

How Poskim Come to Know Reality 1 - Drisha Fall 2025

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1. On Gizzards and the Making of Rabbis, by Rabbi Ezra Y. Schwartz,

<https://thelehrhaus.com/commentary/on-gizzards-and-the-making-of-rabbis/>

There is a well-known story, variously retold as having occurred with Rav Boruch Ber Leibowitz, the *Rosh Yeshiva* of Kaminetz and with the Mittlerer Rebbe of Chabad. Whomever it was, he happened to be in an abattoir and asked what a particular animal organ was. He was told that it was a gizzard, a *kurkevan*. Overtaken with emotion, the *gadol* blurted out, “The *Heiliger Kurkevan* (the holy gizzard)!” This rabbi had delivered many *shiurim* involving the intricacies of *hilkhot treifot* and had spoken often of a pin found in a *kurkevan*. Now, for the first time, he saw an actual *kurkevan*.

Outsourcing

2. יומא פ"ב א:ח'

מתני' עוברה שהריקה — מאכילין אותה עד שתשיב נפשה. חולה — מאכילין אותו על פי בקיאי, ואם אין שם בקיאי — מאכילין אותו על פי עצמו עד שיאמר די.

Yoma 82a:8

MISHNA: With regard to a **pregnant woman who smelled** food and was overcome by a craving to eat it, **one feeds her until she recovers**, as failure to do so could lead to a life-threatening situation. If a person is **ill** and requires food due to potential danger, **one feeds him according to** the advice of medical **experts** who determine that he indeed requires food. **And if there are no experts there, one feeds him according to his own instructions, until he says** that he has eaten enough and needs no more.

Not Part of Pesak

3. יבמות פ"ז ב:י"ד-ט"ו

ואם ניסת שלא ברשות — מותרת לחזור לו. ניסת על פי בית דין — תצא, ופטורה מן הקרבן. לא ניסת על פי בית דין — תצא, וסמיכת בקרבן. יפה כח בית דין, שפטורה מן הקרבן. הורוה בית דין לינשא, והלכה וקלקלה — סמיכת בקרבן, שלא התירוה אלא לינשא.

Yevamot 87b:14-15

All these *halakhot* refer to a situation when she married with the permission of the court, after hearing that her husband had died. **But if she married without the consent** of the court, basing herself entirely on the testimony she heard, and her husband returned, it is **permitted** for her **to return** to her first husband. The mishna adds another difference between these two scenarios: **If she married by permission of the court, she must leave both of them and she is exempt from bringing the offering**, i.e., the sin-offering for her unwitting adultery, as she had the authorization of the court and is therefore considered to have acted under duress. If, however, **she did not marry by permission of the court, she must leave her second husband and is liable to bring an offering** for mistakenly having relations with a man forbidden to her. In this regard, the **power of the court is greater, as she is exempt from bringing an offering**. If the **court instructed her to marry** on the basis of inaccurate testimony, **and she went and ruined herself** by engaging in licentious relations outside matrimony, **she is liable to bring an offering, as they permitted her only to marry**, and not to engage in licentious relations.

ניסת על פי בית דין תצא וכו'. אמר זעירי: ליתא למתניתין, מדתנן בי מדרשא. דתני בי מדרשא: הורו בית דין ששקעה חמה, ולבסוף זרחה — אין זו הוראה, אלא טעות. ורב נחמן אמר: הוראה היא. אמר רב נחמן: תדע דהוראה היא, דבכל התורה כולה עד אחד לא מהימן והבא מהימן, מאי טעמא? לאו משום דהוראה היא. אמר רבא: תדע דטעות הוא...

§ The mishna further taught that if **she married by permission of the court she must leave him**, but she is exempt from bringing a sin-offering. On this issue, **Ze'eiri said: The mishna is not accepted**, and this is derived **from what was taught in the study hall, as it was taught in a baraita in the study hall: If the court ruled that the sun had set at the conclusion of Shabbat**, which means it is permitted to perform labor, **and later the sun shone, this is not a ruling** for which the court is to blame, **but an error**. Consequently, the court does not have to bring an offering for the unwitting communal sin. Rather, each individual is liable to bring a separate offering. Here too, although the woman married with the consent of the court, they did not issue a mistaken ruling of *halakha* but simply erred with regard to the facts. She is therefore an unwitting sinner and is liable to bring an offering. **And conversely, Rav Nahman said** that the court's permission is considered **a ruling** that renders them liable to bring an offering for an unwitting communal sin. **Rav Nahman said: You can know that her permission to marry is a ruling**, as **in the entire Torah one witness is not deemed credible, and yet here he is deemed credible**. What is the reason for this? Is it **not because it is considered a ruling**, i.e., she does not rely on the witness but on the decision of the court? By contrast, **Rava said** that we can **know that her permission to marry is an error**...

Responsibility of Poskim

4. משנה תורה, הלכות סנהדרין והעונשין המסורין להם ב'א'

אין מעמידין בסנהדרין בין בגדולה בין בקטנה אלא אנשים חכמים ויבונים. מפלגין בחכמת התורה בעלי דעה מרבה. יודעים קצת משאר חכמות כגון רפואות וקשבון ותקופות ומזלות ואצטגנינות ודרכי המעוננים והקוסמים והמכשפים והכלי עבודה נרה וכיוצא באלו כדי שיהיו יודעים לדון אותם. ואין מעמידין בסנהדרין אלא פהגים לויים וישראלים המיחסים הראויים להשיא לכהנה. שנאמר (במדבר יא טז) "והתיצבו שם עמך" בדומין לה בחכמה וביראה וביחס:

Mishneh Torah, The Sanhedrin and the Penalties within Their Jurisdiction 2:1

We appoint to a *Sanhedrin* - both to the Supreme *Sanhedrin* and to a minor *Sanhedrin* - only men of wisdom and understanding, of unique distinction in their knowledge of the Torah and who possess a broad intellectual potential. They should also have some knowledge concerning other intellectual disciplines, e.g., medicine, mathematics, the fixation of the calendar, astronomy, astrology, and also the practices of fortune-telling, magic, sorcery, and the hollow teachings of idolatry, so that they will know how to judge them.

We appoint to the *Sanhedrin* only priests, Levites, and Israelites of lineage of fine repute who can marry into the priesthood. This is derived from Number 11:16: "And they shall stand there with you." Implied is that they should resemble you, Moses in wisdom, the fear of heaven, and in lineage.

Dangers of Translation

5. מכות ו' ב:ב'

רבי יוסי אומר: לעולם אין נהרגין עד שיהיו שני עדים מתרין בו, שנאמר "על פי שנים עדים". דבר אחר: "על פי שנים עדים" — שלא תהא סנהדרין שומעת מפי התורגמן....

דבר אחר: "על פי שנים עדים" — שלא תהא סנהדרין שומעת מפי התורגמן. הנהו לעוזי דאיתו לקמיה דרבא, אוקי רבא תורגמן ביניהו. והיכי עביד הכי? והתנן: שלא תהא סנהדרין שומעת מפי התורגמן! רבא מידע הנה ידע מה דהו אורי, ואהדורי הוא דלא

Makkot 6b

Rabbi Yosei says: Transgressors **are never executed unless his two witnesses are the ones forewarning him, as it is stated: “At the mouth of two witnesses...he who is to be put to death shall die”** (Deuteronomy 17:6), from which it is derived that it is from the mouths of the two witnesses that the accused must be forewarned, and forewarning issued by someone else is insufficient. **Alternatively,** from the phrase **“at the mouth of two witnesses”** one derives **that** the judges must hear the testimony directly from the witnesses, and the **Sanhedrin will not hear testimony from the mouth of an interpreter.**

§ The mishna teaches: **Alternatively,** from the phrase in the verse **“at the mouth of two witnesses”** one derives **that** the **Sanhedrin will not hear testimony from the mouth of an interpreter.** The Gemara relates: There were **certain** people who spoke **a foreign language who came before Rava** for judgment. **Rava installed an interpreter between them** and heard the testimony through the interpreter. The Gemara asks: **And how did he do so? But didn’t we learn in the mishna that the Sanhedrin will not hear testimony from the mouth of an interpreter?** The Gemara answers: **Rava knew what they were saying,** as he understood their language, **but he did not know** how to **respond** to them in their language. He posed questions through the interpreter but understood the answers on his own, as required by the mishna.