

מתני' שני דיני גזירות היו בירושלים, אדמון וחנן בן אבישלום. חנן אומר שני דברים, אדמון אומר שבעה. מי שהלך למדינת הים ואשתו תובעת מזונות, חנן אומר:

MISHNA There were two prominent judges who issued decrees in Jerusalem,^b Admon and Hanan ben Avishalom. Hanan states two matters about which the Sages disagreed; Admon states seven. The mishna elaborates: With regard to the case of one who went overseas and his wife is demanding sustenance, claiming that her husband left her without funds and she is seeking a ruling that would provide for her from her husband's property, Hanan says:

BACKGROUND

There were two prominent judges who issued decrees in Jerusalem – שני דיני גזירות היו בירושלים – Prior to the destruction of the Second Temple, there were many Jewish courts, study halls, and synagogues in Jerusalem, with many rabbis, teachers, and Sages. Among the judges who served at that time, only a small number had the authority to enact decrees and establish permanent public edicts in such matters as robbery or damages.

תשבע בסוף ולא תשבע בתחלה, נחלקו עליו בני כהנים גדולים, ואמרו: תשבע בתחלה ובסוף. אמר רבי דוסא בן הרקינס: כדבריהם. אמר רבן יוחנן בן זכאי: יפה אמר חנן: לא תשבע אלא בסוף.

She takes an oath at the end of their marriage, i.e., when she learns that her husband died. The oath is to the effect that he did not leave her any funds when he departed overseas, as she is claiming full payment of her marriage contract. And she does not take an oath at the outset of his trip overseas, when she demands support soon after his departure. The sons of High Priests^b disagreed with Hanan's opinion and said: She takes an oath both at the outsetⁿ and at the end. Rabbi Dosa ben Harkinas said: The halakha is in accordance with their statement, i.e., that of the sons of the High Priests. Rabban Yohanan ben Zakkai said that Hanan spoke well: She takes an oath only at the end.

BACKGROUND

Sons of High Priests – בני כהנים גדולים – In the last days of the Second Temple the position of High Priest was no longer hereditary but was given to certain families of priests. At times the position of the High Priest was sullied due to the presentation of bribes to the authorities or other unsavory tactics. During the dynasty of Herod the position of the High Priest was apparently granted to a small number of families who divided among themselves the various functions of the Temple (see *Pesahim* 57a). For this reason there was a group called the sons of High Priests, who dealt with halakhic matters, perhaps in the framework of a court for priests.

גמ' ורמינהי: שלשה דיני גזירות היו בירושלים: אדמון בן גדאי, וחנן המצרי, וחנן בן אבישלום. קשיא תלת אתרין, קשיא גזירות אגולות!

GEMARA The mishna states that there were two judges who issued decrees [*gezeirot*] in Jerusalem. And the Gemara raises a contradiction from the following *baraita*: There were three judges who adjudicated cases of theft [*gezeilot*] in Jerusalem: Admon ben Gaddai, Hanan the Egyptian, and Hanan ben Avishalom. The fact that the *baraita* mentions three judges is difficult, as the mishna includes only two; and the fact that the judges are described in the mishna as those who issue decrees is also difficult as they are described in the *baraita* as judges who adjudicate cases of theft.

NOTES

תשבע בתחלה, etc. – She takes an oath at the outset, etc. – Rashi and most authorities explain that the phrase: At the outset, refers to when she initially comes to seek her sustenance after her husband departs. She must swear that her husband did not leave her any funds with which she can support herself. The phrase: In the end, refers to when she comes to claim her marriage contract upon hearing of her husband's death. Others maintain that the phrase: In the end, means when the husband returns from abroad and claims that he did leave funds for her (Rambam's Commentary on the Mishna).

בשלמא תלת אתרין לא קשיא, דחשיב ליה – קתני, דלא חשיב ליה – לא קתני. אלא גזירות אגולות קשיא!

The Gemara continues: Granted, the contradiction between the statement that there were three judges and the statement that there were two is not difficult, as those who are important to himⁿ the *tanna* teaches in the mishna, and those who are not important to him the *tanna* does not teach in the mishna. Although there were other judges, the *tanna* mentioned only those pertinent to the topic at hand. However, the contradiction between the ruling that refers to decrees and the ruling that refers to theft is difficult.

Those who are important to him – דחשיב ליה – Some explain that the mishna lists only the most important judges, whereas the *baraita* is not particular in this regard and lists them all (Rivan). Others add that the *baraita* lists Hanan the Egyptian prior to Hanan ben Avishalom because Hanan the Egyptian had a more prestigious lineage, although Hanan ben Avishalom was the greater Torah scholar; this is similar to the order of Sages in *Yevamot* 16a (*Tosafot*). Alternatively, the mishna listed only those judges whose opinions were disputed by other Sages (Rabbeinu Tam in *Tosafot*).

אמר רב נחמן בר יצחק: שהיו גזרין גזירות על גזילות. כדתנאי: קיטמה נטיעה, רבי יוסי אומר: גזרין גזירות שבירושלים אומרים: נטיעה בת שנתה – שתי כסף, בת שתי שנים – ארבע כסף.

Rav Nahman bar Yitzhak said: There is no contradiction, as they would issue decreesⁿ concerning matters of theft, as it is taught in a *baraita*: With regard to an animal that severed a young plant in the field of another, Rabbi Yosei says that those who issue decrees in Jerusalem said: For a plant one year old, the animal's owner must pay two silver pieces; for a plant two years old, he pays four silver pieces.

Issue decrees, etc. – גזרין גזירות וכו' – Rashi explains that they would fine thieves. Others maintain that this does not necessarily refer to fines. Rather, the judges would establish fixed rates for various items so that it would not be necessary to estimate their value each time anew (Ritva). Yet others suggest that the judges would sometimes impose fines on thieves of more than the amount they stole, to deter them from wrongdoing (*Talmid HaRashba*, cited in *Shita Mekubbetzet*). In the Jerusalem Talmud it is explained that these judges were appointed to deal solely with cases of theft. Since there were relatively few cases of theft at that time, a small number of judges was more than enough to handle the caseload (Rabbeinu Yehonatan).

ורמינהי: שלשה דיני גזירות היו בירושלים: אדמון, וחנן, ונחום! אמר רב פפא: מאן תנא נחום – רבי נתן היא. דתנאי. רבי נתן אומר: אף נחום תמדי מגזרין גזירות שבירושלים היא, ולא הודו לו חכמים.

The Gemara raises a contradiction between the *baraita* cited above and another *baraita*: There were three prominent judges who issued decrees in Jerusalem: Admon, Hanan, and Nahum. In the previous *baraita*, Nahum was not listed. Rav Pappa said: Who is the *tanna* who taught that the third judge was Nahum? It is Rabbi Natan, as it is taught in a *baraita* that Rabbi Natan says: Nahum HaMadi was also among those who would issue decrees in Jerusalem, but the Sages did not agree with his opinion.

Those who issue decrees, etc. – גזירי גזירות וכו' – Those who amended the texts of scrolls and judges who presided over cases of theft in Jerusalem would draw their salary from the collection of the Temple treasury chamber. The Rambam states that their salary was ninety *maneh*, or 9,000 dinars per year; his statement is probably based on a different version of the Gemara. If that sum was insufficient for their needs they would be paid more, to enable them to support their household, regardless of their protests. The *halakha* is in accordance with the opinion of Rav Yehuda. This *halakha* served as a model for later generations, as various communities would establish a collection box from which the members of the court would receive their salaries. Money is collected and distributed for this purpose either in advance, at the beginning of the year, or afterward, at the end of the year. Some commentaries claim that it is better for the money to be collected at the start of the year so that the judges should not feel the need to flatter or favor anyone (Rambam *Sefer Zemanim, Hilkhot Shekalim* 4:7; *Shulhan Arukh, Hoshen Mishpat* 9:3).

And you shall take no bribe – וְשׁוֹחֵד לֹא תִקַּח: It is prohibited for a judge to take a bribe. This applies even if it was given to him as an encouragement to acquit the innocent and convict the guilty. One who takes the bribe violates a prohibition and is also in the category of “Cursed be he who takes a bribe” (Deuteronomy 27:25). Furthermore, he must return the bribe (Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 23:1).

PERSONALITIES

Karna – קַרְנָא: This Sage, who was from the first generation of Babylonian *amora'im*, is sometimes referred to as Rav Karna. Together with his colleague Shmuel, he welcomed Rav when he came to Babylonia. The Gemara in *Sanhedrin* (17b) states that the phrase: Judges of the exile, refers to Karna, who served as a judge in Neharde'a. He edited a special collection of *baraitot* named after him: Torts of the academy of Karna. As stated here, Karna was employed as a wine taster.

LANGUAGE

Istera – אִסְתֵּרָא: From the Greek, *στατήρ*, *statēr*, a Greek coin. When these coins were made of gold, they were called Tyrian money and were equal in value to a *sela*, or four dinars. When they were made of copper, they were called money of the state and were worth one-eighth of the value of the large coins, or a half-dinar.

וְתוּ לִיבָא? וְהָאֵמַר רַבִּי פְּנַחַס אָמַר רַבִּי אוֹשְׁיָא: שְׁלֹשׁ מֵאוֹת וְתִשְׁעִים וָאַרְבַּעַה בֵּיתֵי דִינִין הָיוּ בִירוּשָׁלַיִם, כְּנֻגְדָן בֵּיתֵי כְּנֻסְיֹות, וְכְנֻגְדָן בֵּיתֵי מְדַרְשׁוֹת, וְכְנֻגְדָן בֵּיתֵי סוֹפְרִים! דִּינִין – טוֹבָא הוּוּ, וְכִי קְאָמְרִין – אֲגִזְרֵי גִזְרֹות קְאָמְרִין.

אָמַר רַב יְהוּדָה אָמַר רַב אֲסִי: גִזְרֵי גִזְרֹות שְׁבִירוּשָׁלַיִם הָיוּ נוֹטְלִין שְׂכָרָן תִּשְׁעִים וְתִשְׁעֵי מִנָּה מִתְרוּמַת הַלְּשָׁכָה, לֹא רִצּוֹ – מוֹסִיפִין לָהֶם, לֹא רִצּוֹ? אֵטוּ בְרִשְׁיָעֵי עֲסָקִין? אֵלָּא, לֹא סָפְקוּ אֶף עַל פִּי שְׁלֹא רִצּוֹ – מוֹסִיפִין עֲלֵיהֶן.

קָרְנָא הוּוּ שְׁקִיל אִיסְתֵּרָא מִזְבָּאי וְאִיסְתֵּרָא מִחַיִּיב, וְדָאִין לְהוּ דִּינָא, וְהִכִּי עֲבִיד הָכִי? וְהַכְּתִיב “וְשׁוֹחֵד לֹא תִקַּח”?

וְכִי תִימָא הִנֵּי מִיִּלִּי – הִיכָא דְלֹא שְׁקִיל מִתְרוּמָהּ, דְלִמָּא אֲתֵי לְאַצְלוּי דִּינָא. קָרְנָא, כִּינּוּן דְשְׁקִיל מִתְרוּמָהּ – לֹא אֲתֵי לְאַצְלוּי דִּינָא. וְכִי לֹא אֲתֵי לְאַצְלוּי דִּינָא מִי שְׂרִי?

וְהִתְנַיָּא “וְשׁוֹחֵד לֹא תִקַּח” מִהַ תְּלַמּוּד לְוֹמַר? אִם לְלַמֵּד שְׁלֹא לְזַבּוֹת אֶת הַחַיִּיב וְשְׁלֹא לְחַיִּיב אֶת הַזְּכָאי – הֲרִי כְּבָר נֶאמַר “לֹא תִטֶּה מִשְׁפָּט”. אֵלָּא אֲפִילוּ לְזַבּוֹת אֶת הַזְּכָאי וְלְחַיִּיב אֶת הַחַיִּיב, אָמְרָה תּוֹרָה “וְשׁוֹחֵד לֹא תִקַּח”!

The Gemara asks: And were there no more judges? Didn't Rabbi Pinehas say that Rabbi Oshaya said: There were 394 courts in Jerusalem, and a comparable number of synagogues, and a comparable number of study halls, and a comparable number of houses of teachers of schoolchildren. The Gemara answers: There were many judges, but when we say that there were a small number, it is specifically concerning those who issue decrees that we say so.

§ Rav Yehuda said that Rav Asi said: Those who issue decrees^H in Jerusalem would take their wages, ninety-nine *maneh*, equal to 9,900 dinars per year, from the collection of the Temple treasury chamber.^N If they did not wish to do so, one adds to their wages. The Gemara asks: What is the meaning of the phrase: If they did not wish to do so? Does this mean that if they desired higher wages, they were paid more? Is that to say that we are dealing with wicked people who demand wages beyond what they need? Rather, on the contrary, Rav Asi said that if their wages were insufficient for their needs, then even if they did not wish to receive higher wages, one adds to their wages so that they may devote themselves to their communal service.

The Gemara relates: The Sage Karna^P would take an *istera*,^L a small coin, from the innocent party, and an *istera* from the guilty party, i.e., he would charge both parties that came to him for judgment, and then he would judge their case. The Gemara asks: But how could he do so? Isn't it written: “And you shall take no bribe” (Exodus 23:8), which indicates that a judge may not take money from either of the two litigants?

And if you say that this prohibition against taking a bribe applies only when a judge does not take from both parties, as there is a concern that perhaps he may come to pervert the judgment in favor of the party that gave him the bribe, whereas in the case of Karna, since he took from both^N parties he will not come to pervert the judgment, who says that the verse is referring only to those circumstances? Is it permitted to take a bribe even in a case when one will not pervert the judgment?

But isn't it taught in a *baraita*: “And you shall take no bribe” (Exodus 23:8);^H what is the meaning when the verse states this? If it comes to teach that one should not acquit the guilty and one should not convict the innocent due to a bribe, it is already stated: “You shall not wrest judgment” (Deuteronomy 16:19). Rather, this verse teaches that even if the purpose of the bribe is to ensure that one acquit the innocent and convict the guilty, the Torah nevertheless says: “And you shall take no bribe.” This indicates that it is prohibited for a judge to receive anything from the litigants, even if there is no concern at all that justice will be perverted.

NOTES

From the collection of the chamber – מִתְרוּמַת הַלְּשָׁכָה: The phrase: The collection of the chamber, refers to the money first set aside from shekels donated to the Temple each year. In tractate *Shekalim* of the Jerusalem Talmud it is stated that salaries would be taken from the money left in the Temple treasury, i.e., from coins that were not set aside from the collection, a fund that was generally used for those requirements of the city that were not connected to the Temple service.

He took from both – שְׁקִיל מִתְרוּמָהּ: Many later authorities ask: If it is prohibited to take a bribe because it prevents a judge from maintaining an impartial stance, why is it prohibited to take a bribe

from both sides (*Sma*)? One answer is that once a bribe has been accepted, even if the judge rules against the guilty party, he will not be as strict with him as required (*Ayyelet Ahavim*). Others cite a mishna in relation to this: When the litigants stand before you for judgment, let them be in your eyes as wicked (*Avot* 1:8). This means that a judge should suspect the litigants of lying and investigate the matter thoroughly. However, once a bribe has traded hands, it is no longer possible to view the litigants in this light and therefore he will fail to examine the issue carefully (*Likkutei Hever ben Hayyim*). Others explain similarly that as both of the litigants give him a bribe, he will waver back and forth between them and his eventual decision will not reflect the *halakha* accurately (Meiri).

הַנוֹטֵל שְׂכָר לְדוֹן – The prohibition against a judge accepting a salary for judging cases is based on the idea that just as God gave the Torah without receiving anything in exchange, so too, it is prohibited for Torah scholars to accept compensation for the Torah they teach and the judgments they issue (see 106a).

LANGUAGE

Wine stores [ambara] – אַמְבָּרָא: From the middle Persian anbar, meaning silo, a place for storing food.

הַנִּי מִיָּלִי – הַיָּבֵא דְשִׁקְלֵי בְּתוֹרַת שׁוֹחֵד, קָרְנָא – בְּתוֹרַת אַגְרָא הָיָה שְׁקִיל. וּבְתוֹרַת אַגְרָא מִי שְׂרִי? וְהִתְנַן, הַנוֹטֵל שְׂכָר לְדוֹן – דִּינָּו בְּטִילִין! הַנִּי מִיָּלִי – אַגְר דִּינָא, קָרְנָא – אַגְר בְּטִילִיא הָיָה שְׁקִיל.

The Gemara answers: **This applies only when one takes the money in the form of a bribe**, even if he does not intend to pervert the judgment, whereas Karna took the money in the form of a salary, not a bribe. The Gemara asks: **But is it permitted to take money from litigants in the form of a salary? Didn't we learn in a mishna (Kiddushin 58b): With regard to one who takes a salary to judge^N cases, his judgments are void?** The Gemara answers: **This applies only** when he took money as his compensation for judging the case, whereas Karna accepted the money as compensation for unemployment, i.e., as he could not engage in his usual work while dealing with the case, he would take compensation for this unemployment.

וְאִגְר בְּטִילִיא מִי שְׂרִי? וְהִתְנַנָּא: מְבוֹעֵר הַדִּינִין שְׁנוּטֵל שְׂכָר לְדוֹן, אֶלְא שְׂרִינָּו דִּין. הַיָּבֵא דְמִי? אִילֵּימָא אַגְר דִּינָא – דִּינָּו דִּין? וְהִתְנַנָּא: הַנוֹטֵל שְׂכָר לְדוֹן – דִּינָּו בְּטִילִין! אֶלְא – אַגְר בְּטִילִיא, וְקָתְנִי: מְבוֹעֵר הַדִּינִין!

The Gemara asks: **And is it permitted to take money as compensation for unemployment? Isn't it taught in a baraita: Ugly is the judge who takes a salary to judge cases; however, his judgments are valid judgments?** The Gemara clarifies: **What are the circumstances of this baraita? If we say that it is referring to one who accepted money as his compensation for judging, are his judgments valid judgments? But didn't we learn in a mishna (Kiddushin 58b): With regard to one who takes a salary to judge^H cases, his judgments are void? Rather, it must certainly be referring to a situation where he takes money as compensation for unemployment, and yet the baraita teaches: Ugly is the judge.**

הַנִּי מִיָּלִי בְּטִילִיא דְלֵא מוֹכְחָא, קָרְנָא – בְּטִילִיא דְמוֹכְחָא הָיָה שְׁקִיל, דְהָוָה תְּהֵי בְּאַמְבָּרָא דְחַמְרָא, וְיַהֲבִי לֵיהּ זִוְזָא.

The Gemara answers: **This statement that the judge is ugly applies only when the fact that he is taking a salary for his unemployment is not evident**, as he was not engaged in some other type of work at the time. Karna, however, would take money for his unemployment when it was evident that he was taking time off work to judge the case, as he was examining his wine stores [ambara]^L to see which casks would last and which were going sour, and they would pay him one dinar as a salary. Consequently, when Karna paused from his work to deal with a case, it was clear that he was losing money.

בִּי הָא דְרַב הוּנָא, כִּי הָוָה אֶתִּי דִּינָא לְקַמְיָהּ, אָמַר לְהוֹ: הָבוּ לִי גַבְרָא דְדָלִי לִי בְּחַרְיָקָא, וְאִידוֹן לְכוּ דִּינָא.

This resembles an incident involving Rav Huna. When people would come for judgment before him, he would say to them: As I am unable to take time off from my work, give me a man who can draw water for me, to irrigate the fields in my place, and I will judge your case.

אָמַר רַבִּי אַבְהוּ: בֵּא וְרֵאָה כַּמָּה סְמוּיֹת, עֵינֵיהֶן שֶׁל מְקַבְּלֵי שׁוֹחֵד; אֲדָם חָשׁ בְּעֵינָיו – נוֹתֵן מָמוֹן לְרוֹפֵא, סָפֵק מִתְרַפָּא סָפֵק אֵינוֹ מִתְרַפָּא. וְהֵן נוֹטְלִין שְׂוֵה פְרוּטָה, וּמְסַמִּין עֵינֵיהֶן. שְׁנַאמַר "כִּי הַשׁוֹחֵד יַעֲוֹר פְּקָחִים".

Rabbi Abbahu said: Come and see how blind are the eyes of those who accept bribes, and how they ruin themselves. If a person has pain in his eyes, he gives a doctor money, and even then it is uncertain whether he will be healed or whether he will not be healed. And yet those judges take the value of a peruta, a small amount of money as a bribe, and actively blind their eyes, as it is stated: "For a bribe blinds those who have sight" (Exodus 23:8).

תָּנוּ רַבָּנֵן: "כִּי הַשׁוֹחֵד יַעֲוֹר עֵינֵי חֲכָמִים" – קַל וְחוֹמֵר לְטַפְּשִׁין. "וַיִּסְלַף דְּבָרֵי צְדִיקִים" – קַל וְחוֹמֵר לְרָשָׁעִים. מִיָּדִי טַפְּשִׁים וְרָשָׁעִים בְּנֵי דִינָא נִינְהוּ? אֶלְא הָכִי קָאָמַר: "כִּי הַשׁוֹחֵד יַעֲוֹר עֵינֵי חֲכָמִים", אֶפְיָלוּ חֲכָם גְּדוֹל וְלוֹקַח שׁוֹחֵד – אֵינוֹ נִפְטָר מִן הָעוֹלָם בְּלֵא סְמוּיֹת הַלֵּב. "וַיִּסְלַף דְּבָרֵי צְדִיקִים"

The Sages taught: "For a bribe blinds the eyes of the wise" (Deuteronomy 16:19); a fortiori it will certainly blind the eyes of fools. "And perverts the words of the righteous" (Deuteronomy 16:19); a fortiori it will certainly pervert the statements of the wicked. The Gemara asks: **Are fools and the wicked suitable for judgment, i.e., to be appointed as judges? Rather, this is what the tanna of the baraita said: "For a bribe blinds the eyes of the wise"; even if he were very wise but he took a bribe, he will not leave this world without suffering blindness of the heart, i.e., he will eventually turn foolish. "And perverts the words of the righteous";**

HALAKHA

One who takes a salary to judge – הַנוֹטֵל שְׂכָר לְדוֹן: With regard to a judge who takes a salary, all of his decisions are void, apart from those concerning which it is known that he did not receive payment. However, if the judge receives compensation for his time and not for judging the case, i.e., wages for his unemployment, it is permitted. This is true only when it is clear to all that the salary is for the time that he would have otherwise devoted

to his paid job. Furthermore, he has to receive this compensation from both litigants. However, if it is not evident that the salary is for his unemployment which it is known that he did not have another job and argues that he should be paid in case he misses the chance of a job or a business opportunity, this is prohibited (Rambam Sefer Shofetim, Hilkhot Sanhedrin 23:5; Shulhan Arukh, Hoshen Mishpat 9:5).

NOTES

If a judge is like a king – אם דומה דין למלך – This can mean that a judge is like a king in that he is not dependent on others for money, as he is financially independent. Rivan, who prefers that interpretation, nevertheless suggests that it might alternatively mean that the judge is likened to a king in that he is not dependent on others for Torah, as he knows all he requires. Others maintain that both interpretations are essential (Rabbeinu Tam in *Tosafot*). Yet others claim that this comparison of a judge to a king means that he acts as though he is independent of others, in that he does not chase after wealth or honor (Rambam's Commentary on the Mishna).

HALAKHA

A judge who borrows – דין דשאל שאילתא: A judge who borrows an object may not preside over a case involving the one who lent it to him. This applies only if the judge does not have anything to lend to that person, but if he does have articles of his own to lend he may serve as his judge, as they both borrow from each other. The *halakha* is in accordance with the opinion of Rabba bar Rav Sheila. Some add that all this applies only when the judge is accustomed to borrowing from the same person all the time. However, if he happened to borrow from that individual and it is not apparent that the owner is lending the judge an article due to the pending case, the judge may preside over the case (Rema; Maharik). If the judge borrows from others so that those people will gain respect in the eyes of the community, he is allowed to preside over their cases, as indicated in the story involving Rava (*Shakh*, citing *Tur*; Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 23:4; *Shulhan Arukh*, *Hoshen Mishpat* 9:).

A person should not judge, etc. – לא לידון איניש וכו' – A judge should not preside over a case involving someone of whom he is fond, even if that litigant is not his closest companion. Likewise, a judge should not preside over a case involving someone he dislikes, even if he is not an enemy upon whom he wishes evil. Instead, the two litigants must be equal in the eyes and hearts of the judges. It is best if the judge does not know either of the two litigants. Some authorities rule that if a judge does preside over a case involving someone he likes or dislikes, the verdict is upheld (Rema; *Haggahot Asheri*). Others say that if he presided over a case involving someone he utterly detests to the extent that he has not spoken with this individual for three days due to the enmity he feels toward him, or alternatively, if he presided over a case involving someone he loves very much, his ruling is invalid (*Tur*). Yet others add that with regard to less extreme cases of like or dislike it is permitted for the judge to preside over the case, although as an act of piety he should be strict in this matter and withdraw from the trial. According to this opinion, it is permitted in such cases for the judge to participate in arbitration in which each litigant chooses a judge somewhat partial to him. All the more so a judge may preside over a case involving his disciple, for whom he is a figure of authority (Maharik; Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 23:6; *Shulhan Arukh*, *Hoshen Mishpat* 7:7).

אפילו צדיק גמור ולוקח שוחד – אינו נפטר מן העולם בלא טירוף דעת.

כי אתא רב דימי אמר: דרש רב נחמן בר בהן: מאי דכתיב "מלך במשפט יעמיד ארץ ואיש תרומות יהרסנה" אם דומה דין למלך, שאינו צריך לכלום – יעמיד ארץ, ואם דומה לכהן שמחזיר על הגרנות – יהרסנה.

אמר רבה בר רב שילא: האי דדינא דשאל שאילתא – פסול למידן דינא. ולא אמרן – אלא דלית ליה לאשולי, אבל אית ליה לאשולי – לית לן בה.

אינו? והא רבא שאיל שאילתא מדבי בר מריון, אף על גב דלא שילי מיניה! התם לאחשוביניהו הוא דבעי.

אמר רבא: מאי טעמא דשוחדא? בין דקביל ליה שוחדא מיניה – איקרבא ליה דעתיה לגביה, והוי בגופיה, ואין אדם ורואה חובה לעצמו. מאי שוחד – שהוא חד. אמר רב פפא: לא לידון איניש דינא למאן דרחים ליה, ולא למאן דסני ליה. דרחים ליה – לא חזי ליה חובה, דסני ליה – לא חזי ליה זכותא.

אמר אביי: האי צורבא מרבנן דמרחמין ליה בני מתא – לאו משום דמעלי טפי, אלא משום דלא מוכח להו במילי דשמאי.

אמר רבא: מריש הוה אמינא: הני בני מחוזא בוליהו רחמו לי, בין דהואי דינא, אמינא: מינייהו סנו לי, ומינייהו רחמו לי. בין דחזאי דמאן דמיתייב ליה האידנא קא זכי למחור, אמינא: אם מרחם – בוליהו רחמו לי, אי מסנו – בוליהו סנו לי.

even if he is completely righteous but he took a bribe, he will not leave this world without becoming demented.

When Rav Dimi came from Eretz Yisrael to Babylonia, he said that Rav Nahman bar Kohen interpreted a verse homiletically as follows. What is the meaning of that which is written: "The king by justice establishes the land, but he who exacts gifts [*terumot*] overthrows it" (Proverbs 29:4)? If a judge is like a king,ⁿ in that he does not need anything and is not dependent on anyone, he establishes the land, i.e., he can serve as a judge. But if he is like a priest, who seeks out his *terumot* from various granaries, as he is dependent on others, he overthrows the land.

Rabba bar Rav Sheila said: This judge who borrows^h items from others is disqualified from rendering judgment because it is as though he accepts a salary. And we said this only in a case where he does not have articles to lend out to others but is constantly borrowing without lending objects in turn. However, if he has items to lend out to others, we have no problem with it.

The Gemara asks: Is that so? But Rava would borrow items from the house of bar Maryon even though they would not borrow from him. The Gemara answers: There, he wanted to cause them to be considered more important in the community. Rava was very wealthy and did not need to borrow for his own benefit. On the contrary, by borrowing from the house of bar Maryon he raised their standing in the community.

Rava said: What is the reason for the prohibition against taking a bribe? Once a judge accepts a bribe from one party, his thoughts draw closer to him and he becomes like his own self, and a person does not find fault in himself. The Gemara notes that the term itself alludes to this idea: What is the meaning of *shohad*, bribe? It can be read as: *Shehu had*, as he is one, i.e., at one mind with the litigant. Rav Pappa said: A person should not judge^h a case involving one whom he loves, nor involving one whom he hates. He should not judge one whom he loves, as he will not find any fault in him, while with regard to one whom he hates, he will not find any merit in him.

Abaye said: With regard to this Torah scholar who is beloved by the residents of his town, it is not because he is a superior Sage than others; rather, it is because he does not reprove them in Heavenly matters. He is beloved because he is not strict with them with regard to the observance of mitzvot.

Rava said: At first I would say that all these residents of Mehoza^b love me; however, once I became a judge I said that some of them hate me and some of them love me, as I assumed that their feelings toward me depended on the success of their case. When I saw that the one I declared guilty today would be found innocent the following day, I realized that my rulings do not determine their attitudes, and therefore I said: If they love, then they all love me, and if they hate, then they all hate me, regardless of what happens in the courtroom.

BACKGROUND

Mehoza – מחוזא: Mehoza was a large city on the banks of the Tigris River, not far from the Malka River, which connects the Tigris with the Euphrates. Its location in the center of Babylonia led to its development as a wealthy commercial city. The people of Mehoza were known for their great wealth, to the extent that even the male residents of the city would wear special, ornamented cloth-

ing. A large portion of the city's population was Jewish, including many converts. Rava was the head of the yeshiva in Mehoza, which later merged with the yeshiva of Neharde'a-Pumbedita. He regularly rebuked the people of the city for their self-indulgence, dishonesty, and lack of fear of God.

Verbal bribery – שוחד דברים – A judge must take excessive care not to accept a bribe of any kind. This includes verbal bribery and bribery performed by means of objects, including favors performed by the litigant for the judge, as in the incidents related in the Gemara (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 23:3; *Shulhan Arukh*, *Hoshen Mishpat* 9:1).

LANGUAGE

Basket [*kanta*] – כַּנְתָּא: Some claim that this is from the Greek *κανέτιον*, *kanētion*, meaning a small reed basket. Apparently, this term itself is derived from the Semitic *kaneh*, meaning reed.

NOTES

He seated a pair of rabbinic scholars – אוֹתֵיב זִוְיָא דְרַבְנָן – The commentaries ask why Rabbi Yishmael did not invite three judges, as there should not be a court of only two judges *ab initio*. Some suggest that he added a third judge. Alternatively, each of these men was an expert judge and was therefore authorized to hear the case on his own (Meiri). Others accept this interpretation and further state that Rabbi Yishmael was interested to see if they would both arrive at the same conclusion (Maharsha). The Maharsha also suggests that Rabbi Yishmael himself was the third judge, as he was merely disqualified from presiding over the case alone. Yet others claim that when Rabbi Yishmael subsequently realized that he was still more inclined toward this litigant, he excused himself from the case completely, which left two judges (*Sefer Hafla'a*).

תגו רבנן: "שוחד לא תקח" – אינו צריך לומר שוחד ממון. אלא אפילו שוחד דברים נמי אסור. מדלא כתיב "בצע לא תקח". היכי דמי שוחד דברים?

S The Sages taught: "And you shall take no bribe" (Exodus 23:8). It is not necessary to say that this includes bribery by means of money; however, even verbal bribery,⁴ assisting by means of speech, is also prohibited. The *halakha* that a bribe is not necessarily monetary is derived from the fact that it is not written: And you shall take no profit. The Gemara asks: What are the circumstances of bribing with words?

כי הא דשמואל הוה עבר במברא. אתא ההוא גברא יהיב ליה ידיה. אמר ליה: מאי עבידתין? אמר ליה: דינא אית לי. אמר ליה: פסילנא לך לדינא.

The Gemara explains: This can be demonstrated by that episode involving Shmuel, who was once crossing a river on a narrow ferry. A certain man came along and gave him a hand to help him out of the ferryboat. Shmuel said to him: What are you doing in this place? The man said to him: I have a case to present before you for judgment. Shmuel said to him: I am disqualified from presiding over your case, as you did me a favor. Although no money changed hands, a bond was formed between the pair.

אמימר הוה יהיב וקא דאין דינא פרא גדפא ארישיה. אתא ההוא גברא שקליה. אמר ליה: מאי עבידתין? אמר ליה: דינא אית לי. אמר ליה: פסילנא לך לדינא. מר עוקבא הוה שדי וקא קמיה, אתא ההוא גברא כסויה. אמר ליה: מאי עבידתין? אמר ליה: דינא אית לי. אמר ליה: פסילנא לך לדינא.

The Gemara relates a similar story. Ameimar was sitting and judging a case when a feather floated and landed on his head. A certain man came by and removed it from his head. Ameimar said to him: What are you doing here? He said to him: I have a case to present before you. Ameimar said to him: I am disqualified from presiding over your case, due to the favor you performed for me. The Gemara likewise relates: There was spittle lying before Mar Ukva. A certain man came by and covered it. He said to him: What are you doing here? He said to him: I have a case to present before you. Mar Ukva said to him: I am disqualified from presiding over your case.

רבי ישמעאל ברבי יוסי הוה רגיל אריסיה דהוה מייתי ליה כל מעלי שבתא כנתא דפירי. יומא חד אייתי ליה בחמשה בשבתא. אמר ליה: מאי שנא האידינא? אמר ליה: דינא אית לי. ואמינא: אגב אורחי אייתי ליה למר. לא קביל מיניה, אמר ליה: פסילנא לך לדינא.

The Gemara cites another incident. The sharecropper of Rabbi Yishmael, son of Rabbi Yosei, was accustomed to bringing him a basket [*kanta*]⁴ full of fruits every Shabbat eve. One day, he brought him the basket on a Thursday. Rabbi Yishmael said to him: What is different that you came early now, this week? The sharecropper said to him: I have a case to present before you, and I said to myself that along my way I will bring to the Master the basket of fruits, as in any case I am coming on Thursday, the day the courts are in session. Rabbi Yishmael did not accept the basket of fruits from him, and he said to him: I am disqualified from presiding over your case.

אוֹתֵיב זִוְיָא דְרַבְנָן, וְקַדְיִינִין לִיה. בְּהַדְי דְקָאִוִּיל וְאָתִי אָמַר: אִי בְּעֵי טַעֲיִן הָכִי, וְאִי בְּעֵי טַעֲיִן הָכִי, אָמַר: תִּיפַח נַפְשָׁם שֶׁל מַקְבְּלֵי שׁוּחַד! וּמָה אָנִי, שְׂלֵא נִטְלָתִי, וְאִם נִטְלָתִי – שְׁלִי נִטְלָתִי בְּךָ, מַקְבְּלֵי שׁוּחַד – עַל אַחַת כְּפָה וְכַמָּה.

Rabbi Yishmael seated a pair of rabbinic scholars⁵ and they judged the sharecropper's case. As Rabbi Yishmael was coming and going, he said to himself: If he wants, he could claim this, and if he wants, he could claim that, i.e., he kept thinking of all the ways in which the litigant who brought him the fruits could win his case. He said to himself: Blast the souls of those who accept bribes. If I, who did not accept anything, and if I had accepted, I would have accepted my own property, as it is my sharecropper and the fruits legally belong to me, am nevertheless in this state of mind due to the proposed gift, all the more so are those who actually accept bribes inevitably biased in favor of the one who bribed them.

רבי ישמעאל בר אלישע אייתי ליה ההוא גברא ראשית הגז. אמר ליה: מהיכא את? אמר ליה: מדודן פלן. ומתם להכא לא הוה בהן למיתבא ליה? אמר ליה: דינא אית לי. ואמינא: אגב אורחאי אייתי ליה למר. אמר ליה: פסילנא לך לדינא. לא קביל מיניה.

The Gemara likewise relates with regard to Rabbi Yishmael bar Elisha, who was a priest, that a certain man once brought him the first shearing.⁶ Rabbi Yishmael said to him: From where are you? The man said to him: I am from such and such a place. Rabbi Yishmael said to him: And from there to here was there no priest to whom you could give the first shearing? He said to him: I have a case to present before you, and I said to myself that along my way I will bring to the Master the first shearing. Rabbi Yishmael said to him: I am disqualified from presiding over your case, and he would not accept the first shearing from him.

BACKGROUND

The first shearing – ראשית הגז – This refers to the obligation to give the priest the first portion of any fleece shorn from a flock of five sheep or more (see Deuteronomy 18:4).

This donation must weigh at least five *selā*, and it becomes the personal property of the priest. The first shearing is not sacred.

LANGUAGE

Small fish [*gildanei devei gilei*] – גִּילְדַנֵי דְבֵי: Some assert that *gildanei* is from the Greek χελιδών, *chelidon*, which means, among other things, a kind of fish, specifically one of the varieties of flying fish. However, in the language of the Sages this is apparently a name for different kinds of fish, large and small. This explains the addition of *devei gilei*, which means small fish.

BACKGROUND

First fruits – בִּכּוּרִים: The first fruits of the new harvest were given to the priests (Deuteronomy 26:1–11). When the Temple stood, a farmer would select the first fruits of the seven types of fruit with which Eretz Yisrael is specially favored (Deuteronomy 8:8). By rabbinic decree, at least one-sixtieth of the harvest must be brought as first fruits. The farmer would bring these fruits to the Temple in a basket, place them before the altar, and recite a prayer of appreciation to God (Deuteronomy 26:3–10). Afterward, the fruit was given to the priests and eaten under the same provisions that govern *teruma*. The first fruits were brought to the Temple between the festivals of *Shavuot* and *Sukkot*. If they were not brought within this period, an extension was granted until Hanukkah. An entire tractate of the Mishna, *Bikkurim*, is devoted to the *halakhot* and practices governing this mitzva.

אָוֵיב לִיָּה זֹנָא דְרַבְנָן וְקַדְיִנִי לִיָּה. בְּהַדְרֵי דְקַאָזוּל וְאָתֵי אָמַר: אִי בְעֵי טַעֲיִן הָכִי, וְאִי בְעֵי טַעֲיִן הָכִי, אָמַר: תִּנְיַח נַפְשָׁם שְׁלַ מְקַבְלֵי שׁוֹחַד! וּמָה אֲנִי שְׁלָא נְטַלְתִּי, וְאִם נְטַלְתִּי – שְׁלִי נְטַלְתִּי, כְּךָ, מְקַבְלֵי שׁוֹחַד – עַל אַחַת כְּכֹמָה וְכֹמָה.

רַב עֲנָן אֵייתֵי לִיָּה הֵהוּא גְבֵרָא בְנִיתָא דְגִילְדַנֵי דְבֵי גִילֵי, אָמַר לִיָּה: מַאי עֲבִידְתִּיךָ? אָמַר לִיָּה: דִּינָא אֵית לִי. לָא קִבִּיל מִיָּנִיָּה, אָמַר לִיָּה: פְּסִילָנָא לָךְ לְדִינָא.

אָמַר לִיָּה: דִּינָא דְמָר לָא בְעֵינָא, קִבּוּלֵי לְקִבִּיל מָר, דְלָא לְמַנְעֵן מִרְמָא קְרוּבֵי בְכוּרִים. דְתַנְנָא: 'וְאִישׁ בָּא מִבְּעַל שְׁלִישָׁה וַיָּבֵא לְאִישׁ הָאֵלֶּהִים לֶחֶם בְּכוּרִים עֶשְׂרִים לֶחֶם שְׁעוּרִים וְכֹרֶמֶל בְּעַקְלוֹנוֹ', וְכִי אֵלִישַׁע אוֹכַל בְּכוּרִים הֲוֵה? אֵלָּא לֹמַר לָךְ: כֹּל הַמְבִיא דוֹרוֹן לְתַלְמִיד חֶכֶם – כָּאִילוּ מְקָרִיב בְּכוּרִים.

אָמַר לִיָּה: קִבּוּלֵי לָא בְעֵינָן דְאֵיקְבִּיל, הַשְׁתָּא דְאָמַרְתָּ לִי טַעֲמָא – מְקַבְלִנָא. שְׁדַרְיָה לְקַמֵּיהַ דְרַב נַחֲמָן, שְׁלַח לִיָּה: נִדְיִינִיָּה מִרְמָא גְבֵרָא, דְאָנָא עֲנָן פְּסִילָנָא לִיָּה לְדִינָא. אָמַר: מִדְשְׁלַח לִי הָכִי, שְׁמַע מִיָּנִיָּה קְרִיבִיָּה הוּא, הָוֵה קָאִים דִּינָא דִּינְתִּימֵי קַמֵּיהַ, אָמַר

Rabbi Yishmael bar Elisha seated a pair of rabbinic scholars and they judged his case. As Rabbi Yishmael was coming and going, he said to himself: If he wants, he could claim this, and if he wants, he could claim that. He said to himself: Blast the souls of those who accept bribes. If I, who did not accept anything, and if I had accepted, I would have accepted my own property, as I am a priest and am entitled to receive the first shearing, am nevertheless in this state of mind, all the more so are those who accept bribes.

The Gemara relates: There was a certain man who once brought to Rav Anan a basket of small fish [*gildanei devei gilei*].⁴ He said to him: What are you doing here? The man said to him: I have a case to present before you. Rav Anan would not accept the basket from him, and he said to him: I am disqualified from presiding over your case, due to your actions.

The man said to him: I do not need the Master's judgment. However, let the Master accept my gift anyway, so that the Master does not prevent me from presenting first fruits.⁵ What does the mitzva of first fruits have to do with this situation? As it is taught in a *baraita*: "And there came a man came from Ba'al Shalisha, and he brought the man of God bread of the first fruits, twenty loaves of barley and fresh ears of corn in his sack" (II Kings 4:42). But did Elisha, the recipient of these gifts, eat first fruits? After all, he was not a priest. Rather, this verse comes to tell you: Whoever brings a gift to a Torah scholar, it is as though he has presented first fruits. This visitor to Rav Anan wished to fulfill this mitzva.

Rav Anan said to him: I do not want to take it from you, but now that you have explained to me the reason that you wish to give it to me I will accept it from you. Rav Anan sent the man to Rav Nahman, and he also sent him a letter: Let the Master judge this man's case because I, Anan, am disqualified from judging his cases. Rav Nahman said to himself: From the fact that he sent me this letter, I can conclude from here that the reason he is disqualified from judging the case is because he is his relative. At that time, a case involving orphans was being heard before Rav Nahman. He said:

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NOTES

This is a positive mitzva and this is a positive mitzva – הָאִי עֵשָׂה וְהָאִי עֵשָׂה: Rashi states that one of these mitzvot has its source in the verse: "And judge righteously" (Deuteronomy 1:16). However, other commentaries wonder how it is inferred from this mitzva that a case involving orphans takes precedence over others. Perhaps the righteous way to behave is to take the cases in the order in which they come to the court. Others maintain that the positive mitzva referred to here is "You shall hear the small and the great alike" (Deuteronomy 1:17; Ritva). Yet others claim that this refers to the mitzva not to postpone the performance of mitzvot. Alternatively, some claim that there is a special mitzva to give preferential treatment to orphans and hear their case first (Rambam).

הָאִי עֵשָׂה וְהָאִי עֵשָׂה! עֵשָׂה דְכַבּוּד תּוֹרָה עֲדִיף. סְלִקִּיה לְדִינָא דִּינְתִּימֵי, וְאַחֲתִיָּה לְדִינִיָּה. כִּינּוֹן דְחֹתָא בְּעַל דִּינִיָּה יִקְרָא דְקָא עֲבִיד לִיָּה – אִסְתַּתֵּם טַעֲנִיָּה.

This is a positive mitzva, for judges to judge cases properly, and this is a positive mitzva,⁶ to honor Torah scholars and their families. Rav Nahman concluded that the positive mitzva of giving honor to the Torah takes precedence.⁷ Therefore, he put aside the case of the orphans and settled down to judge the case of that man, under the mistaken assumption that he was a relative of Rav Anan. Once the other litigant saw the honor being accorded to that man by the judge, he grew nervous until his mouth, i.e., his ability to argue his claim, became closed, and he lost the case. In this manner, justice was perverted by Rav Anan, albeit unwittingly and indirectly.

HALAKHA

The positive mitzva of giving honor to the Torah takes precedence – עֵשָׂה דְכַבּוּד תּוֹרָה עֲדִיף: If many people were waiting in court to have their cases heard, the case of orphans is heard before that of widows, widows before Torah scholars, and Torah scholars before everyone else. However, some question the above order in light of on the Gemara here, in which Rav Nahman granted preference over an orphan to someone whom he thought was a relative of a Torah scholar (see *Lehem Mishne* and *Bah*). Some state that this incident serves as the source for the ruling of the Rambam that a relative of a Torah scholar should not receive special

treatment (*Be'er HaGola*). Others claim that if a Torah scholar personally came before the judges, even if they have already started hearing another case, they should stop and grant him precedence so that he not lose time from his studies (Rema). However, if a relative of a Torah scholar comes to the court, they should not stop another case on his account, although if they have not yet started another case they should give precedence to the relative of the scholar out of respect for the scholar himself (*Beit Yosef*, citing the Ritva; Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 21:6; *Shulhan Arukh*, *Hoshen Mishpat* 15:2).