot Kiddush HaHodesh* 2:8).

NOTES

בית דין וכל ישראל - בית דין וכל ישראל - The court and all of the Jewish people - It is explained in the Jerusalem Talmud that this phrase relates to two possible scenarios: (1) that the court witnessed the new moon, and (2) that all of the Jewish people witnessed it. Accordingly, the word: And, in this phrase is to be interpreted as: Or. The Ritva maintains that the phrase: All of the Jewish people, does not indicate the entire nation, but a sizable congregation of Jews.

They should... seat two of their colleagues next to the individual - יושבו מחביריהם אצל היחיד - This procedure applies in the absence of a greater, more prominent court that can hear their testimony. If indeed there is no other court, then the most learned of the three judges should remain a judge while the

two other members of the court become witnesses. However, if there is another court, two of the judges who saw the new moon simply testify there (*Meiri*; see *Tosefot Yom Tov*).

It was publicized - איפרסמא לה - According to one opinion in the previous chapter (20a-b), the court may not delay sanctifying the month when there are witnesses who have seen the new moon, because it looks like the court is promulgating falsehood. Some ask why that is not a consideration in the present context, where everyone has seen the new moon but the court did not manage to sanctify it in time. They explain that in this case, it does not look like a falsehood, since everyone knows that the reason the court did not sanctify the month was because of the lateness of the hour (*Rashba*; *Ran*).

Monetary laws at night – דיני ממונות בלילה – Judicial deliberations, even in monetary cases, may not begin at night. However, if they began during the day, it is permissible to conclude them at night. According to the *Pithei Teshuva*, this permission does not apply globally, but is limited only to cases of necessity. According to some authorities, if the court transgressed the prohibition and began the deliberations at night, their judgment is still valid (Rema, citing Rashbam), but others maintain that it is invalid (*Shakh*, citing Ramban and Tur). Others maintain that if both parties agreed to be judged at night, it is permissible to conduct the proceedings at night (*Sefer Meirat Einayim* and *Shakh*). Therefore, today, when summoning one to judicial proceedings at night, the custom is to be lenient and to consider his participation as consent (*Shulhan Arukh, Hoshen Mishpat 5:2*; see *Sefer Meirat Einayim* there).

Sanctification of the month during the day – קידוש החודש – ביום: The new month may be sanctified only during the day. If the court sanctified it at night, it is not sanctified (Rambam *Sefer Zemanim, Hilkhot Kiddush HaHodesh 2:8*).

Two should stand and testify – יעמדו שנים ויעידו – If the court itself saw the moment of the new moon's appearance during the day before the stars come out, they may sanctify it themselves immediately. But if they saw it after the stars came out, they should, on the following day, seat two other judges next to one of those who saw the new moon. Two of them should testify before them, and they should sanctify the month, as per Rabbi Zeira (Rambam *Sefer Zemanim, Hilkhot Kiddush HaHodesh 2:9*).

איצטרך, סלקא דעתך אמינא: תיהוי חקירת עדים בתחילת דין, ומקודש מקודש בגמר דין, ולקדשי בלילה, מידי דהוה אדיני ממונות, דתנן: דיני ממונות דמיני ביום וגומריני בלילה – הכא נמי מקדשין בלילה. קא משמע לן.

ואימא הכי נמי! אמר קרא: "כי חק לישראל הוא משפט לאלהי יעקב". אימת הוי חק? בגמר דין, וקא קרי ליה רחמנא "משפט", מה משפט ביום – אף הכא נמי ביום.

"ראוהו בית דין יעמדו שנים ויעידו בפניהם." ואמיאי לא תהא שמיעה גדולה מראייה!

אמר רבי זירא: כגון שראוהו בלילה.

"ראוהו שלשה והן בית דין יעמדו שנים וישבו מהביריהם אצל היחיד." אמאי הכא נמי נימא: לא תהא שמיעה גדולה מראייה! וכי תימא הכא נמי כגון שראוהו בלילה – היינו הך!

The Gemara explains: It was necessary, as it might enter your mind to say: Let the interrogation of the witnesses be regarded as the beginning of the judicial process,^N and let the declaration: Sanctified, sanctified, be regarded as the conclusion of the judicial process, and let them sanctify the month at night, because the process began during the day. This process would then be just as it is in cases of monetary law, as we learned in a mishna: In cases of monetary law, although they must be adjudicated during the day, the court may judge the majority of a case during the day, and complete the trial and issue the ruling at night.^H Here too, one might assume that the court may sanctify the month at night, as the process began during the day. Therefore, the mishna teaches us that the court may not do so.^H

The Gemara raises another difficulty: Why not say that, indeed, the sanctification of the month should be treated like monetary cases? The Gemara answers: The verse states with regard to Rosh HaShana: "For this is a statute for Israel, a judgment [*mishpat*] of the God of Jacob" (Psalms 81:5). When does the sanctification of the month become a statute? At the end of the judicial process, and the Merciful One calls it a judgment as well,^N thereby teaching that just as the primary time of a judgment is during the day, here too, with regard to the sanctification of the New Moon, the process must take place during the day, and not at night.

S The mishna continues: If the court alone saw the new moon, two members of the court should stand and testify before the others. The Gemara ponders: If the court saw the new moon, why is it necessary for two of its members to testify before the others? Hearing their testimony should not be greater than actually seeing^N the new moon.

The Gemara responds that Rabbi Zeira said: The mishna is addressing a case where the court saw the new moon at night. Because they saw it at night, their testimony is inadmissible at that time, as testimonies are admissible only during the day. They must therefore wait until the following day and testify as any ordinary person would.

The mishna continues: If three people saw the new moon, and they are themselves members of a court for this purpose, two of them should stand and seat two of their colleagues next to the individual who remains of the three.^H The Gemara asks: Why is this necessary? Here too, let us say: Hearing their testimony should not be greater than actually seeing the new moon. And if you say that here too, the mishna is addressing a case where they saw the new moon at night, this case is identical to that previous one, and there would be no need for two separate rulings.

NOTES

Interrogation of the witnesses as the beginning of the judicial process – חקירת עדים בתחילת דין: The Rashba raises a difficulty: According to the Gemara, it is possible to sanctify the month retroactively, and the only reason the court cannot sanctify the new month on the night after the thirtieth of Elul is that the end of the judicial process cannot take place at night. If so, why not convene the court on the morning of the thirty-first and perform the entire judicial process, and then sanctify the month retroactively starting from the previous day (see commentaries on Rambam, *Sefer Zemanim, Hilkhot Kiddush HaHodesh*, chapter 3)? The Rashba answers that since the two days are divided by a night, during which sanctification cannot take place, the new moon may no longer be sanctified retroactively.

The Ran offers an alternate explanation: The comparison to cases of monetary law that allowed for beginning the case in the day and concluding it at night implies that what determines the timing is the beginning of the case. With regard to the sanctification of the month, because the conclusion of the

judicial process is the critical point of the process, the possibility of retroactive sanctification is no longer available.

And the Merciful One calls it a judgment [*mishpat*] as well – וקא קרי ליה רחמנא משפט: The word *mishpat* has several definitions that are related to one another. One is that of an ordinance or law, which seems to be the plain meaning of the word in the verse. It also means judgment or judicial process. The Gemara interprets the word according to the second definition, as a reference to the judicial process or decision taken by the court in the context of the sanctification of the new month.

Hearing should not be greater than seeing – לא תהא שמיעה גדולה מראייה: Rashi explains that this statement is unique to testimonies concerning the New Moon, since the *halakha* is that the New Moon must be viewed before being sanctified (20a). However, *Tosafot* question Rashi's explanation, as did most of the early authorities, since in other areas of law, such as capital cases, the *halakha* requires eyewitnesses as well.

Cases of monetary law are adjudicated by a court of three judges – דיני ממונות בשלושה: Monetary cases are adjudicated by a court of three, even one comprised of common people. If there are fewer than three judges, it is not considered a court unless the parties agreed to accept them as such. An individual judge who is publicly recognized as an expert may also function as a court. However, today, no one is considered a publicly recognized expert who can compel the parties to be judged by him alone (*Shulhan Arukh, Hoshen Mishpat* 3:1–2, and in the comment of Rema).

Sanctification of the month by a court of one – קידוש יחיד: No one, not even a publicly recognized expert judge, can sanctify the month alone (see Rambam *Sefer Zemanim, Hilkhos Kiddush HaHodesh* 2:9).

NOTES

Until Aaron is with you – עד דאיכא אהרן: *Tosafot* explain that another judge is added since a court cannot consist of an even number of judges. A midrash explains that God himself joined Moses and Aaron as a third judge (*Shemot Rabba*).

A witness becomes a judge – עד נעשה דיין: Some authorities explained that the *halakha* disqualifying a witness from serving as a judge is a Torah edict (*Rashba*). Others say that a testimony given by the court itself, as is the case here, is inadmissible due to the principle that testimonies that cannot be proven false are inadmissible (*Rashba*).

סיפא איצטריכא ליה, דאין היחיד נאמן על ידי עצמו. דסלקא דעתך אמינא: הואיל ותנן: דיני ממונות בשלושה. ואם היה מומחה לרבים – דן אפילו ביחיד, הכא נמי ניקדשיה ביחיד. קא משמע לן.

The Gemara answers: It was necessary to teach the last clause, which states: Because an individual is not deemed credible and authorized to declare the month sanctified by himself. For it might enter your mind to say that since we learned in a *baraita*: Cases of monetary law are adjudicated by a court of three judges,^h but if a person was a publicly recognized expert, he may judge monetary matters even individually, then here too, one judge should be authorized to sanctify the month individually if he is a recognized expert. Therefore, the mishna teaches us that this is not so, and that three judges are required for the sanctification of the month.^h

ואימא הכא נמי! אין לך מומחה לרבים בישראל יותר ממשה רבינו, וקאמר ליה הקדוש ברוך הוא: עד דאיכא אהרן בהדרך, דכתיב: "ויאמר ה' אל משה ואל אהרן בצרף מצרים לאמר החדש הזה לכם".

The Gemara asks: But why not say that here too, a recognized expert can sanctify the month individually? The Gemara rejects this possibility: But certainly there was no publicly recognized expert among the Jewish people greater than our teacher Moses, and nevertheless the Holy One, Blessed be He, said to him: You may not sanctify the new month until Aaron is with you,ⁿ as it is written: "And the Lord spoke to Moses and Aaron in the land of Egypt, saying, this month shall be for you the beginning of months" (Exodus 12:1–2), where the word "you" is in the plural form. And since, to avoid deadlock, a court cannot be composed of an even number of judges, another judge must be added. It is therefore apparent that three judges are required for the sanctification of the month by Torah law.

למימרא דעד נעשה דיין? לימא מתניתין דלא כרבי עקיבא, דתנא: סנהדרין שראו אחד שהרג את הנפש,

The Gemara asks: Is this to say that a witness becomes a judge,ⁿ i.e., that one who witnessed an event can himself serve as a judge concerning the matter? Let us say that the mishna is not in accordance with the opinion of Rabbi Akiva, for it was taught in a *baraita*: If the Sanhedrin saw someone kill another person,

Perek III
Daf 26 Amud a

מקצתן נעשו עדים ומקצתן נעשו דיין – דברי רבי טרפון. רבי עקיבא אומר: כולן נעשין עדים, ואין עד נעשה דיין.

some of them are rendered witnesses and testify before the others and some of them become judges in the case; this is the statement of Rabbi Tarfon. Rabbi Akiva says: They are all rendered witnesses, and a witness cannot become a judge.^h It seems therefore that the mishna contradicts Rabbi Akiva's opinion.

אפילו תימא רבי עקיבא. עד כאן לא קאמר רבי עקיבא התם – אלא בדיני נפשות, דרחמנא אמר: "ושפטו העדה" "והצילו העדה". וכיון דחוייהו דקטל נפשא – לא מצו חזו ליה זכותא. אבל הכא – אפילו רבי עקיבא מודה.

The Gemara rejects this argument: You can even say that the mishna was taught in accordance with the opinion of Rabbi Akiva, but we must distinguish between the cases. Rabbi Akiva states his position there only with regard to cases of capital law, for the Merciful One says: "And the congregation shall judge... and the congregation shall save" (Numbers 35:24–25), which requires a court to search for grounds to exonerate the defendant, but once they themselves have seen him kill a person, they will be unable to find grounds to exonerate him. But here, with regard to the sighting of the new moon, even Rabbi Akiva concedes that a witness can be rendered a judge.

HALAKHA

A witness cannot become a judge – אין עד נעשה דיין: This *halakha* applies to a witness testifying in a particular case. However, if one is not testifying, as in the case of judges who witnessed the matter, they may become judges even if they had originally intended to testify. This *halakha* applies if they witnessed the matter during the day and then conduct judicial proceedings that

day. But if they witnessed it at night, they may not judge based on their own testimony but must rely solely on the testimony of others, since they could not conduct proceedings that day. All of the above applies with regard to Torah law; in cases pertaining to rabbinic law, a witness may become a judge (*Shulhan Arukh, Hoshen Mishpat* 7:5, and in the comment of Rema).