

# Makkos In Charts

Noson S. Yanofsky

וּבְאֵר עַל-הַלְחוֹת--לְמַעַן יָרוּץ, קוֹרָא בּוֹ

תְּבַקֵּק ב:ב

לזכר נשמת הרב אליהו מרדכי זצ"ל בן הרב משה יוסף שליט"א



# Chapter One

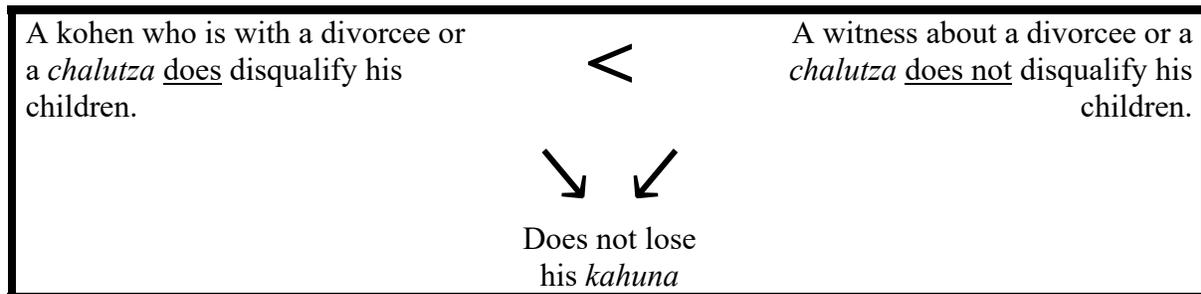
## 2b) Why don't zomemin, who are kohanim, stop being kahanim?

R' Yehoshua ben Levi: The Torah says "And you shall do to him as he planned" "him" and not his children.

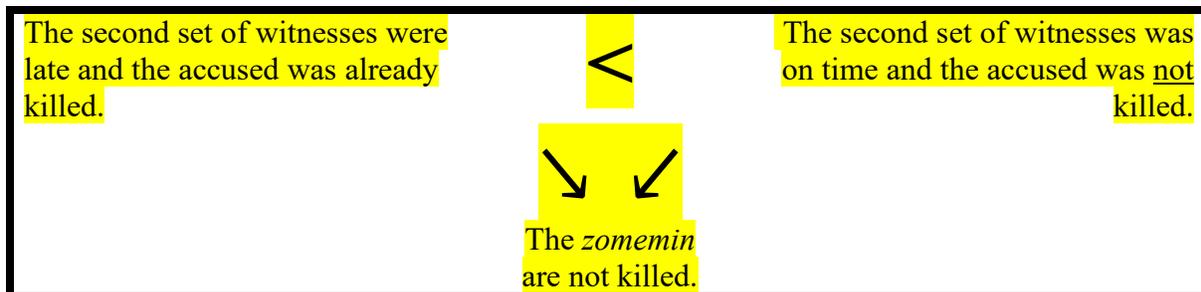
So why not disqualify him and not his children?

It says "And you shall do to him as he planned." He planned to disqualify the children also.

Bar Padda: a *kal va'chomer*



Ravina: If you accept *kal va'chomer*, you can destroy all the laws of *edim zomermin*

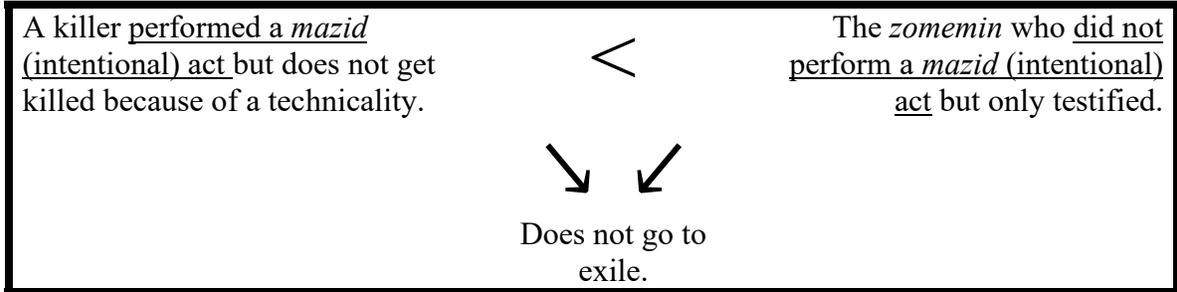


Since this law is not followed, there is something wrong with using *kal va'chomer*.

**2b) Why don't *zomemin* go to exile?**

Reish Lakish: "He shall flee to one of those cities." "He" --- the accidental killer--- and not the *zomemin*.

R' Yochanan: *A kal va'chomer*



If performing or not performing an action is what we are judging, then we can use the following deduction to come to the wrong conclusion that the *zomemin* should go to exile.

<b>Worse deed</b>	<b>Better deed</b>
A killer performed a <i>mazid</i> (intentional) act but does not get killed because of a technicality.	The <i>zomemin</i> who did not perform a <i>mazid</i> (intentional) act but only testified.
The worse deed should get the worse punishment and the better deed should get the better punishment.	
<b>Worse punishment</b>	<b>Better punishment</b>
Do not go to exile because the killer cannot get a <i>kaporah</i> (atonement).	Goes to exile to get a <i>kaporah</i> (atonement)

However, we do not send *zomemin* to exile. So it must be that we cannot use R' Yochanan's assumption that an action is less than a non-action.

**2b) Why do *zomemin*, who do not receive the same punishment as they attempted for the accused, get *malkus* instead?**

Ula: The posuk says

כי-וְהָיָה רִיב בֵּין אַנְשִׁים, וְנִגְשׂוּ אֶל-הַמְשַׁפֵּט וְשֹׁפֵטוֹם; וְהִצְדִּיקוּ, וְהִצְדִּיק, וְהִרְשִׁיעוּ, אֶת-הַרְשָׁע וְהָיָה אִם-בֶּן הַבּוֹת, הַרְשָׁע--וְהִפִּילוּ הַשֹּׁפֵט וְהִכְהוּ לַפְּנָיו, כִּי־י רָשָׁעוֹ בְּמִסְפָּר.

“and (i) they exonerated (ii) the innocent one and convicted (iii) the guilty one. Then it will be that if (iv) the guilty one is liable to lashes.”

The usual way to interpret this:

- (i) judges
- (ii) innocent
- (iii) guilty
- (iv) Who is this? If this is a case of an argument between two groups, then we say one is correct and the other is wrong. We do not give the wrong group lashes.

Rather, this is the way to interpret it. It is a case with *edim zomemin*. Here is the way to read the *posuk*.

- (i) second set of witnesses
- (ii) the accused
- (iii) the *zomemin*
- (iv) the *zomemin*.

“You should not bear false witness.”

This is a “prohibition without an action” and one does not get *malkus* for a “prohibition without an action.”

**2b) Cases where the *Zomemin* witnesses do not get the same punishment that they intended for the accused.**

Ruling	Reason
Tanna Kamma: They do not loose their <i>kahuna</i> like a son of a divorced women or a <i>chalutzah</i> .	Reason given above.
Tanna Kamma: They do not go into exile.	Reason given above.
Tanna Kamma: They do not pay <i>kofer</i> for an ox that gored.	<i>Kofer</i> is a <i>kapporah</i> (attonment) and since the witnesses didn't have an ox that gored, they don't need a <i>kapporah</i> .
Tanna Kamma: They are not sold as an <i>eved ivri</i> (Jewish slave) for a debt that they cannot afford to pay.	“He should be sold <u>for his theft</u> .” Not for being a <i>zomemin</i> .
R' Akiva: They do not pay on their own confession.	The <i>zomemin</i> pay a <i>kenas</i> (penalty) and one does not pay a <i>kenas</i> on their own admission.

**2b) Who believes that *kofer* is a *kapporah*?**

The posuk “He (the owner) should pay a ransom for <u>his</u> life”		
	Tanna Kamma  Pay the value of the <i>nizak</i> (victim).	R' Yishmael  Pay the value of the <i>mazik</i> (owner of the ox).
Rav Chisda:  R' Yishmael understands that <i>kofer</i> is <i>kapporah</i> .	<i>KOFER IS MEMONAH</i> (COMPENSATORY)  The owner is to pay the victim's worth to compensate for him.	<i>KOFER IS A KAPPORAH</i> (ATTORNMENT)  It depends on the owner's worth.
Rav Pappa:  Everyone understands that <i>kofer</i> is <i>kapporah</i> .	<i>KOFER IS A KAPPORAH</i> (ATTORNMENT)  The owner is to pay the value of the <i>nizak</i> (victim) because we learn from “ <i>hashosa</i> ” (imposition) said in two places.  Even though it says “for <u>his</u> life,” <i>Kofer</i> is based on the value of the <i>nizak</i> (victim.)	<i>KOFER IS A KAPPORAH</i> (ATTORNMENT)  The owner is to pay the value of the <i>mazak</i> (owner) because it says “for <u>his</u> life.”

**2b) First version of Rav Hammuna on becoming an *avid ivri* (Jewish slave) when one cannot afford to pay.**

	Accused can afford to pay	Accused cannot afford to pay
<i>Zomemin</i> can afford to pay	<p><i>ZOMEMIN NOT SOLD</i></p> <p>Because the <i>zomemin</i> never tried to get the accused sold.</p>	<p><i>ZOMEMIN SOLD</i></p> <p>Because the <i>zomemin</i> tried to get the accused sold.</p> <p>The <i>zomemin</i> could say, "Why should we be sold? The accused would not have been sold if he had the money." (The <i>zomemin</i> get the same verdict that the accused got. The <i>zomemin</i> do not get the same punishment that the accused was supposed to get.)</p>
<i>Zomemin</i> cannot afford to pay	<p><i>ZOMEMIN NOT SOLD</i></p> <p>Because the <i>zomemin</i> never tried to get the accused sold.</p>	<p><i>ZOMEMIN SOLD</i></p> <p>Because the <i>zomemin</i> tried to get the accused sold.</p>

**2b) Second version of Rav Hammuna on becoming a *avid ivri* (Jewish slave) when one cannot afford to pay.**

	Accused can afford to pay	Accused cannot afford to pay
<i>Zomemin</i> can afford to pay	<p><i>ZOMEMIN NOT SOLD</i></p> <p>Because the <i>zomemin</i> never tried to get the accused sold.</p>	<p><i>ZOMEMIN NOT SOLD</i></p> <p>Because the <i>zomemin</i> can pay.</p>
<i>Zomemin</i> cannot afford to pay	<p><i>ZOMEMIN NOT SOLD</i></p> <p>Because the <i>zomemin</i> never tried to get the accused sold.</p>	<p><i>ZOMEMIN SOLD</i></p> <p>Because the <i>zomemin</i> get the same verdict and, in this case, the same punishment.</p> <p>Rava: <i>ZOMEMIN NOT SOLD</i></p> <p>Because "He should be sold for his theft." Not for being a <i>zomemin</i>.</p>

**2b-3a) R' Akiva's reason for saying that the *zomemin* are paying a *kenas* (penalty)?**

Rabbah:	The <i>zomemin</i> did not really do an action to the accused (so it is not a compensation.)
Rav Nachman:	The money is still in the accused hands. That is essentially, what Rabbah said. Rav Nachman agrees with Rabbah.

**3a) What does it mean when Rav says “a (single) *eid zomeim* pays according to his share”?**

Ruling	Problem
Each one pays half.	We already know this from the Mishna in 5a.
If only one was shown to be <i>zomeim</i> , then that one should pay his share.	We know from a <i>Baraisa</i> that both have to be <i>zomemin</i> before there is any paying.
Rava: The witness says he lied.	We do not accept a changed testimony.
The witness says, “we were found to be <i>zomemin</i> in another court.”	This does not follow R' Akiva who said that a witness does not pay on the bases of his own confession.
The witness says, “we were found to be <i>zomemin</i> in another court and we were charged to pay by that court.”	

**3a) How much does the *zomemin* have to pay for a *kesubah*?**

Rav Chisda	What the husband can get for the rights to the <i>kesubah</i> .
Rav Nassan	(What the <i>kesubah</i> says) minus (what the wife can get for the rights to the <i>kesubah</i> ).
Rav Pappa	(What the <i>kesubah</i> says) minus (What the wife can get for the rights to the <i>kesubah</i> ). We ignore what is not said in the <i>kesubah</i> . The property (“ <i>melog</i> ”) that the wife came into the marriage with --- which the husband has the right to use as long as the marriage exists --- is not counted. Such property is not stated in the <i>kesubah</i> and might not have been known by the <i>zomemin</i> . Therefore they should not be suspected of trying to make the accused lose that property.

**3a Mishna) How to assess the value *zomemin* have to pay for a certain loan.**

How much is the loan worth if it had to be paid back in ten years	-	How much is the loan worth if it has to be paid back in 30 days	=	How much the <i>zomemin</i> have to pay the accused.
---	---	---	---	--

**3a-4a) Rulings Rav Yehuda said in the name of his rabbaim.**

Blatt	In the name of	Ruling	
3a	Shmuel	<i>Shmitta</i> <u>does</u> cancel a ten-year load.	
3a	Shmuel	<i>Shmitta</i> <u>does not</u> cancel a ten-year load. (This is from another version of the above ruling.)	
3b	Shmuel	A loan made on condition that <i>shmitta</i> does not cancel it, is canceled.	
3b	Rav	Opening a neck of a garment on Shabbos has to bring a <i>chatos</i> .	
3b	Rav	Wine colored water that fell into a <i>mikvah</i> does not invalidate the <i>mikvah</i> .	
4a	Rav	If a person immerses himself where a barrel of water fell into...	the Mediterranean, the immersion is not effective (because the water is stagnant and he might be surrounded by the water from the barrel.)
			an ordinary river, the immersion is effective (because the water is running and he will not be surrounded by the water from the barrel.)

**3b) First version of Rav Kahana's statement about ten-year loans.**

Our Mishna disagrees with what Rav Yahudah said in the name of Shmuel.

	Our Mishna	Rav Yahudah in the name of Shmuel
	The <i>zomemin</i> pay an adjusted value for the ten-year loan.	If one lends money for ten years, <i>shmittah</i> <u>does</u> cancel the loan.
Rav Kahana's contradiction	The Mishna implies that ten-year loans have a value	The ruling of Rav Yahudah in the name of Shmuel implies that ten-year loans do not have a value.
Rava's resolution	The Mishna was talking about a case where the loan that was made with collateral or by giving the documents to <i>beis din</i> . Such loans survive <i>shmittah</i> . In this case, <i>zomemin</i> pay an adjusted value for the ten-year loan.	The ruling of Rav Yahudah in the name of Shmuel was in a case where there was no collateral or giving the documents to <i>beis din</i> . Such loans do not survive <i>shmittah</i> . If one lends money for ten years with such loans, <i>shmittah</i> <u>does</u> cancel the loan.

**3b) Second version of Rav Kahana's statement about ten-year loans.**

Our Mishna agrees with what Rav Yahudah said in the name of Shmuel.

	Our Mishna	Rav Yahudah in the name of Shmuel
	The <i>zomemin</i> pay an adjusted value for the ten-year loan.	If one lends money for ten years, <i>shmittah</i> <u>does not</u> cancel the loan.
Rav Kahana showing an agreement	The Mishna implies that ten-year loans have a value.	The ruling of Rav Yahudah in the name of Shmuel implies that ten-year loans have a value.
Rava shows that Our Mishna <u>does not necessarily agree</u> with what Rav Yahudah said in the name of Shmuel.	The Mishna was talking about a case where the loan that was made with collateral or by giving the documents to <i>beis din</i> . Such loans survive <i>shmittah</i> . In this case, ten-year loans have a value and <i>zomemin</i> pay an adjusted value. With a regular loan, they would not agree.	

**3b) Shmuel's rules about loaning money through price fraud and *shmitta*.**

	Price fraud	<i>Shmitta</i>
What does work:	“On the condition that you have no claim of price fraud against me” (This works because it is requirement on the borrower.)	“On the condition that you do not cancel your debt to me on <i>shmitta</i> .” (This works because the borrower can choose to waive his right.)
What does not work:	“On the condition that there is no price fraud.” (This does not work because <u>there is</u> price fraud.)	“On the condition that <i>shmitta</i> does not cancel your debt to me.” (This does not work because <i>shmitta</i> <u>does</u> cancel the debt.)

**3b) Demanding payment before 30 days for an unspecified loan.**

	A document loan	An oral loan
Rabbah bar bar Chanah	NO DEMANDING  If the time was taken to write up a document, then it must have been meant for longer than 30 days.	CAN DEMAND  If there is no document, then the lender can demand the money back whenever he wants it.
Rav (R' Chiya) and a Baraisa.	NO DEMANDING.	NO DEMANDING.

**3b) Rav about three *lugin* of water falling into a *mikvah*.**

R' Yehudah said in the name of Rav if three *lugin* of wine colored water falls into a *mikvah* with less than 40 *se'ah* of rainwater, the *mikvah* is valid because it does not look like water (it looks like wine.)

Rav Kahana challenges R' Yehudah in the name of Rav:

	R' Yehudah in the name of Rav Wine colored water falls into a <i>mikvah</i>	Mishna Mikvahs 7:3 Colored water falls into a <i>mikvah</i>
Rav Kahana's Contradiction	<b>MIKVAH CAN BE MADE GOOD</b>	<b>MIKVAH CANNOT BE MADE GOOD</b>
Rava's resolution	It is called "diluted wine" and wine does not invalidate a <i>mikvah</i>	It is called "colored water" and water invalidates a <i>mikvah</i> .

**3b) Another challenge to R' Yehudah in the name of Rav:**

	R' Yehudah in the name of Rav Wine colored water falls into a <i>mikvah</i>	Baraisa of R' Chiya Wine colored water falls into a <i>mikvah</i>
A contradiction	<b>MIKVAH CAN BE MADE GOOD</b>	<b>MIKVAH CANNOT BE MADE GOOD</b>
Rava's resolution :	R' Yehudah in the name of Rav agrees with R' Yochanan ben Nuri in Mishna Mikvahs 7:5.	The Baraisa of R' Chiya agrees with The Rabonon in Mishna Mikvahs 7:5.

(3 *lugin* – *kortov*) of drawn water + *kortov* of ...

	Rabonim = Tanna Kamma Color is not important Content is important	R' Yochanan ben Nuri Color is important Content is not important
Wine (It is colorful and does not look like water)	<b>MIKVAH CAN BE MADE GOOD</b> (Because 3 <i>lugin</i> of drawn water was not added. The <i>mikvah</i> can be completed.)	<b>MIKVAH CAN BE MADE GOOD</b> (Because it looks like 3 <i>lugin</i> of wine was added and does not look like drawn water.)
Milk (It is colorless and looks like drawn water)	<b>MIKVAH CAN BE MADE GOOD</b> (Because 3 <i>lugin</i> of drawn water was not added. The <i>mikvah</i> can be completed.)	<b>MIKVAH CANNOT BE MADE GOOD</b> (Because it looks like 3 <i>lugin</i> of drawn water was added.)
	Baraisa of R' Chiya	Rav

Rav Puppa's version where Rav agrees with everyone:

(3 *lugin*) of drawn water + *kortov* of ...

	Rabonim = Tanna Kamma Color is not important Content is important	R' Yochanan ben Nuri Color is important Content is not important
Wine (It is colorful and does not look like water)	<b>MIKVAH CANNOT BE MADE GOOD</b> (Because 3 <i>lugin</i> of drawn water was added.)	<b>MIKVAH CAN BE MADE GOOD</b> (Because it looks like more than 3 <i>lugin</i> of wine was added and does not look like drawn water.)
Milk (It is colorless and looks like water)	<b>MIKVAH CANNOT BE MADE GOOD</b> (Because 3 <i>lugin</i> of drawn water was added.)	<b>MIKVAH CANNOT BE MADE GOOD</b> (Because it looks like more than 3 <i>lugin</i> of drawn water was added.)
	Rav	Rav

**4a Mishna) Punishment for testifying falsely and for being *edim zomemin*.**

	Crime	R' Meir	<i>Chachomem</i>
Testifying the accused owes 200 zuz.	false testimony	40 <i>malkus</i>	
	<i>Zomemin</i>	Pay 200 zuz	Pay 200 zuz
Testifying the accused deserves <i>malkus</i> .	false testimony	40 <i>malkus</i>	
	<i>Zomemin</i>	40 <i>malkus</i>	40 <i>malkus</i>

**4b) First version of Ulla's analogy with defaming a wife.**

Why does R' Meir say that the *zomemin* get *malkus* and pay? Ulla says it is an analogy:

One who defames his wife	<i>Edim zomemin</i>
Gets <i>malkus</i> and pays.	Gets <i>malkus</i> and pays.

But defaming a wife is a *kenas* (penalty) and we hold that the punishment of *edim zomemin* is not a *kenas* so we cannot make the analogy with defaming a wife.

R' Meir holds like R' Akiva that the punishment for *edim zomemin* is a *kenas* and so we can make the analogy with defaming a wife.

**4b) Second version of Ulla's analogy with defaming a wife.**

The reason why one does not get *malkus* if they leave over meat from the *korban pesach*:

	Why there is no malkus?	What we learn from this...
R' Yehudah	You fix the <i>lav</i> of leaving over part of the <i>korban pesach</i> by burning the leftovers, not with <i>malkus</i> .	In a case where there is no such fix, one <u>does</u> get <i>malkus</i> for a <i>lav</i> without an action.
R' Akiva	Leaving over meat is a <i>lav</i> that does not involve an action and therefore does not get <i>malkus</i> .	One <u>does not</u> get <i>malkus</i> for a <i>lav</i> without an action.

Where does R' Yehudah learn that a *lav* without an action gets *malkus*? Ulla says that R' Yehudah learns it from an analogy with defaming a wife:

One who defames his wife (which is a <i>lav</i> without an action)	Any <i>lav</i> without an action
Gets <i>malkus</i> (and pays.)	Gets <i>malkus</i> .

The analogy does not work. We see from the fact that there are two punishments for defaming a wife that this sin is much worse.

**4b) What is Reish Lakish's reason for R' Yehudah believing that there is *malkus* for a *lav* without an action?**

Reish Lakish says that R' Yehudah learns it from an analogy with *edim zomemin*.

<i>Edim zomemin</i> (which is a <i>lav</i> without an action)	Any <i>lav</i> without an action
Gets <i>malkus</i>	Gets <i>malkus</i>

The analogy does not work. *Edim zomemin* is such a bad sin that to be punished does not require warning. In contrast, any other *lav* (without action) is less severe and one might not get *malkus* for that *lav*.

**4b) Using Ulla and Reish Lakish to find a source for R' Yahudah.**

The Gemara combines the analogies of Ulla and Reish Lakish to find a source for R' Yahudah understanding that any *lav* without an action still gets *malkus*.

One who defames his wife                      *Edim zomemin*                      Any *lav* without an action

The common idea:

GETS MALKUS DOES PAY	GETS MALKUS DOES NOT PAY	GETS MALKUS
DOES NOT GET MALKUS WITHOUT PRIOR WARNING	DOES GET MALKUS WITHOUT PRIOR WARNING	GETS MALKUS

The Gemara criticizes using the combination of defaming and *zomemin*. By combining them, you can come to the wrong conclusion.

One who defames his wife                      *Edim zomemin*                      Any *lav* without an action

<b>PAYMENT IS A <i>KENAS</i></b>	<b>PAYMENT IS A <i>KENAS</i></b>  R' Yahudah says <i>edim zomemin</i> does not pay a <i>kenas</i> . So <i>kenas</i> is not a common idea, that combines them.	Wrong conclusion: Just like defamers and <i>zomemin</i> pay a <i>kenas</i> , so too, any <i>lav</i> without an action should pay a <i>kenas</i> . But here there is no <i>kenas</i> .
<b>HAS STRINGENT ASPECT (Pays)</b>	<b>HAS STRINGENT ASPECT (Needs no warning)</b>	Wrong conclusion: Just like defamers and <i>zomemin</i> have a stringent aspect, so too any <i>lav</i> without an action has a stringent action.  R' Yahudah says he does not recognize a stringent aspect because it is not the <u>same</u> stringent aspect.

The conclusion is that R' Yahudah successfully learns that any *lav* without an action gets malkus from combining defaming and *zomemin*.

**4b) The different drashas of R' Meir and the Chachomem about edim zomemin.**

R' Meir	<i>Chachomem</i>
<p>Q: Where does R' Meir learn that we warn people not to be <i>edim zomemin</i>?</p> <p>A: R' Yermiyah: "and all who remain shall hear and fear and they shall not continue and do further"</p>	<p>Q: What do the <i>Chachomem</i> learn from "You shall not bear false witness"?</p> <p>A: It was used to warn people not to be <i>edim zomemin</i>.</p>
<p>Q: Where does R' Meir learn that <i>beis din</i> must make a public proclamation about <i>edim zomemin</i>?</p> <p>A: "and all who remain shall hear and fear" is used to teach that <i>beis din</i> must make a public proclamation about <i>edim zomemin</i>.</p> <p>("and they shall not continue and do further" is used to warn people not to be <i>edim zomemin</i>.)</p>	<p>Q: What do the <i>Chachomem</i> learn from "and all who remain shall hear and fear and they shall not continue and do further"?</p> <p>A: It is used to teach that <i>beis din</i> must make a public proclamation about <i>edim zomemin</i>.</p>

**5a) Why do each of the *zomemin* get 40 lashes and not split the 40 lashes?**

Abaya	“ <i>Rasha</i> ” is used by executions and <i>malkus</i> . Since you can’t execute someone halfway, you cannot give <i>malkus</i> halfway.
Rava	<p>“Do as he <u>planned</u> to do to his brother.” He planned to give 40 lashes, so he should get 40 lashes.</p> <p>In that case, we can use the same logic and say each of the <i>zomemin</i> should pay the full amount. Yet we split the full amount when it comes to paying money.</p> <p>Money combines to the right amount. Lashes do not combine.</p>

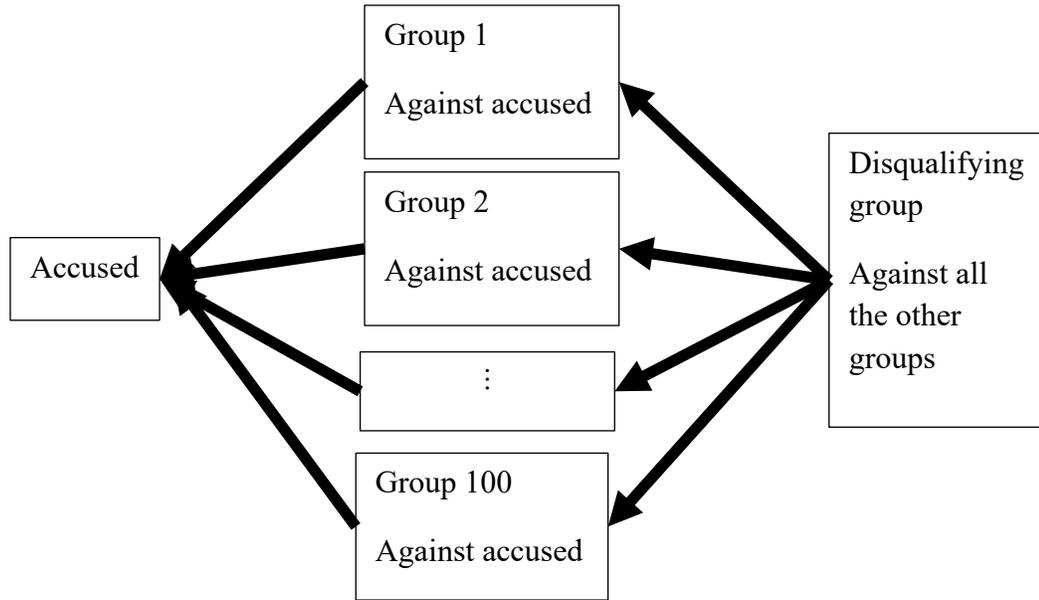
**5a) Rava on what type of testimony makes a *zomemin*.**

Rava’s ruling	Why the ruling is needed
If the witnesses claim the <i>zomemin</i> were on different sides of the palace, check if they can see each other.	Do not worry that the witnesses have unusually strong eyesight.
If the witnesses claim the <i>zomemin</i> were in a different city earlier in the day, check to see if they can make the trip in the required time.	Do not worry that the witnesses had a very fast camel.
If the witnesses claim that the murder took place on a different day than the <i>zomemin</i> claim, execute the <i>zomemin</i> .	Do not kill the <i>zomemin</i> if the accused was already sentenced or killed.

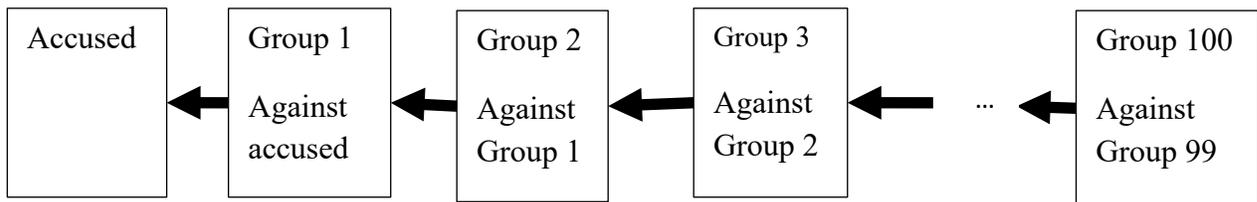
**5a) Examples of Rava's ruling about *edim zomemin* who got the time wrong.**

	Friday	Sunday	Monday	Ruling
Murder cases		<i>Edim zomemin</i> claim accused killed victim.	Disqualifying witnesses say accused killed victim.	Kill the <i>edim zomein</i> because when the <i>zomemin</i> testified (on Tuesday), the accused was not a dead man.
	Disqualifying witnesses say accused killed victim.	<i>Edim zomemin</i> claim accused killed victim.		
	Disqualifying witnesses say a verdict was handed down.	<i>Edim zomemin</i> claim a verdict was handed down.		Do not kill the <i>edim zomein</i> because when the <i>zomemin</i> testified (on Tuesday), the accused was a dead man.
		<i>Edim zomemin</i> claim a verdict was handed down.	Disqualifying witnesses say a verdict was handed down.	
Fines Cases		<i>Edim zomemin</i> claim accused stole a sheep and slaughtered it or sold it.	Disqualifying witnesses say accused stole a sheep and slaughtered it or sold it.	The <i>edim zomein</i> must pay because when the <i>zomemin</i> testified (on Tuesday), the accused did not pay.
	Disqualifying witnesses say accused stole a sheep and slaughtered it or sold it.	<i>Edim zomemin</i> claim accused stole a sheep and slaughtered it or sold it.		
	Disqualifying witnesses say accused stole a sheep and slaughtered it or sold it. And a verdict was handed down.	<i>Edim zomemin</i> claim accused stole a sheep and slaughtered it or sold it. And a verdict was handed down.		The <i>edim zomein</i> do not pay because when the <i>zomemin</i> testified (on Tuesday), the accused already had to pay.
		<i>Edim zomemin</i> claim a accused stole a sheep and slaughtered it or sold it. And a verdict was handed down.	Disqualifying witnesses say accused stole a sheep and slaughtered it or sold it. And a verdict was handed down.	

**5a Mishna) Rashi's version of the 100 sets of edim zomermin:**



**5a Mishna) Ramban's version of the 100 sets of edim zomermin:**



**5b) Why does R' Yehudah say to execute the first group of witnesses if he believes they are all plotters?**

R' Abahu	The first group of witnesses were already killed. So what is the purpose of the ruling to kill them?
Rava	R' Yehudah says execute only if there is one group of witnesses. If there are more than one, execute none. This is not what the Mishna said. It said "only the first." Kasha! (It's a difficulty.)

**5b) An argument about believing or disbelieving many groups of witnesses.**

R' Elazar and R' Yochanan	Reish Lakish
Believe every group of these witnesses.	Don't believe any of these groups of witnesses.

**5b) The Amoroyim conforming to the Tannaim about believing and disbelieving many groups of witnesses.**

		Tanayim	
		Rabonim	R' Yehudah
		Don't suspect plotters. Believe all the groups of witnesses.	Suspect plotters. Don't believe all the groups of witnesses
The obvious view		R' Yochonon	Reish Lakish
What Reish Lakish would say	Our Mishna	"No one is seeking out witnesses, so I also believe them." "She is seeking out witnesses that's why I don't believe them."	
	Story of a woman with many groups of witnesses		
What R'Yochonon would say	Our Mishna		"I also would not believe that the entire world was with the other witnesses."
	Story of a woman with many groups of witnesses		"I believed the last group of witnesses."

Amoroyim



**5b Mishna) How do we learn certain laws about multiple witnesses in a group?**

	What do we learn from saying “two witnesses or three witnesses”?	What do we learn from the repetition of “witnesses” (it could have said “two or three witnesses.”)
Tanna Kamma	Two witnesses can discredit three witness.	Two can discredit a hundred.
R' Shimon	All three witnesses have to be discredited in order for them to be executed.	All hundred witness have to be discredited in order for them to be executed.
R' Akiva	All three get the same sentence if they are <i>edim zomemin</i> . ( <i>Mussar</i> : An accomplice to a sin will be treated negatively like the other sinners. So too an accomplice to a Mitzvah will be treated positively like the others doing the Mitzvah.)	
R' Akiva	If the third witness is found disqualified, then the whole group is disqualified (even though there remains two good witnesses in the group.)	This is true for even one of a hundred witnesses is disqualified.

**5b Mishna) What is the law when one of three witnesses in a group is disqualified.**

	Capital cases	Monetary cases	6a) <i>Amoroyim</i> paskin halachah
R' Yose	<p><b>GROUP IS DISQUALIFIED</b></p> <p>Because in capital cases we are always looking for loopholes so as not to kill the accused.</p>	<p><b>GROUP IS QUALIFIED</b></p> <p>Because in monetary cases we do not look for loopholes.</p>	Rav Yehuda in the name of Shmuel
Rebbi	<p><b>GROUP IS DISQUALIFIED</b></p> <p>The group is disqualified if the disqualified witness gave a warning. If he did not give a warning, his disqualification does not destroy the group.</p>		Rav Nachman

**6a-6b) RavPappa's strange witnesses.**

Rav Pappa's case	The response.
Let the murder victim be a witness that disqualifies the group.	Abaya: He was killed from behind and did not see the murderer.
Let the sodomy victim be a witness that disqualified the group.	Abaya :He was sodomized from behind and did not see the sodomizer.
Let the murderer and the sodomizer be the witness that disqualifies the group.	Abaya:
Rav Pappa asked the same questions from Rava	Rava: "(by the testimony of the two witnesses)... <u>the matter shall be established</u> " It will be established by people who do not participate in the event.

**6b) A contradiction about isolated witnesses.**

	A ruling by Rav Nachman	Our Mishna
	The testimony of isolated witnesses is effective by monetary cases.	If there are two sets of witnesses that do not see each other and one of them becomes <i>zomemin</i> the other set is still good and the ( <i>zomemin</i> and the) accused is executed.
A contradiction	We are always lenient in capital cases.	In this capital case we are not lenient. If we were lenient we would say that both sets of witnesses are disqualified because one set became <i>zomemin</i> .
An answer:	Kasha!	

**6b) R' Yose on warnings.**

	Our Mishna	Mishna 9b
	R' Yose: Both witnesses have to warn the accused	R' Yose: An enemy is executed because he is on notice and forewarned.
Rav Pappa's contradiction	This implies that warnings are required.	This implies that warnings are not required.
Abaye's resolution.  The R' Yose from Our Mishna is not the same person as the R' Yose from Mishna 9b. So there is no contradiction.		Abaya says the R' Yose from Mishna 9b is R' Yose bar Yehuda who also said: A scholar does not need a warning. Warnings are only to make a difference between <i>shogeg</i> (accidental) and <i>mezid</i> (intentional.)

**7a Mishna) How often a Sanhedrin executes.**

Tanna Kamma	A Sanhedrin that executes one in 7 years is called a destroyer.
R' Eliezer ben Azaryah	Once in 70 years (is called a destroyer).
R' Tarfon and R' Akiva	"If we were on the <i>Sanhedrin</i> , there would be no executions."
Rabban Shimon ben Gamliel	Not executing people who deserve to be executed "increase the spillers of blood in Israel."

**7a) Abave on an escapee being recaptured in a different court.**

	Beginning of the Mishna	End of the Mishna
	If a person escaped and came before the same court, they do not have a retrial.	If two testify that someone was sentenced and so-and-so were the witnesses, the accused is executed.
A contradiction	This implies that if he escaped and came to a different court, they do have a retrial.	Do not have a retrial and execute.
Abaye's resolution	In <i>Eretz Yisroel</i>	In <i>Chutz L'aretz</i>
A proof of Abaya's resolution from a Tosefta:  R' Yehudah ben Dostai in the name of Shimon ben Shatach said	If one escaped from <i>Chutz L'aretz</i> and came to <i>Eretz Yisroel</i> , then have a retrial (In the merit that the trial is in <i>Eretz Yisroel</i> and they might find a loophole and exonerate.)	If one escaped from <i>Eretz Yisroel</i> and came to <i>Chutz L'aretz</i> , then do not have a retrial. Execute him.

# Chapter Two

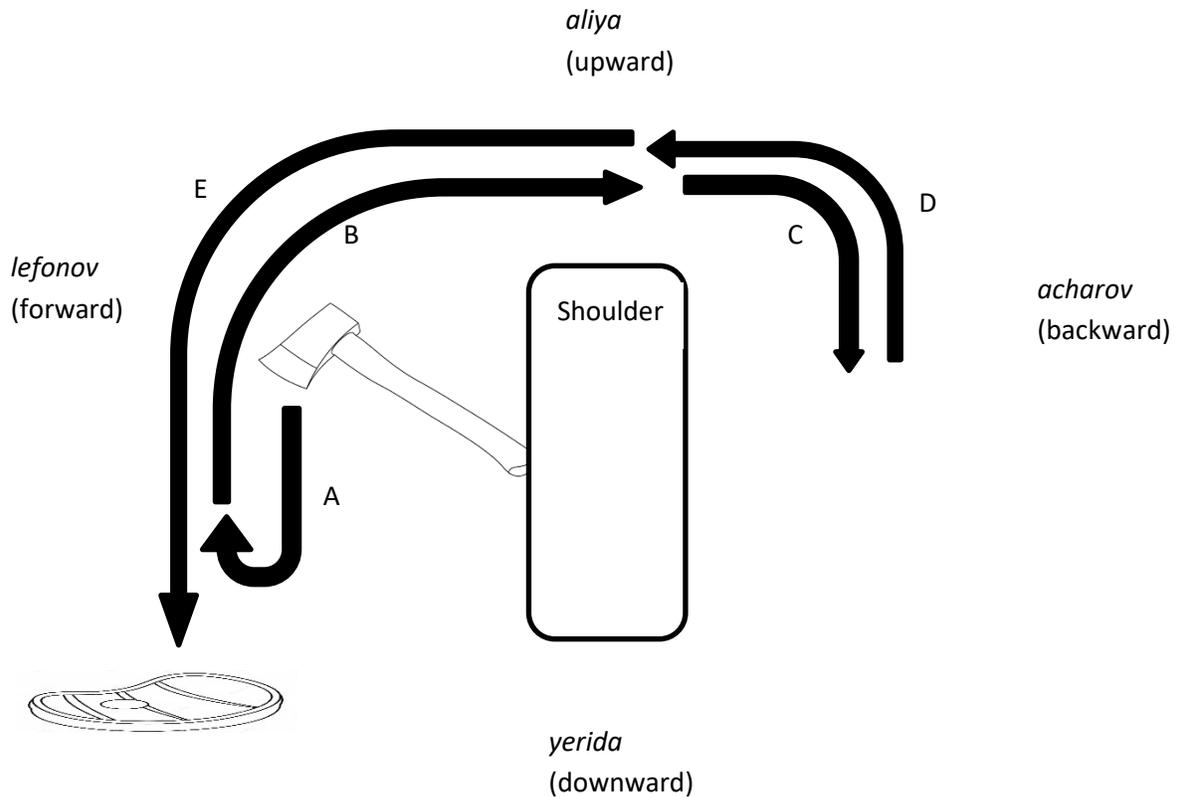
## 7a) Phrases to describe when one goes to exile and what the phrases exclude.

Phrase	To exclude...
<i>shogeg</i> (inadvertently)	<p><i>mazid</i> (deliberately).  <b>Isn't that obvious!?!</b>            Rava: it excludes one who thinks it is permitted to murder.            Abaya: one who thinks it is permitted to murder = <i>oness</i> (a victim of unavoidable circumstances) and that is definitely not <i>mazid</i> (deliberately).            Rava: one who thinks it is permitted to murder=<i>korev lemazid</i> (close to deliberate.)</p>
<i>bli daas</i> (without awareness)	<p><i>miskavin</i> (intentionally)  <b>Isn't that obvious? He is executed.</b>            Rabbah:</p> <ul style="list-style-type: none"> <li>• Someone who <u>intended</u> to kill an animal, but instead killed a human.</li> <li>• Someone who <u>intended</u> to kill a Kusie, but instead killed a Yisroel.</li> <li>• Someone who <u>intended</u> to kill a non-viable infant, but instead killed a viable infant.</li> </ul>
<i>Im befesa</i> (if suddenly)	Someone holding a knife, turns a corner and accidently kills.
<i>loy ayvo</i> (without malice)	An enemy of the victim. (He does not go to exile.)
<i>hadofo</i> (he pushed him) or he threw something on him. "A downward motion that is needed for an upward motion."	
<i>b'loy tzidyoh</i> (without ambush)	He aimed one way and it came out another way.
<i>asher loy tzodo</i> (and one who did not ambush)	He aimed two <i>amos</i> away but threw it four <i>amos</i> away.

**7b) Our Mishna and killing while going up a ladder.**

			Our Mishna	
			First part of the rule	Second part of the rule
			Whoever kills in a motion that is downward is exiled.	Whoever kills in a motion that is not downward is not exiled.
R' Abahu's Contradiction			This implies that whoever kills in a motion that is not downward is not exiled.	<p>Since this was already implied by the first part of the rule, this must imply something else. This part implies the case where someone was going up a ladder and dislodged a rung. He is not exiled.</p> <p>This contradicts R' Yochanan who said that the case of a downward motion that is needed for an upward motion is exiled.</p>
R' Yochanan's resolution			This part of the rule is about the butcher.	This part of the rule is about the butcher.

**7b) The case of the butcher.**



The Four Baraisas	
Forward	Backward
EXILED because it is a downward motion A (or E)	NOT EXILED because it is an upward motion B
NOT EXILED because it is an upward motion D	EXILED because it is a downward motion C
EXILED because it is a downward motion A (or E)	EXILED because it is a downward motion C
NOT EXILED because it is an upward motion D	NOT EXILED because it is an upward motion B

**7b) Understanding the conflicting Baraisas about killing while going up a ladder.**

First Baraisa	Second Baraisa
If one goes up a ladder, dislodges a rung and kills another he is liable.	If one goes up a ladder, dislodges a rung and kills another he is exempt.
It is a downward motion and he is liable to exile.	It is an upward motion and is exempt from exile.
<p>It is an upward motion and is exempt from exile.</p> <p>This Baraisa is talking about where the victim did not die. The person climbing the ladder is liable to payment.</p>	It is an upward motion and is exempt from exile.
The rung was rotted and he should have been more careful.	The rung was not rotted so he did not have to be more careful.
The rung was not securely attached and he should have been more careful.	The rung was securely attached so he did not have to be more careful.

**7b Mishna and Gemara) Accidentally killing while axing a tree.**

	Rebbi	Chachomim
Flying axe handle	<p>NOT EXILED</p> <p>It is <i>korev l'mezid</i> and exile is not a <i>kapporah</i>.</p>	<p>EXILED</p> <p>Rebbi: The <i>posuk</i> does not say “the iron slipped from the wood.” It says “from the wood.”</p>
Flying woodchip	<p>EXILED</p> <p>1) The <i>posuk</i> does not say “the iron slipped from the wood.” It says “from the wood.”</p> <p>2) The <i>posuk</i> uses the word wood twice. The first time it means a tree, so the second time it means the tree.</p>	<p>NOT EXILED</p> <p>It is an unusual occurrence and he does not have to worry about it.</p>
Rav Chiya bar Ashi in the name of Rav explains the difference in Tanayim.	<p>“<i>ve'nashal</i> the iron from the wood”</p> <p>He follows how the word is spelt: <i>ve'nishal</i></p> <p>It caused (active) something (woodchips) to fly.</p> <p>How can Rebbi say to follow the word as it is spelt? Everyone says to follow the way the word is read.</p> <p>This is why Rebbi gave a second explanation.</p>	<p>“<i>ve'nashal</i> the iron from the wood”</p> <p>He follows how the word is read: <i>ve'nashal</i></p> <p>It was caused (passive) to fly (the axe handle).</p>

**8a) Different levels of flying objects.**

	Primary	Secondary	Tertiary
	Rebbi says this is <i>karev l'mezid</i> and no exile.	Rebbi says this is where the accidental killer gets exile.	Rebbi says this does not even need exile.
Our Mishna: An axe handle flies.	Axe handle		
Our Mishna: An axe sends a woodchip flying.	Axe handle	Woodchip	
Rav Pappa: Someone throws dirt, which causes a date to fly.  This is the same case as above.  We need to state it because you might think otherwise since the axe stays in the hand but the dirt leaves the hand.	Dirt	Date	
Gemara: Someone throws dirt, which causes a stem to fly which causes a date to fly and kill someone.	Dirt	Stem	Date

**8a) Throwing a stone in a public domain.**

Mishna	<p>If one throws a stone into a public domain and kills, he gets exile.</p> <p><b>That is <i>mazid!</i></b></p>					
Rav Shmuel bar Yitzchak	<p>If one throws a stone into a public domain and kills <u>while dismantling his wall</u>, he gets exile.</p> <p><b>He should have checked.</b></p>					
	<p>If one throws a stone into a public domain and kills, while dismantling his wall <u>at night</u>, he gets exile.</p> <p><b>He still should have checked.</b></p>					
	<p>If one throws a stone into a public domain and kills, while dismantling his wall at night <u>next to a trash pile (and did not think people were there)</u>, he gets exile.</p> <p style="text-align: center;"><b>He should have checked.</b></p>					
	<p><b>... If there are a lot of people ...</b></p> <p><b>He is negligent and does not get exile.</b></p>	<p><b>... If there are not a lot of people ...</b></p> <p><b>He is an <i>ones</i> and does not get exile.</b></p>				
Rav Pappa	<p>If one throws a stone into a public domain and kills, while dismantling his wall during the day next to a trash pile <u>that people use as a bathroom</u>, he gets exile.</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top; border-right: 1px solid black; padding-right: 10px;"> <p>During the night, it is used by people</p> <p>He is not negligent because he throws it during the day when most people do not use it.</p> </td> <td style="width: 50%; vertical-align: top; padding-left: 10px;"> <p>During the day, it is not used by many people but it is used by some people.</p> <p>He is not an <i>ones</i> because some people are there during the day.</p> </td> </tr> <tr> <td colspan="2" style="text-align: center; padding-top: 10px;"> <p><b>HE IS EXILED.</b></p> </td> </tr> </table>		<p>During the night, it is used by people</p> <p>He is not negligent because he throws it during the day when most people do not use it.</p>	<p>During the day, it is not used by many people but it is used by some people.</p> <p>He is not an <i>ones</i> because some people are there during the day.</p>	<p><b>HE IS EXILED.</b></p>	
<p>During the night, it is used by people</p> <p>He is not negligent because he throws it during the day when most people do not use it.</p>	<p>During the day, it is not used by many people but it is used by some people.</p> <p>He is not an <i>ones</i> because some people are there during the day.</p>					
<p><b>HE IS EXILED.</b></p>						

**8a) A contradiction about the word motza found.**

	A Braisa	A Braisa
	<p>“If it found his fellow man and he died”</p> <p>R’ Eliezer ben Yaakov said that if the stone left the killer’s hand and the victim pushed his head out, and was killed, the killer is free. (But if his head was out from before, he is exiled.)</p>	<p>“(If a man who had sold his land) found enough to redeem the land (he should be able to buy it back.”</p> <p>He cannot redeem a closer field for a further field. He cannot redeem a bad field for a good field. (But if he did not have other fields before, he can redeem.)</p>
A contradiction	The word <i>motza</i> means found what was there before.	The word <i>motza</i> means found what was not there before.
Rava’s resolution	You have to look at the context of the word. Here <i>motza</i> means the stone found what was there before (like a forest.)	You have to look at the context of the word. Here <i>motza</i> means he will find the money redeem the field.

**8a) First version of Rava defending an action that is only voluntary.****(The accidental killer must be doing a voluntary action.)**

Our Mishna	
<p>Abba Shaul: Just as chopping wood is voluntary, so too (the accidental killer) must be doing a voluntary action to get exiled. (If he was doing an obligatory action, than he is not exiled.)</p> <p style="text-align: center;">This is to exclude obligatory actions such as</p> <ul style="list-style-type: none"> <li>• A father who hits his son</li> <li>• A teacher who hits his student</li> <li>• A <i>shliach</i> of Beis Din</li> </ul>	
Maybe someone doing an obligatory action also gets exiled:	Rava defending that the action has to be voluntary to get exiled:
Maybe the chopping of wood was an obligatory mitzvah for a succah or for burning wood in the beis hamigdash.	Chopping wood for these mitzvos are not a mitzvah. If you find wood, you do not need to chop more. They are a <i>hechsher mitzvah</i> .
<p>Ravina: by Rava's logic, since a son or a student might not need to be hit, maybe these actions:</p> <ul style="list-style-type: none"> <li>• A father who hits his son</li> <li>• A teacher who hits his student</li> <li>• A <i>shliach</i> of Beis Din</li> </ul> <p>are also <i>hechsher mitzvos</i>. And yet Our Mishna uses these actions as examples of obligatory actions. So Rava is wrong for calling these actions <i>hechsher mitzvos</i>.</p>	Even if he would learn, it would still be an obligation to hit him as it says "Hit your son and he will bring you rest and delights to your soul."
	Rava gave another answer: The posik says. " <u>If</u> ( <i>asher</i> ) one comes to the forest with his friend." It is voluntary for him to come into the forest and do the action.
Rav Adda bar Ahava: Not every time the word <i>asher</i> is used is it voluntary. "If ( <i>asher</i> ) a man becomes <i>tomei</i> and does not purify himself." This situation is not always voluntary. When someone sees a <i>meis mitzvah</i> , he is obliged to become <i>tomei</i> . Nevertheless, if he goes to the <i>beis hamigdash</i> he gets <i>kores</i> .	In the case of <i>tomei</i> it is different because the posuk say "he shall be <i>tomei</i> ." This means that one gets <i>kores</i> for going to the <i>beis hamigdash</i> whether the action was voluntary or obligatory.
We used "he shall be <i>tomei</i> " for another ruling.	Rava: I learned that other ruling another way.

**8a) Second version of Rava defending an action that is only voluntary.**

**(Reaping for voluntary is prohibited on Shabbos.)**

<p>A Baraisa Similar to Mishna Sheviis 1:4</p> <p>“The plowing and the reaping you shall rest”</p>	
<p>R’ Akiva The posuk is about <i>Shmitta</i></p>	<p>R’ Yishmael The posuk is about Shabbos</p>
<p>This <i>posuk</i> teaches that one cannot plow on the year before <i>shmitta</i> or reap on the year after <i>shmitta</i>.</p>	<p>This <i>posuk</i> teaches that only voluntary reaping is prohibited on Shabbos (“you shall rest”). Since there is only voluntary plowing and the words “reaping” and “plowing” are said together, only voluntary reaping is prohibited. However, a reaping that is obligatory --- for a mitzvah --- is permitted on Shabbos.</p>
<p>Maybe it is also prohibited to perform an obligatory reaping:</p>	<p>Rava defending that all plowing is voluntary:</p>
<p>Maybe the plowing mentioned in the posuk is for an obligatory mitzvah such as plowing to make grain for the <i>omar</i>.</p>	<p>Plowing to make grain for the <i>omar</i> is not a mitzvah. If you find grain, you do not need to plow for more. It is a <i>hechsher mitzvah</i>.</p>
<p>Ravina: by Rava’s logic, since a son or a student might not need to be hit, maybe these actions:</p> <ul style="list-style-type: none"> <li>• A father who hits his son</li> <li>• A teacher who hits his student</li> <li>• A <i>shliach</i> of Beis Din</li> </ul> <p>are also <i>hechsher mitzvos</i>. And yet Our Mishna uses these actions as examples of obligatory actions. So Rava is wrong for calling these actions <i>hechsher mitzvos</i>.</p>	<p>Even if he would learn, it would still be an obligation to hit him as it says “Hit your son and he will bring you rest (and delights to your soul.)”</p>
	<p>Rava gave another answer: R’ Yishmael meant that just as plowing (even if you found other grain) one does not plow, so too reaping (even if there is found ) one need not reap. But for the <i>Omar</i>, where it is a mitzvah even if there is others, he is permitted to do it on Shabbos.</p>

**8b) A contradiction of Mishnas about a father accidentally killing his son.**

	Our Mishna 8b	The last Mishna 8a
	A father who accidentally kills his son is exiled.	A father who hits his son is not exiled.
A contradiction	The father is exiled.	A father is not exiled.
A resolution	<p>The son would learn without being forced. Since there was no reason for the father to hit the son, the father is exiled.</p> <p>But we learned that the father should hit the son even if the son does not need it.</p>	<p>The son needed to be hit to learn. So the father is not exiled.</p>
Another resolution	<p>The father was teaching the son a trade. The father was not teaching the son to learn. Since the father hit him for no reason, the father is exiled.</p> <p>A father has an obligation to teach his son a trade also. So the father should not be punished for hitting the son.</p> <p>The son already knows one trade. There was no obligation to teach him a second trade.</p>	<p>The father is teaching the son to learn.</p>

**8b) A contradiction of Tanavim about a son accidentally killing his father.**

	Our Mishna	A Braisa
	A son who accidentally kills his father is exiled.	“One who strikes a person dead... goes to exile.” This excludes a son who strikes his father.
A contradiction	A son who accidentally kills his father is exiled.	A son who strikes his father does not go to exile (exile will not be a <i>kapporah</i> .)
Rav Kahana’s resolution	This follows the <i>Rabbonin</i> who say  Beheading > Strangulation  A son killing his father is beheaded and when a beheading crime is done <i>shogeg</i> , then he is exiled.	This follow R’ Shimon who say  Strangulation > Beheading  A son killing his father is strangulation and when a strangulation crime is done <i>shogeg</i> , then exile does not give him a <i>kapporah</i> .
Rava’s resolution	A son who kills his father is exiled.  (But a son who only wounds his father accidentally is not exiled.)	“One who strikes a person dead... goes to exile.” This excludes a son who only wounds his father. In this case he does not go to exile.

**8b) A Baraisa on Jews, Slaves and Cussies.**

	A slave or Cussie doing to a Jew	A Jew doing to a slave or a Cussie
Exile	If the slave or Cussie accidentally killed the Jew.	If the Jew accidentally killed the Cussie (or a slave).
<i>Malkus</i>	If the slave or the Cussie cursed the Jew.	<p>If a Jew curses a Cussie, he gets <i>malkus</i>.</p> <p>“A prince among your people, you should not curse.” But why shouldn’t a Jew curse a Cussie?</p> <p>Rav Acha bar Yaakov: A Jew testified against a Cussie about a sin that gets <i>malkus</i>, and the Jew was shown to be a <i>zomemin</i> and got <i>malkus</i>.</p> <p>If this is so, then the same ruling should be if a slave testifies against a Jew. But a slave cannot testify against a Jew.</p> <p>Rav: Acha the son of Rav Ikka: A Jew hit a Cussie but it was not worthy of a <i>perutah</i>. Rav Ami said in the name of R’ Yochanan that he gets <i>malkus</i>.</p>

**9a) First version of a contradiction about a *ger toshav* (resident alien) killing.**

	Middle of the Mishna	End of the Mishna
	“All are exiled except for a <i>ger toshav</i> .”	“A <i>ger toshav</i> is not exiled except if he killed another <i>ger toshav</i> .”
A contradiction	So a <i>ger toshav</i> is treated like an idolater and is not exiled.	So a <i>ger toshav</i> who accidentally kills is exiled.
Rav Kahana’s resolution	Here a <i>ger toshav</i> killed a Jew and is not exiled. However, if he killed another <i>ger toshav</i> , he would be exiled.	Here a <i>ger toshav</i> killed another <i>ger toshuv</i> .

**9a) Second version of a contradiction about a *ger toshav* (resident alien) killing.**

	One <i>posuk</i>	Second <i>posuk</i>
	“For the Bnei Yisroel, convert, and the ( <i>ger</i> ) <i>toshav</i> among them shall the six cities be a refuge.	“The cities should be a refuge for you.”
A contradiction	So a <i>ger toshav</i> is exiled.	“for you” and not a <i>ger toshav</i> .” So a <i>ger toshav</i> is not exiled.
Rav Kahana’s resolution	Here a <i>ger toshav</i> killed another <i>ger toshuv</i> .	Here a <i>ger toshav</i> killed a Jew and is not exiled. However, if he killed another <i>ger toshav</i> , he would be exiled.

**9a) Another contradiction about a *ger toshav* (resident alien) killing.**

	Our Mishna	A Baraisa
	“A <i>ger toshav</i> is not exiled except if he killed another <i>ger toshav</i> .”	“A <i>ger toshav</i> , and an idolater that accidently killed are executed.”
A contradiction	So a <i>ger toshav</i> who killed is exiled.	The law of a <i>ger toshav</i> and an idolater are the same. So a <i>ger toshav</i> who kills one of his own or another is executed.
Rav Chisda’s resolution	Here the <i>ger toshav</i> killed with a downward motion. That is why he is exiled.	Here the <i>ger toshav</i> killed with an upward motion.  Rava: This does not make sense. An upward motion is less of an action. A Jew does not even go to exile. Surely, the punishment for an upward motion should be less.
Rava’s resolution		The <i>ger toshav</i> thinks he is permitted to kill. A Jew in this case does not get exiled. A <i>ger toshav</i> in this case is executed.  Abaya: One who thinks that it is permitted to kill is an <i>ones</i> and should not be executed.  Rava: I hold that one who thinks it is permitted is <i>korev l’mезд</i> .

**9b) The names of the cities of refuge.**

In Eretz Yisroel	Across the Jordan
Hebron	Betzer
Shechem	Ramah
Kedesh	Golan

**9b) The splitting of Eretz Yisroel with cities of refuge.**

Northern border
Kedesh
Shechem
Hebron
Southern border

**9b) Two Baraisas about R' Shimon on breaking and slipping.**

	First Baraisa R' Shimon said there is an enemy who is exiled and an enemy who is not exiled.	Second Baraisa R' Shimon said one is never exiled unless his tool slipped out of his hand and killed someone.
Broke	HE IS EXILED Because it was not intentional. He follows the Rabonim who said that if the head of an axe broke off, he is exiled.	HE IS NOT EXILED He follows Rebbe who says that if the head of an axe broke off, he is not exiled.
	HE IS NOT EXILED Because it might be intentional and then he does not deserve the <i>kapporah</i> (atonement) of exile. The victim is an enemy.	HE IS EXILED The victim is a friend

**10b) The goal hadom kills the accidental killer.**

Rav Huna:	
If an accidental killer was killed by the <i>goal hadom</i> on the way to the city, the <i>goal hadom</i> is exempt from punishment. “There is no death penalty upon <u>him</u> ” “him” the <i>goal hadom</i> .	
First baraisa (which disagree with Rav Huna)	
“There is no death penalty upon <u>him</u> ” “him” the accidental killer. Because the next phrase is “and he did not hate him yesterday and the day before yesterday.” Since this second part is about the accidental killer who does not hate, the first part is also talking about the accidental killer.	
Second baraisa (which agrees with Rav Huna)	
“There is no death penalty upon <u>him</u> ” “him” the <i>goal hadom</i> . Because the next phrase is “and he did not hate him yesterday and the day before yesterday.” Since this second part is about the accidental killer, who does not hate, the first part must be about someone else: the <i>goal hadom</i> .	
Our Mishna (which disagrees with Rav Huna.)	
We send the accidental killer to the city of refuge with two scholars to talk to the <i>goal hadom</i> that he should not kill the accidental killer. So we see that the <i>goal hadom</i> is not permitted to kill the accidental killer.	
No. The two scholars just plead for the accidental killer’s life. They do not give a formal <i>psak</i> that the <i>goal hadom</i> is not permitted to kill the accidental killer. So this Mishna can agree with Rav Huna.	

**10b) A city without elders.**

		Cities of Refuge	<i>Ben soyra um'moreh</i>	<i>Eglah arufah</i>
R' Ami and R' Assi	One	A city without elders does not provides refuge. Because it says “(an accidental killer) should speak his matters to the elders of that city.”	A city without elders does not have laws of wayward sons. Because the parents are supposed to take him to “the elders of the city.”	A city without elders cannot bring an <i>eglah arufah</i> . Because the <i>eglah arufah</i> is supposed to be brought by “the elders of the city”
	The other	A city without elders does provide refuge.	A city without elders does have laws of a wayward son.	A city without elders still brings an <i>eglah arufah</i> .

**11a) Arguments with R' Yehudah.**

<i>Machlokis</i> with	Topic	One opinion	The other opinion
Rabonim	Why the strong word “ <i>dibur</i> ” was used when describing the cities of refuge.	Yehoshua did not set up the cities of refuge quickly enough.	They are words of Torah. That is, Yehoshua is repeating what is in Torah where “ <i>dibur</i> ” is used.
R' Nechemyah	What does it mean when it says in Sefer Yehoshuah 24:26 “And Yehoshuah wrote these words in the Sefer Torah of Hashem.”	Yehoshua wrote the last eight <i>pesukim</i> of Torah.	Yehoshua wrote about the cities of refuge in Sefer Yehoshua.  But it says “The Sefer Torah of Hashem”!?!  Yehoshua quoted in Sefer Yehoshua the words of the Torah.
R' Meir	A Torah scroll that was sewn together with linen (as opposed to sinews).	It is valid	It is invalid.

**11a) Prayers for the *Kohanim Gadolim*.**

	First version of the Mishna	Second version of the Mishna
	The mothers of the <i>Kohanim Gadolim</i> supplied food so that the exiles <u>should not pray</u> that the <i>Kohanim Gadolim</i> <u>should die</u> .	The mothers of the <i>Kohanim Gadolim</i> supplied food so that the exiles <u>should pray</u> for the <i>Kohanim Gadolim</i> , that they <u>should not die</u> .
Inference	If the exiles did pray, then the <i>Kohanim Gadolim</i> would die?!?	If the exiles did not pray, the <i>Kohanim Gadolim</i> would die?!?
Said in the name of Rav.	The <i>Kohanim Gadolim</i> should have prayed that the generation not have accidental deaths. Therefore, they are partially to blame.	

**11a-11b) Undeserved curses.**

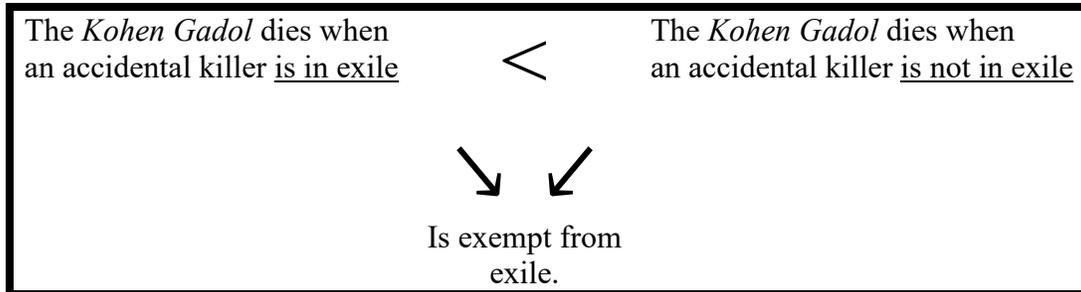
Said by	Rule	Example
Rav Yehudah	An undeserved curse of a <i>chochom</i> will come true.	Dovid HaMelech conditionally cursed Achitophel.
R' Abahu	A conditional curse will come true.	Eli conditionally cursed Shmuel.
Rav Yehudah in the name of Rav	A conditional curse needs annulment.	Yehudah conditionally cursed himself in front of Yaakov.

**12a) The words of Torah provide a refuge.**

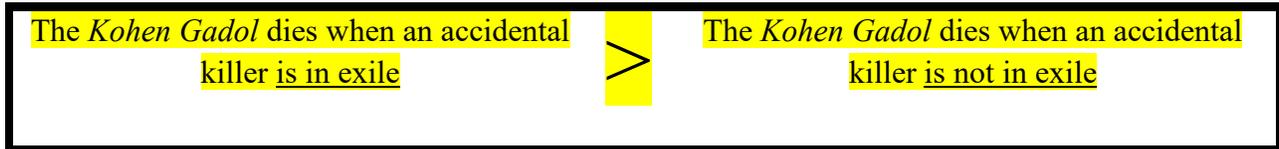
	A Baraisa	R' Yochanan
	If a student was exiled, send his teacher with him.	Where do we learn that the words of Torah provide a refuge? Because it says "Betzer (a city of refuge) in the desert" and then "This is the Torah"
A contradiction	A student of Torah accidentally killed implies that the words of Torah do not provide a refuge	R' Yochanan believes that the words of Torah provide a refuge
First resolution	The student was not studying when this happened.	It is a refuge only when you are studying Torah.
Second resolution		It is a refuge from the <i>Malach Ha'movis</i> not from accidental killing.

**11b) Abaya's reason why a sentenced accidental killer does not go to exile if the *Kohen Gadol* dies.**

*A kal va'chomer*



No. The one in exile had a *kapparah* (atonement) by being in exile. The one who was not in exile needs a *kapparah* (atonement). So the above looks more like this



Exile does not complete a *kapparah*! (After all, he could have been in exile for one day or many years.) Rather the death of the *Kohen Gadol* is the event that completes the *kapparah*.

**11b-12a) The Amoroyim conforming to the Tannaim about a disqualified *Kohen Gadol*.**

		Tanayim		
		R' Eliezer All the previous offerings of a disqualified <i>Kohen Gadol</i> are invalid	R' Yehoshua All the previous offerings of a disqualified <i>Kohen Gadol</i> are valid	
Amoroyim: R' Ami and R' Yitzchak Nafcha	The obvious view	A disqualified <i>Kohen Gadol</i> is like a dead <i>Kohen Gadol</i> and a sentenced accidental killer does not have to go to exile.	DISAGREE	AGREE  It is as if the <i>Kohen Gadol</i> was alive and now is dead. However, his previous self was valid.
		A disqualified <i>Kohen Gadol</i> is like a nullified <i>Kohen Gadol</i> and a sentenced accidental killer stays in exile forever.	AGREE  It is as if the <i>Kohen Gadol</i> never existed.	DISAGREE
	Another view	A disqualified <i>Kohen Gadol</i> is like a dead <i>Kohen Gadol</i> and a sentenced accidental killer does not have to go to exile.	DISAGREE	AGREE  It is as if the <i>Kohen Gadol</i> was alive and now is dead. However, his previous self was valid.
		A disqualified <i>Kohen Gadol</i> is like a nullified <i>Kohen Gadol</i> and a sentenced accidental killer stays in exile forever.	AGREE  It is as if the <i>Kohen Gadol</i> never existed.	AGREE  It is as if the <i>Kohen Gadol</i> never existed. He is nullified. However, there is a special <i>posuk</i> "Bless his belongings, Hashem, and the deeds of his hands accept" which teaches that the offerings of a disqualified <i>Kohen Gadol</i> are accepted.

**12a) Yoav's errors in finding refuge.**

	Yoav's action	Yoav's error
Rav Yehudah in the name of Rav	He grabbed the horns of the alter for refuge.	Only the roof of the alter gives refuge.
	He grabbed the alter at Shiloh	Only the permanent alter gives refuge.
Abaya	He thought he, a non-Kohen, could get refuge.	Only a Kohen can get refuge.

**12a) The Sar of Rome's errors in finding refuge.**

	The Sar of Rome's action	The Sar of Rome's error
Reish Lakish	He went to Batzrah for refuge.	Only Betzer gives refuge.
	He thought he could get refuge even though he intentionally killed.	There is only refuge for an accidental killer.
	He thought he, a <i>malach</i> , could get refuge.	Only a human can get refuge.

**12a) Does the *tchum* of a city of refuge give refuge?**

	Our Mishna	A Baraisa
	Just as the city gives refuge, so does its <i>tchum</i> .	“and he shall live <u>in it</u> ” “ <u>in it</u> ” the city but not in the <i>tchum</i> .
A contradiction	This implies that the <i>tchum</i> of a city does give refuge.	This implies that the <i>tchum</i> of a city does not give refuge.
Abaya's resolution	The Mishna says the <i>tchum</i> gives refuge	The <i>posuk</i> says he can <u>live</u> in the city but not in the <i>tchum</i> . However, the <i>tchum</i> still gives refuge.

**12a-12b) A tree at the edge of a city of refuge.**

	Our Mishna  Everything goes by where the branches are.	Mishna <i>Maaser Sheni</i> 3:7  From the wall and inside is inside city (and you can eat <i>masser</i> ). From the wall and out is considered outside the city (and you cannot eat <i>masser</i> ).	Mishna <i>Maasros</i> 3:10  In Jerusalem the tree goes after the branches. In cities of refuge the tree goes by branches.
A contradiction	The location of a tree is decided by the position of its branches.	Different parts of the tree are considered to be in different areas.	
A resolution	Dwelling in a city of refuge gives protection. Here we say that the branches (not the trunk) form a dwelling.	One can eat within the walls of the city. The tree has nothing to do with it.	
A contradiction		Different parts of the tree are considered to be in different areas.	The trees position depends on the position of the branches.
Rav Kahana's resolution:	A Baraisa: Rav Yehudah says (A cave goes according to the opening and) a tree goes according to the branches. [The Rabonim believe the opposite.		
	This ruling follows Rav Yehudah	This ruling follows the Rabonim	This ruling follows Rav Yehudah
A problem with Rav Kahana	Here R' Yehudah is not being strict. Because if the trunk is inside the city and the branches are outside, the <i>goal hadom</i> can kill the accidental killer.		Here R' Yehuda is being strict. Because he cannot redeem or eat where the trunk is. Only where the branches are.
Rava's resolution	Here R' Yehudah is also strict because he rules that the <i>goal hadam</i> cannot use the trunk as a ladder to get the accidental killer on the branches.		
Rav Ashi understanding of Rav Kahana	The Mishna says we go by the tree <u>and also the branches</u> . Here also R' Yehudah is being strict because the <i>goal hadom</i> cannot kill by the branches.		

**13a) On a refugee paying rent in a city of refuge.**

		R' Yehudah	R' Meir
Rav Kahana	The Six Cities	PAY RENT “And the cities shall be <u>for you</u> a refuge.” A refuge from any avenger but not for you to have free rent.	DO NOT PAY RENT “And the cities shall be <u>for you</u> a refuge” “ <u>for you</u> ” that means for all your needs including rent.
	The 42 Cities	PAY RENT The <i>posuk</i> “And the cities shall be for you a refuge” does not go on the 42 cities.	
Rava	The Six Cities	DO NOT PAY RENT “And the cities shall be <u>for you</u> a refuge” “ <u>for you</u> ” that means for all your needs including rent.	
	The 42 Cities	PAY RENT “And you shall give in addition to them (six cities) 42 cities.” But only for the six cities are “ <u>for you.</u> ” The rest pay rent.	DO NOT PAY RENT “And you shall give in addition to them (six cities) 42 cities.” Just like in the six cities, rent is not paid, so too in the 42 cities, rent is not paid.

**13a) What the exile gets back to the exile when he returns home?**

This is true for the returning exile and the freed Jewish slave.

		Father's Possessions	Father's Position
R' Yehudah	“And he shall return to his family and to the holdings of his father he shall return.” His father's possessions.	GET	NOT GET “And he shall return to his family and to <u>the holdings of his father</u> he shall return.” “ <u>the holdings of his father</u> ” but not his position.
R' Meir			GET “And he shall return to his family and to <u>the holdings of his father</u> he shall return.” His father's possessions and his father's position.

# Chapter Three

**13a) A Baraisa on which punishments also get *malkus*.**

	R' Yishmael	R' Akiva (and our Mishna)	R' Yitzchak
<i>Kares</i>	<i>MALKUS</i> “If you will not be vigilant (against negative commandments) to perform (an action) all the commands of the Torah, Hashem will make extraordinary	<i>MALKUS</i> They can repent and then only get <i>malkus</i> .	<i>NO MALKUS</i> We learn this from someone who had relations with his sister. He gets <i>kares</i> and not <i>malkus</i> .
Execution	( <i>hifla=malkus</i> ) your blows.”	<i>NO MALKUS</i> Even if they repent, they still get executed. So they will get the one punishment of executed.	

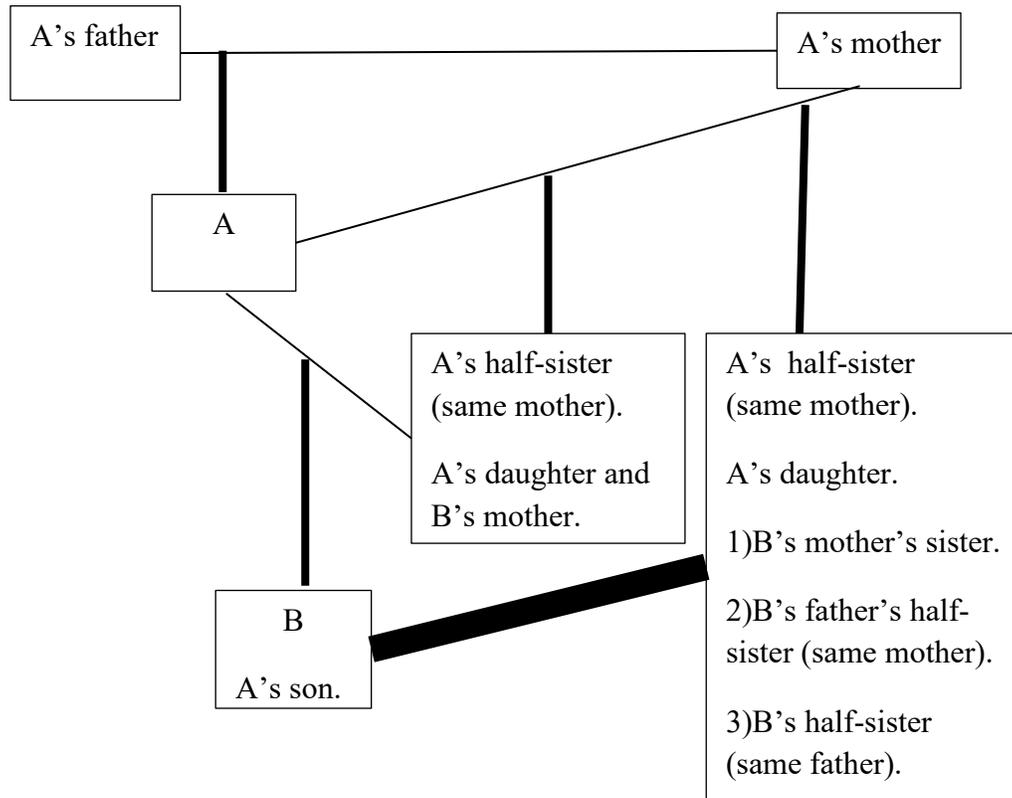
**13b-14a) Why does R' Akiva hold that executions do not gets *malkus*?**

Reason	Problem									
<p><i>Malkus</i> should be given “according to his wickedness (singular).” Every crime should get one and not two punishments.</p> <p>(R' Yishmael says this rule is only for execution and money, or <i>malkus</i> and money. He does not hold of this rule for executions and <i>malkus</i>.)</p>	<p>So why does R' Akiva say that someone who gets <i>kares</i> should also get <i>malkus</i>? That is two punishments.</p> <p>Because someone who is supposed to get <i>kares</i> can repent and then they only get the one punishment of <i>malkus</i>.</p> <p>But if they do not repent, they will get <i>kares</i> and <i>malkus</i> which is two punishments.</p> <p>----</p> <p>R' Abahu says that someone who is supposed to get <i>kares</i> also gets <i>malkus</i> from a <i>gezeriah shava</i>.</p> <p>R' Abba bar Mammal disagrees with the <i>gezeriah shava</i>.</p>									
<p>R' Shmuel bar Rav Yitzchok says that <i>Malkus</i> should be given “according to his wickedness (singular)” is a rule give to <i>beis din</i>. <i>Kares</i> is not given by <i>beis din</i>.</p>										
<p>Rava says:</p> <table border="1" data-bbox="191 1184 777 1409"> <thead> <tr> <th></th> <th>R'Yishmael</th> <th>R' Akiva</th> </tr> </thead> <tbody> <tr> <td>Warned of execution</td> <td colspan="2">ONLY EXECUTION</td> </tr> <tr> <td>Warned about <i>malkus</i></td> <td><i>MALKUS</i></td> <td>NO <i>MALKUS</i> ONLY EXECUTION</td> </tr> </tbody> </table> <p>R' Akiva thinks that the human warning is meaningless.</p>		R'Yishmael	R' Akiva	Warned of execution	ONLY EXECUTION		Warned about <i>malkus</i>	<i>MALKUS</i>	NO <i>MALKUS</i> ONLY EXECUTION	<p>Then R' Akiva should hold no <i>malkus</i> for someone who gets <i>kares</i> also. But we saw that R' Akiva holds that someone who gets <i>kares</i> should get <i>malkus</i>.</p> <p>Rav Mordechai ... Rava: people who get <i>kares</i> do not require a warning.</p>
	R'Yishmael	R' Akiva								
Warned of execution	ONLY EXECUTION									
Warned about <i>malkus</i>	<i>MALKUS</i>	NO <i>MALKUS</i> ONLY EXECUTION								
<p>Ravina: Like it was said on top, every crime should get one punishment. Execution does not get <i>malkus</i> because that would be two. <i>Kares</i> does get <i>malkus</i> even if he might repent because he might not repent. Every crime should get one <u>definite</u> punishment.</p>										

**14a) The different drashas of R' Yitzchok and the Chachomim about malkus.**

<i>Chachomem</i> = R' Yishmael and R' Akiva	R' Yitzchok
	<p>Q: Why does R' Yitzchok say no <i>malkus</i>?</p> <p>A: We learn this from someone who had relations with his sister. The posuk reiterated that he gets <i>kares</i>. He gets <i>kares</i> and not <i>malkus</i>.</p>
<p>Q: What do the <i>Chachomim</i> do with the fact that it was reiterated for one who has relations with his sister?</p> <p>A: It teaches (like R' Yochanan) that if someone did many <i>kares</i> sins, they have to bring separate <i>chatases</i>.</p>	<p>Q: How does R' Yitzchok learn that if someone did many <i>kares</i> sins, they have to bring separate <i>chatases</i>?</p> <p>A: He learns it from “and a <u>woman</u> in her <i>niddah</i> state.” It says the extra “women” to teach that he has to bring a <i>chatas</i> for each woman.</p>
<p>Q: What do the <i>chachomim</i> do with the extra word “woman”?</p> <p>A: They also learn that it teaches the sinner has to bring a <i>chatas</i> for each woman.  <b>This box and the one above give two different sources for the rule that a sinner brings a separate <i>chatas</i> for each woman. The Gemara accepts the reason given in this box and repeats the same question from the above box.</b></p> <p>Q: What do the <i>Chachomim</i> do with the fact that it was reiterated for one who has relations with his sister?</p> <p>A: One brings 3 <i>chatases</i> if they have relations with their sister, their father's sister, and their mother's sister.  <b>This is obvious! 3 people, 3 <i>chatases</i>.</b></p> <p>A: No one women being all three. One woman, 3 <i>chatases</i>.  <b>How is this possible?</b></p> <p>A sinner, the son of a sinner.</p>	
<p>Why don't the Chachomim learn it out from the <i>kal va'chomer</i>?</p> <p>A: It's a flawed <i>kal ve'chomer</i>.</p>	<p>Q: How does R' Yitzchok learn about the rule of the 1 women, 3 <i>chatases</i>?</p> <p>A: From a <i>kal va'chomer</i>.</p>

**14a) The case of a sinner, the son of a sinner.**



**14b-15b) Why does an *oneiss* who divorces his wife and must remarry her and does not get *malkus*.**

Reason	Objection
<p>Ulla: we can learn that he has to marry her from a <i>ve'chomer</i></p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>A defamer does not do an action (only speaks) &lt; A <i>oneiss</i> who does do an action</p> <p style="text-align: center;">↓ ↓</p> <p style="text-align: center;">must marry her</p> </div> <p>The <i>posik</i> “and she shall be his wife” comes to mean if he divorces her, then he has to remarry her.</p>	<p>This is not a good <i>kal ve'chomer</i> because the defamer gets <i>malkus</i> and has to pay. This means the defamer greater sin and we cannot learn out that he has to marry her from defamer.</p>
<p>Ulla: we can learn the following <i>kal ve'chomer</i>:</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>A <i>oneiss</i> who only gets <i>malkus</i> &lt; A defamer who gets <i>malkus</i> and pays a fine</p> <p style="text-align: center;">↓ ↓</p> <p style="text-align: center;">must marry her</p> </div> <p>So the <i>posuk</i> “and she shall be his wife” does not come to teach about the defamer (we have that from the <i>kal ve'chomer</i>) but to teach that the <i>oneiss</i> must remarry after divorcing.</p>	<p>This is not a good <i>kal ve'chomer</i> because the defamer did not do an action (only speaks). This means the sin of the <i>oneiss</i> is greater and we cannot learn that the defamer has to marry her from the <i>oneiss</i>.</p>
<p>The <i>posuk</i> says “and she shall be his wife” does not go on the defamer, because she already is his wife. It must go on the <i>oneiss</i> who divorced his wife.</p>	<p>The <i>posuk</i> says “and she shall be his wife” is talking about a defamer who divorced his wife. Not an <i>oneiss</i> who divorced his wife.</p>
<p>We learn it out from defamer.</p>	<p>How? We saw that it does not work by <i>kal ve'chomer</i> or comparison.</p>
<p>Rava and Ravin: the <i>posuk</i> says “all his days” that means even after divorcing her he is obligated to marry her.</p>	<p>This is objected to because then he gets <i>malkus</i>...</p>

**16a) R' Yochanan's cases where the person does not get *malkus* for the *lav* if he fixed it.**

Case	Objection
<i>Shiluach Hakan</i> . If you takes away the mother and then sends her away he does not get <i>malkus</i> (According to Rav Yehudah, he does get <i>malkus</i> .)	
An <i>oneiss</i> who divorced his wife and then remarries her does not get <i>malkus</i> . (Unless he is a Kohen who cannot remarry his wife.)	
<p>If one stole, he has to return what he stole.</p> <p>If a lender goes into the house of a borrower and takes the pledge, he should return the pledge.</p>	<p>These cases are not counted by R' Yochanan because he cannot destroy the obligation to return the object or the pledge. He still has to return the value.</p> <p><b>R' Zeira: What about a case where the borrower is a <i>ger</i> (and has no <i>yorshim</i>) and died? In this case, if the lender destroyed the pledge, has no one to return the value of the pledge. He has nullified the obligation.</b></p> <p>He did not nullify the obligation to return pledge. Because when he destroyed the pledge, the obligation still existed. It was only nullified after the <i>ger</i> died.</p>
One who has a field should not reap the whole field but should leave over pe'ah. If he did not, then he should remedy the sin by leaving over for the poor.	<p>R' Yochanan did not count this because he holds like R' Yishmael that the owner cannot nullify the obligation, because you can even separate for the poor when it is dough.</p> <p><b>What about the case where the owner ate the dough?</b></p> <p>R' Yochanan actually counts this case and the case <i>shiluch hakan</i>. But he does not count the case of an <i>oneiss</i>.</p>

17a) **R' Shimon's explanation of a possuk.**

	What does it <u>not</u> need to teach us			What it <u>is</u> teaching us.
(1) וּתְרוּמַת בִּקְרֻרִים bikkurim	maaser < bikkurim ↓ ✓ Eating outside the walls gets malkus.			Eating the bikkurim before the owner says the possukim gets malkus.
(2) וְנִדְבַחְתִּידָהּ todah & shelamim	maaser < todah & shelamim ↓ ✓ Eating outside the walls gets malkus.			Eating the todah & shelamim before throwing the blood gets malkus.
(3) וּבְכֹרֶת bechor	maaser < bechor ↓✓ Eating outside the walls gets malkus.	todah & shelamim < bechor ↓✓ Eating before throwing the blood gets malkus.		A non-kohen who eats from the bechor even after throwing the blood gets malkus.
(4) בְּקָרְבָּן וּצְאֵן chatas & ashem	maaser < chatas & ashem ↓✓ Eating outside the walls gets malkus.	todah & shelamim < chatas & ashem ↓✓ Eating before throwing the blood gets malkus.	bechor < chatas & ashem ↓✓ A non-kohen who eats--- even after throwing the blood--- gets malkus.	Anyone who eats from a chatas & ashem, ---even after throwing of the blood---outside the curtain, gets malkus.

<p>(5)                  נֹדַר יֵי                  olah</p>	<p>maaser &lt; olah                  ↘✓                  Eating outside the walls gets malkus.</p>	<p>todah &amp; &lt; olah                  shelamim                  ↘✓                  Eating before throwing the blood gets malkus.</p>	<p>bechor &lt; olah                  ↘✓                  A non-kohen who eats--- even after throwing the blood--- gets malkus.</p>	<p>chatas &lt; olah                  &amp;                  ashem                  ↘                  ✓                  A non-kohen who eats---even after throwing the blood-- - gets malkus.</p>	<p>Anyone who eats a olah, even after throwing the blood, even within the curtain, gets malkus.</p>
---	--	---	--	--	---

**17b) Rava's criticism of R' Shimon's kal vechomers.**

Comparison	R' Shimon's reason	Rava's reason against R' Shimon
(1) Maaser < bikkurim	anyone can eat maaser < only a kohen can eat bikkurim	maaser is prohibited to the onein > bikkurim is permitted to the onien.
(2) Maaser < todah & shalomim	maaser does not need to have blood and parts go on the mizbayach < todah & shalomim requires blood and parts go on the mizbayach.	maaser requires minted coins > todah & shalomim do not require minted coins.
(3) todah & shalomim < bechor	todah & shalomim can become holy anytime. < the bechor only becomes holy at birth.	todah & shalomim require leaning, libations, and waving of the breasts and thigh. > bechor does not require leaning, libations, and waving of the breasts and thigh.
(4) bechor < chatas & ashem	bechor is kodshei kalim < chatas & ashem is kodesh kedoshim	bechor becomes holy at birth > chatas & ashem become holy when the owner wants.
(5) chatas & ashem < olah	chatas & ashem is partially burned < olah is required to be totally burned.	chatas & ashem atone for sins. > olah does not atone for sins.

**18a) How many *lavim* does a non-*kohen* get if he eats from *olah* before throwing the blood on the alter?**

R' Shimon: 1. Eating outside of Jerusalem 2. Eating before the blood was on the alter 3. Eating it as a non- <i>kohen</i> 4. Eating it outside the <i>beis hamigdash</i> 5. Eating an <i>olah</i>	
Potential Others	Objections
The <i>posuk</i> says that a non- <i>kohen</i> should not eat meat that is holy. This includes <i>oleh</i> , but is another <i>posuk</i> .	That is only for meat that is meant for a <i>kohen</i> . Here is it not meant to eat.
He should get a lav for eating leftover meat that is holy.	That is only for meat that was supposed to be eaten but was left over. Here it was not meant to be eaten.
He should get a lav for eating that which is not entirely burnt.	The Gemara agrees.

**21a) Rav Malkiya and Rav Malkiyo.**

	Spit	Maidservants	Pores	Locks of hair	Ashes	Cheese
Rav Nachman the son of Rav Ika	Malkiyo	Malkiyo	Malkiyo	Malkiya	Malkiya	Malkiya
Rav Pappa	Amorayim Malkiyo	Tanayim Malkiya	Amorayim Malkiyo	Tanayim Malkiya	Tanayim Malkiya	Tanayim Malkiya
		They disagree here.				

**21b-22a) Many prohibitions in one action.**

Tanna Kama in the Mishna	Plowing with an ox and donkey together.
	The ox is dedicated to being holy.
	The donkey is dedicated to being holy.
	Plowing <i>kilayim</i> .
	During a <i>shmitta</i> year.
	On Yom tov.
	He is a <i>Kohen</i> on a cemetery.
He is also a <i>nazir</i> on a cemetery.	
Chananya ben Chachinai In the Mishna	He is wearing <i>kilayim/shaatnez</i> .
	That is the same thing. (It has nothing to do with plowing. Neither does being a <i>nazir</i> (or a <i>kohen</i> .)
Ulla	Sowing also.
	Rav Nachman: The Mishna listed some but not all.
	Ulla: The Mishna started saying “eight.” That is an exact number.
	Rava: Plowing and sowing are considered one sin on <i>yom tov</i> (in contrast to Shabbos.)
Ulla agreed that this is the reason sowing is not listed in the Mishna.	
Rav Hoshaya	A valley that one is not permitted to plant or sow because of <i>eglah harofah</i> .
Rav Chananya	He erased Hashem’s name while walking with the plow.
R’ Abahu	He cuts off his <i>baheres</i> spot ( <i>tzoras</i> ).
Abaya	He loosens the breastplate of the <i>Kohen Gadol</i> from the ephod.
Abaya	He removes the poles from the <i>aron hakodesh</i> .
Rav Ashi	He plows with <i>asheirah</i> wood.
Ravina	He cuts down good fruit trees while plowing.
R’ Zeira	Plowing while breaking a vow that he will not plow.

**21b) Planting *kilayim*.**

	Our Mishna	A baraisa R’ Akiva
Maintaining <i>kilayim</i>	NO <i>MALKUS</i>	<i>MALKUS</i>
Planting <i>kilayim</i>	<i>MALKUS</i>	

**21b-22a) Separation of *malachos* on *yom tov*.**

Statement	Analysis										
<p>Abaya: There is a separation of <i>malachos</i> on <i>yom tov</i>.</p> <p>A baraisa: If one cooks a <i>gid hanasheh</i> with milk on <i>yom tov</i> and eats it, he gets five <i>malkus</i>. Here is the listing.</p> <table border="1" data-bbox="203 562 763 751"> <tr><td>1</td><td>Eating the <i>gid hanasheh</i></td></tr> <tr><td>2</td><td>Cooking on <i>yom tov</i></td></tr> <tr><td>3</td><td>Cooking the <i>gid hanasheh</i> with milk.</td></tr> <tr><td>4</td><td>Eating milk and meat together.</td></tr> <tr><td>5</td><td>Lighting a fire.</td></tr> </table>	1	Eating the <i>gid hanasheh</i>	2	Cooking on <i>yom tov</i>	3	Cooking the <i>gid hanasheh</i> with milk.	4	Eating milk and meat together.	5	Lighting a fire.	<p>If there were no separation of <i>maloches</i> on <i>yom tov</i>, then 3 and 5 would get one <i>malkus</i>. Since the baraisa separates them, there must be separation of <i>malachos</i> on <i>yom tov</i>.</p> <p>If you believe that there is no separation on <i>yom tov</i>, you have to change this baraisa.</p>
1	Eating the <i>gid hanasheh</i>										
2	Cooking on <i>yom tov</i>										
3	Cooking the <i>gid hanasheh</i> with milk.										
4	Eating milk and meat together.										
5	Lighting a fire.										
<table border="1" data-bbox="203 829 763 1054"> <tr><td>1</td><td>Eating the <i>gid hanasheh</i>.</td></tr> <tr><td>2</td><td>Cooking on <i>yom tov</i>.</td></tr> <tr><td>3</td><td>Cooking the <i>gid hanasheh</i> with milk.</td></tr> <tr><td>4</td><td>Eating milk and meat together.</td></tr> <tr><td>5</td><td>NEW: Eating the <i>gid hanasheh</i> of a <i>nevelah</i>.</td></tr> </table>	1	Eating the <i>gid hanasheh</i> .	2	Cooking on <i>yom tov</i> .	3	Cooking the <i>gid hanasheh</i> with milk.	4	Eating milk and meat together.	5	NEW: Eating the <i>gid hanasheh</i> of a <i>nevelah</i> .	<p>R' Chiya: Two out of the five are about eating, and Three out of the five are about cooking.</p> <p>But with this change, we have Three out of the five (1,4,5) are about eating, and Two out of the five (2,3) are about cooking.</p> <p>This change is not correct.</p>
1	Eating the <i>gid hanasheh</i> .										
2	Cooking on <i>yom tov</i> .										
3	Cooking the <i>gid hanasheh</i> with milk.										
4	Eating milk and meat together.										
5	NEW: Eating the <i>gid hanasheh</i> of a <i>nevelah</i> .										
<table border="1" data-bbox="203 1234 763 1459"> <tr><td>1</td><td>Eating the <i>gid hanasheh</i>.</td></tr> <tr><td>2</td><td>Cooking on <i>yom tov</i>.</td></tr> <tr><td>3</td><td>Cooking the <i>gid hanasheh</i> with milk.</td></tr> <tr><td>4</td><td>Eating milk and meat together.</td></tr> <tr><td>5</td><td>NEW: Benefiting from <i>asheirah</i> wood.</td></tr> </table>	1	Eating the <i>gid hanasheh</i> .	2	Cooking on <i>yom tov</i> .	3	Cooking the <i>gid hanasheh</i> with milk.	4	Eating milk and meat together.	5	NEW: Benefiting from <i>asheirah</i> wood.	<p>Rav Acha ben Rava said to Rav Ashi:</p> <p>There should be another <i>lav</i> broken: bringing <i>avodah zara</i> into your house.</p> <p>This change is not correct.</p>
1	Eating the <i>gid hanasheh</i> .										
2	Cooking on <i>yom tov</i> .										
3	Cooking the <i>gid hanasheh</i> with milk.										
4	Eating milk and meat together.										
5	NEW: Benefiting from <i>asheirah</i> wood.										
<table border="1" data-bbox="203 1537 763 1761"> <tr><td>1</td><td>Eating the <i>gid hanasheh</i></td></tr> <tr><td>2</td><td>Cooking on <i>yom tov</i></td></tr> <tr><td>3</td><td>Cooking the <i>gid hanasheh</i> with milk.</td></tr> <tr><td>4</td><td>Eating milk and meat together.</td></tr> <tr><td>5</td><td>NEW: Kindling wood that was dedicated for the <i>mikdash</i>.</td></tr> </table>	1	Eating the <i>gid hanasheh</i>	2	Cooking on <i>yom tov</i>	3	Cooking the <i>gid hanasheh</i> with milk.	4	Eating milk and meat together.	5	NEW: Kindling wood that was dedicated for the <i>mikdash</i> .	<p>This change is correct.</p>
1	Eating the <i>gid hanasheh</i>										
2	Cooking on <i>yom tov</i>										
3	Cooking the <i>gid hanasheh</i> with milk.										
4	Eating milk and meat together.										
5	NEW: Kindling wood that was dedicated for the <i>mikdash</i> .										

**22a) Vowing not to plow on *yom tov*.**

Statement	Problem
R' Zeira: Include in the list breaking a vow not to plow on <i>yom tov</i> .	R' Mani: The vow is meaningless because he vowed on Mount Sinai now to plow on <i>yom tov</i> . So he does not get <i>malkus</i> for violating that vow.
R' Zeira: He made a vow that includes not plowing on weekdays and <i>yom dov</i> .	<p>R' Mani: The Mishna did not include anything that can be annulled like a vow.</p> <p>But animals dedicated to <i>kodesh</i> were included on the list and their holiness can be annulled.</p> <p>The animals in the list were dedicated to the <i>kodesh</i> because they were firstborn and their holiness cannot be annulled.</p> <p>A <i>nazir</i> was on the list and his holiness can be annulled.</p> <p>The <i>nazir</i> in the list was a <i>nazir</i> like Shimshon, that is, from birth and his holiness cannot be annulled.</p> <p>A <i>nazir</i> like Shimshon can contaminate himself with corpses. Therefore, the Mishna could not have been talking about him.</p>
The tanna of our Mishna held that having a vow that includes <i>yom tov</i> within weekdays does not work.	

**22b) Exempting from further lashes during *malkus*.**

	Our Mishna	A Baraisa
	<p>They asses him to receive 40, <u>they give him some</u>, and then they asses him not to be able to receive 40, then he is exempt from all.</p> <p>They asses him to receive 18, <u>they give him some</u>, and then they asses him to receive 40, then he is exempt from all.</p>	<p>They asses him to receive 40, and then they asses him not to be able to receive 40, then he is exempt from all.</p> <p>They asses him to receive 18, and then they asses him to receive 40, then he is exempt from all.</p>
A contradiction	This implies that if he did not get some of the lashes, then he would not be exempt and they would do what the second assessment says.	Here he did not receive some of the lashes, and yet he is still exempt.
Rav Sheishess' resolution.	They asses him twice in one day. His health did not change on that day. The first assessment was probably wrong. So do what the second assessment says.	They asses him on different days. His health could have changed from day to day. The first assessment is good.

**22b) Exempting from further lashes during *malkus*.**

	Our Mishna	A Baraisa
	<p>If they asses once, he is given lashes and exempt from more. If they give him an assessment for one <i>malkus</i>, he is given lashes, recovers, is reassessed, and lashed again.</p>	<p>We do not make one assessment for two <i>malkuses</i>.</p>
A contradiction	This means that we can give two assessments for two <i>malkuses</i> .	We cannot give two assessments for two <i>malkuses</i> .
Rav Sheishess' resolution.	They assessed him to be able to take 42 lashes. $39+3=42$ . He can have the second <i>malkus</i>	They assessed him to be able to do only 41 lashes. $39+2=41$ . Since we cannot give 2 for the second <i>malkus</i> (we need a multiple of 3). So we let him recover and then reassess.

**23a) Sources of rulings from Rav Sheishess in the name of R' Elazar ben Azaryah.**

The <i>malkus</i> strap must be made of calfskin.
A <i>yevvamah</i> was supposed to marry someone with boils (she does not like him physically) we do not force her to marry him.
Anyone who degrades ( <i>chol hamoid</i> ) is as if he worships idols.
Anyone who speaks <i>loshen hora</i> , or accepts <i>loshen hora</i> , or who is a false witness, should be thrown to the dogs.

**23a) The person who gives *malkus*.**

A Baraisa		
	Tanna Kamma	R' Yehudah
	We appoint people to give <i>malkus</i> who are: Weak and Intelligent.	We can even appoint people who are: Strong and Stupid.
Rava's understanding	This does not make sense. Why do we have to warn him not to give too many lashes if he is intelligent?	This makes sense. We warn him not to give too many lashes because he can be stupid.
The Gemara's understanding	This makes sense because we can only warn someone who has the intelligence to follow the warning.	

**23a) Bodily functions that exempt.**

	Our Mishna		A Baraisa	Another Baraisa
	Tanna Kama	R' Yehudah	R' Meir	R' Yehudah
Dirty	EXEMPT	EXEMPT	EXEMPT	EXEMPT
Wet	EXEMPT	Men: NOT EXEMPT Women: EXEMPT	NOT EXEMPT	
Contradiction		R' Yehudah holds that men and women have different rulings for wetness.		The implication is that R' Yehudah holds that men and women are not exempt for wetness.
Rav Nachman bar Yitzchok's resolution				R' Yehudah just says that man and women have the same rulings with regard to dirtiness. But men and women have different rulings for wetness.

**23a) Embarrassment during whipping.**

	Shmuel	Baraisa		
	If they bound him and he fled he is Exempt from getting more lashes.	First time	Second time	
		Soiled Himself	Exempt	
		Whip Broke	Not Exempt	Exempt
A contradiction	Any embarrassment (such as bounding him) that the person feels, exempts him.	The embarrassment that he feels from raising the whip the first time should also exempt him.		
A resolution	He fled. That is not embarrassing. It is a disgrace.	He did not flee so he did not disgrace himself. He is exempt for embarrassment only after getting the first lash.		

**23b) Does *malkus* eliminate *Kares*?**

	Our Mishna	Mishna Megillah 7b						
	R' Chananya ben Gamliel said anyone who deserves <i>kares</i> and gets <i>malkus</i> is exempt from <i>kares</i> .	<table border="1"> <tr> <th colspan="2">Deliberately violating</th> </tr> <tr> <td>Shabbos</td> <td>Yom Kipper</td> </tr> <tr> <td>Punished by humans</td> <td><i>Kares</i></td> </tr> </table>	Deliberately violating		Shabbos	Yom Kipper	Punished by humans	<i>Kares</i>
Deliberately violating								
Shabbos	Yom Kipper							
Punished by humans	<i>Kares</i>							
R' Yochanan says these different rulings are a contradiction	This ruling is from R' Chananya ben Gamliel.	This ruling is from the Rabonim (and not R' Chananya ben Gamliel) because if <i>malkus</i> eliminates <i>kares</i> , then violating both Shabbos and Yom Kipper are both punished by humans only.						
Rav Nachman's resolution	This ruling is from R' Chananya ben Gamliel.	This ruling is R' Yitzchok who says that those who get <i>kares</i> do not get <i>malkus</i> .						
Rav Ashi	This ruling is from R' Chananya ben Gamliel.	<p>This ruling is from the Rabonim (and not R' Yitzchok) that those who get <i>kares</i> do get <i>malkus</i>. The Mishna is really saying</p> <table border="1"> <tr> <th colspan="2">Deliberately violating</th> </tr> <tr> <td>Shabbos</td> <td>Yom Kipper</td> </tr> <tr> <td>Is mainly punished by humans</td> <td>Is mainly punished by <i>Kares</i> (but also gets <i>malkus</i>.)</td> </tr> </table>	Deliberately violating		Shabbos	Yom Kipper	Is mainly punished by humans	Is mainly punished by <i>Kares</i> (but also gets <i>malkus</i> .)
Deliberately violating								
Shabbos	Yom Kipper							
Is mainly punished by humans	Is mainly punished by <i>Kares</i> (but also gets <i>malkus</i> .)							
Rav Adda bar Ahavah in the name of Rav	<p>The halachah is like R' Chananya ben Gamliel that <i>malkus</i> eliminates <i>kares</i>.</p> <p>Rav Yosef: "Who went to heaven and told you this?"</p> <p>Abaya: we learn this (and other halachahs) from <i>darshining psukim</i>.</p>							

**23b) Rulings made by *beis din* which were agreed to by the heavenly *beis din*.**

R' Yehoshua ben Levi:

Reading Megillas Esther on Purim.
Greeting people with Hashem's name.
Bringing <i>masser</i> .

**24a) Important rules set up by *naviem*.**

<i>Navi</i>	Number of rules
Dovid Hamelach	11
Yeshaya	6
Michah	3
Yeshaya	2
Amos	1
Rav Nachman bar Yitzchok: Habakkuk was the <i>navi</i> that gave one rule.	

**24a) Moshe's decrees about Bnei Yisroel that were overturned by other *naviem*.**

R' Yose bar Chanina:

What Moshe said	The <i>navi</i>	What the <i>navi</i> said
Bnei Yisroel should live in peace when they act like Yaakov.	Amos	We don't have people acting like Yaakov.
We will not find peace when we are sent into exile.	Yirmiyah	We should find peace when we go to exile.
The sins of the fathers will be placed on their children.	Yechezkal	The one who sins will die. (Not their children.)
You will be lost among the nations.	Yeshayeh	They will blow the great <i>shofer</i> and the ones who were lost will be returned.