



The Court System

With the beginning of *masechet Sanhedrin* we get an insight into the distributed and hierarchal court system that was used throughout *Eretz Yisrael*. The following is a brief description of this system with some examples of the cases dealt with in each of the courts. The small courts consisting of either amateur or expert judges, deal with financial or civil law respectively (1:1). For capital cases however a larger *beit din* of twenty-three judges was required (1:4) – also known as *Sanhedri Katan*. These *batei dinim* however were restricted to cities of a particular size, yet still distributed in every such city throughout the country (1:6). Finally a single *Sanhedrin Ha'Gadol*, a *beit din* of seventy-one (or seventy) judges was seated in *Yerushalaim* by the *Beit Ha'Mikdash* and dealt with “high profile” cases or cases having a national impact (1:5).

The *Mishnah* (1:5) also explains that one of the unique tasks of the *Sanhedrin* was to “establish *sanhedrayot* [ie, *batei dinim* of twenty-three judges] for the tribes”. The *Bartenura* explains that just as *Moshe*, who took the place of the *Sanhedrin Ha'Gadol*, formed these *batei dinim* himself, such a task can only be performed by the *Sanhedrin*.

The *Gemara* cites the source for the requirement of these *batei dinim* (*Devarim* 16:18):

Judges and offices shall you appoint in all your cities which *Hashem* your G-d gives you, for your tribes; and they shall judge the people with righteous judgment.

The *Gemara* (*Sanhedrin* 16b) understands that “for all your tribes” expresses the need for judges for each of the “tribes” while “in all your cities” highlights the need for judges in each city.

What is this unique *Sanhedrin* for a “tribe”? Is this a new layer just below the *Sanhedrin Ha'Gadol* in the legal system?

The *Meiri* explains that there is no reference to a new *beit din* but rather the *Mishnah* teaches that any *beit din* of twenty-three must only be formed by the *Sanhedrin Ha'Gadol*. The reference to the *sanhedrayot* for the tribes

must be understood loosely as referring to all *batei dinim* of twenty-three.

According to the *Meiri* how then do we understand the *Gemara's* distinction between the judges for the tribes and the judges for the cities. Quite simply one could explain that there are two *mitzvot*. As the *Meiri* maintains, there is a *mitzvah* to have a *Sanhedri Katan* in every city that is large enough to have one, and for all other smaller cities, there is a *mitzvah* to have a *beit din* of three judges.

While the *Tosfot* agree that a tribal *Sanhedrin* still refers to a regular *Sanhedri Katan*, they however explain that having a *Sanhedrin* for each tribe has a practical ramification. They understand that if one large city contains two different tribes then two *batei dinim* of twenty-three must be established for each tribe. Rav Taragin explains that this is supported by the opinion of *Rav Shimon ben Gamliel* that maintains it is a *mitzvah* to consult a court comprised of judges from one's own tribe.

The *Ramban* (*Devarim* 16:18) provides the same answer as the *Tosfot* yet then suggests a different explanation. He explains that indeed each tribe had a special *Sanhedri Katan*. While it had the same number of judges as the other *batei dinim* of twenty-three in the tribe's cities, it served a different function. It would act as a supreme court for the tribe, such that if a city's *Sanhedri* had a doubt about a case, it would confer with its tribe's *Sanhedri*. Another example is if there was a need for a tribe-wide *gezeria* this *Sanhedri* would be responsible much like the *Sanhedrin Ha'Gadol* that instituted nation-wide enactments.¹ Therefore, according to the *Ramban*, we have another layer within the legal system.

Therefore we have seen different understandings of how tribal association impacts on the legal system and structure. The *Meiri* maintains it has little impact. The *Tosfot* understand that it does not effect the structure yet each tribe would still rule on their own cases. Lastly the *Ramban* maintains it introduced another level to the legal structure.

David Bankier

¹ The *Ramban* refers to a *Mishnah* in *Horayot* (5a) in support for his position. Also see the *Ramban* for more of this *Sanhedri's* unique roles.

Revision Questions

בבא בתרא י' ה' ח'

- What is the case in the *Mishnah* that involves a debate regarding an *asmachta*? (י' ה')
- If a loan document was badly damaged, what must a person do in order for *beit din* to draw up a replacement document and how is such a document termed? (י' ה')
- What are the two opinions about what should be done if a person partially pays off a loan? (י' ה')
- What is the limitation placed on an inherited olive press and when does this limitation apply? (י' ה')
- What is the law regarding documents where the name of the borrower is shared by a number of people in that town? (י' ה')
- What is a solution offered to the case in the previous question? (י' ה')
- What is the law regarding a case where, on his death bed, the father tells his son that one of the loan documents in his collection has already been paid? (י' ה')
- Regarding the previous case, what if there were two documents in the collection applying to a single lender? (י' ה')
- At the foreclosure of a loan, when can the debt be collected from the guarantor? (י' ה')
- What case is brought that is similar to the previous case and what is the law regarding that case? (י' ה')
- In which three cases is a debt collected from *nechasim bnei chorin*? (י' ח')
- Which area of *Torah* should one learn if he wishes to “acquire wisdom”? (י' ח')

סנהדרין א' א' ב' ד'

- Provide three areas in law where everyone agrees that a *beit din* of three judges is required. (א' א')
- Explain the debate between *R' Meir* and the *Chachamim* regarding the number of judges required for a case of *motzi shem ra*. (א' א')
- How many judges does *R' Yishmael* require for a case involving lashes? (ב' א')
- What are the two opinions regarding the number of judges required for *ibur shannah*? (א' ב')
- What are the two opinions regarding the number of judges required for *arifat eglah*? (א' ג')
- What is special about the judges that *R' Yehuda* requires for the redemption of *erachin*? How many judges does he require? (א' ג')
- How many judges are required for capital cases? (ד' א')
- Do capital cases also apply to animals? Who disagrees and when? (ד' א')
- List seven cases where a *beit din* of seventy-one is required? (ה' א')
- What are the sources for the sizes of a large and small *sanhedrin*? (ו' א')
- How large must a city be in order to have its own small *sanhedrin*? (ו' א')
- Can a *kohen gadol* be called to trial? Can he be a witness? (א' ב')
- What are the two opinions regarding the extent to which a *kohen gadol* can engage in *levayat ha'met*? (א' ב')
- If a *kohen gadol* is a mourner, how do the masses console him? (א' ב')
- With respect to legal issues, in what ways is a king different to a *kohen gadol*? (ב' ב')
- Explain the debate regarding whether a king can leave the palace to bury a relative. (ב' ג')
- How many wives can a king have? How many horses? How much money? (ג' ב')
- What would the king take with him everywhere? (ד' ב')

Local Shiurim

Sunday -Thursday
Between mincha & ma'ariv
Mizrachi Shul

Friday & Shabbat
10 minutes before mincha
Mizrachi Shul

Audio Shiurim on-line!

- 613.org/mishnah.html
- www.shemayisrael.com/mishna/

www.mishnahyomit.com

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
7 th October כ"ה תשרי	8 th October כ"ו תשרי	9 th October כ"ז תשרי	10 th October כ"ח תשרי	11 th October כ"ט תשרי	12 th October ל' תשרי ראש חודש	13 th October א' חשוון ראש חודש
Sanhedrin 2:5-3:1	Sanhedrin 3:2-3	Sanhedrin 3:4-5	Sanhedrin 3:6-7	Sanhedrin 3:8-4:1	Sanhedrin 4:2-3	Sanhedrin 4:4-5

