Laws of Sanctification of the New Month, Chapter 2 (Auto Translated)

English

Auto Translated

Shiur Overview

Summary of Laws of Sanctification of the New Month, Chapter 2

Law 1 — Who is Qualified for Testimony of the New Month

Rambam: "Only two qualified men who are fit to testify in any matter are qualified for testimony of the new month. But women and slaves are like other disqualified witnesses and may not testify."

Plain Meaning: Testimony of the new month requires two qualified men, just like any other testimony. Women, slaves, and all disqualified witnesses are invalid.

Novelties and Explanations:

1. **Why does the Rambam specifically mention women and slaves?** One might have thought that women and slaves, who are generally honest people (not wicked/thieves), should be qualified for testimony of the new month. The Rambam teaches us that even they are disqualified — their "understanding" is not strong enough according to the Sages.

2. **The opinion of Rabbi Shimon bar Yochai (Mishnah Rosh Hashanah):** Rabbi Shimon holds that "a father and son and all relatives are qualified for testimony of the new month," and possibly other disqualified witnesses are also qualified. Rabbi Yose also brings a case involving a slave. The Rambam does **not** rule like these opinions — testimony of the new month requires full qualification like any testimony. Rabbi Shimon's proof is from "this month is for you" — said to Moshe and Aharon, who are brothers, which shows that relatives are qualified for testimony of the new month. The reasoning is understandable because with relatives there is no issue of bias. But the Rambam does not rule this way.

Law 1 (Continued) — A Father and Son Who Saw the Moon

Rambam: "A father and son who saw the moon should go to the court to testify, not because testimony of the new month is valid with relatives, but so that if one of them is found disqualified... the second can join with another and testify."

Plain Meaning: A father and son who saw the moon should both go to the court, not because relatives are qualified together, but because if one becomes disqualified (for another reason, like theft), the second can join with another witness.

Novelties and Explanations:

1. **Question — why should both go?** One of the father and son is in any case not usable as a second witness to the first (because they are relatives). Let only one go! (Later we see that witnesses may even desecrate the Sabbath to go — so this is a novelty that they **should** go.)

2. **Answer:** One cannot know in advance which of them the court will disqualify for another reason. The court may know something that the witness himself doesn't know (e.g., that he is a thief). Therefore **both** must go — to maximize the chances that one will be able to join with another witness.

Law 1 (Continued) — Witnesses Disqualified by Rabbinic Law

Rambam: "And anyone disqualified from testimony by rabbinic law... even though he is qualified by Torah law [is disqualified for testimony of the new month]."

Plain Meaning: Even one who is only disqualified rabbinically (like a dice player — a trace of theft), is also disqualified for testimony of the new month.

Novelties and Explanations:

1. **Why would one think that those rabbinically disqualified should be qualified for testimony of the new month?** Two reasons:

- **(a)** With testimony of the new month there is less concern for falsehood — the witness has no agenda (unlike monetary cases).

- **(b)** Testimony of the new month is different from regular testimony — the court already knows by calculation that the moon **can** be seen, and even if there was an error, once the court says "sanctified" it is sanctified. So the testimony is only a "formal" matter, and one should be lenient.

2. **The Rambam rules: No.** All laws of disqualified witnesses apply here too.

3. **Question on the reasoning of "no agenda":** This is not a good reason, because even with other testimonies (like testimony of betrothal) the witness has no agenda, and nevertheless a disqualified witness is disqualified. When the Sages disqualify, they disqualify for **all** testimonies.

4. **Question on the reasoning of "the court already knows":** The court only knows that it is **possible** to see the moon, not that it was actually seen. It could be cloudy, or other technical reasons that prevent sighting. So one does need true testimony.

5. **How can a rabbinic disqualification override a Torah-level festival?** If we disqualify witnesses rabbinically, this can cause the new month (and consequently the festival) to fall on a different day — a Torah-level consequence! The answer: "The Sages have the power" — just as with betrothal and other matters, the Sages have the power to disqualify testimony, and this affects Torah law as well.

Law 2 — Torah Law That We Don't Scrutinize Testimony of the New Month

Rambam: "Torah law is that the court does not scrutinize testimony of the new month... and even if

they are found to be conspiring witnesses — the month is sanctified."

Plain Meaning: By Torah law one need not scrutinize testimony of the new month — neither the person (we accept from anyone) nor the testimony (no cross-examination). Even if witnesses become conspiring witnesses, the month remains sanctified.

Novelties and Explanations:

1. **Two practical differences of "no scrutiny":**

- **(a) Accepting from any person** — One need not specially verify the person's qualification before accepting him as a witness.

- **(b) Not conducting cross-examination** — One need not question the witness about his testimony with inquiries and examinations.

2. **Why no cross-examination is needed:** The main purpose of inquiries and examinations in regular testimony (at what time, at what place, etc.) is so that one can make them conspiring witnesses — to check if it's true. But with testimony of the new month, even when we check and find that they are conspiring witnesses, the month is still sanctified. Consequently the entire purpose of cross-examination falls away.

3. **What does "Torah law" mean:** The novelty of "Torah law" is that by Torah law it is always so — a Jew is qualified until we know otherwise. But later the Sages enacted two enactments (regarding the person and regarding his testimony), which is the novelty — that by Torah law this was not required.

Law 3 — Initially They Accepted from Everyone, and the Enactment Regarding Heretics

Rambam: "Therefore initially they would accept testimony of the new month from anyone, for all Israel are presumed qualified... When the heretics corrupted things, and would hire people to testify that they saw when they did not see, they enacted that the court should only accept testimony of the new month from witnesses whom the court knows to be qualified, and that they should inquire and examine the testimony."

Plain Meaning: Initially they accepted testimony of the new month from any Jew, because all Israel are presumed qualified. After the heretics (Sadducees/Boethusians) began hiring false witnesses, the Sages enacted that we only accept from witnesses whom the court knows to be qualified, and we conduct cross-examination.

Novelties and Explanations:

1. **"All Israel are presumed qualified" — what does this mean?** Elsewhere it states that from an am ha'aretz (ignoramus) we don't accept testimony. How does this fit with "all Israel are presumed qualified"? The answer: An am ha'aretz is a specific category where the Sages said he has a "flaw" in his qualification. "All Israel" means a normal Jew, not one who already has a known problem. The principle "until it becomes clear to you" means that until we know otherwise, every Jew is presumed qualified.

2. **The difference between presumption of qualification and specific testimony about the person:** After the enactment one needed not just presumption of qualification, but a special "certificate of qualification" — one must first have testimony about the person that he is qualified. This is a completely different level than mere presumption of qualification.

3. **Two enactments, not one:** The Rambam sets down two separate enactments:

- **(a)** We only accept from witnesses whom the court knows ("recognizes").

- **(b)** We conduct cross-examination on the testimony.

In the Mishnah it's not clear that cross-examination is also part of the enactment. But the Rambam understood it this way — that essentially (by Torah law) one doesn't need cross-examination, but because of the Boethusians/Sadducees it was enacted.

4. **What did the heretics want?** Two approaches:

- **(a)** They wanted to undermine the authority of the Great Court in Jerusalem — because sanctification of the new month is a matter of authority.

- **(b)** They wanted to manipulate so that Passover would fall on the Sabbath, so that "the day after the Sabbath" (in counting the Omer) would fit with their view that it means literally the Sabbath.

Law 4 — Sending Recognizers with the Witnesses

Rambam: "Therefore if the court does not know the witnesses who saw the moon, the people of the city where it was seen send with the witnesses... other witnesses who identify them to the court and inform them that these are qualified, and afterwards they accept from them."

Plain Meaning: If the court doesn't know the witnesses, the people of the city must send other people whom the court does know, so they can confirm that the witnesses are qualified.

Novelties and Explanations:

1. **Who are the "recognizers"?** The second witnesses must be people whom the court does know — heads of the community, people from the local court, or other known people.

2. **What must the recognizers say?** They need not say anything specific — only that the witness is not a Sadducee, that he is a qualified Jew. This is a "character witness."

3. **Must they come in person or is a letter sufficient?** It is discussed whether the recognizers had to come personally or a letter would have been sufficient. On one hand: since when can one give testimony with a letter? On the other hand: this is not testimony in the classic sense — it's a matter of "clarification," a practical thing to make sure the testimony is qualified. Therefore, the Rambam's language ("they send... with the witnesses") implies that they must actually come in person.

Law — Calculations of the Court and Inquiries and Examinations of Witnesses

Rambam: "The court calculates by the methods that astronomers calculate and knows that when the moon is seen this month, whether it will be north of the sun or south, and whether it will be wide or

narrow and to which side its horns will incline... How did you see it? Did you see it in the north or south? To which side were its horns inclined? How high was it in your sight? And how wide was it? If their words are found accurate — they accept their testimony, and if not — they do not accept their testimony."

Plain Meaning: The court calculates with astronomical wisdom how the moon should appear — north or south of the sun, wide or narrow, to which side the horns (points) are inclined, and how high in the sky. Then they question the witnesses on all the details. If it matches — they accept; if not — they don't accept.

Novelties and Explanations:

1. **Difference between the calculation of Chapter 1 and the inquiries and examinations here:** The **calculation of Chapter 1** — to know whether the moon can be seen at all today — was **always done** and is not inquiries and examinations. But the **inquiries and examinations** here are **details** where both could be, or only one way could be — this is a way **to catch the person if he's lying**, or to see that he didn't observe well. This is analogous to **the case of ben Zakkai with certain figs** — one asks certain questions that aren't really relevant to the testimony, but are another detail of reality, so that one can **refute** the witness.

2. **What does "wide or narrow" mean?** Seemingly at the beginning of the month the moon is **always narrow**. Two explanations:

- **(a)** Perhaps it does make a difference — a few hours later it's a bit wider.

- **(b)** "Wide" means **farther from the sun** — that is, how far the moon is from the place where the sun was. It can be a bit farther or closer, and accordingly will be how wide the illuminated part is.

3. **"How high was it" — why doesn't the Rambam write that they calculated it:** The Rambam writes that we ask the witnesses how high the moon was in the sky, but he doesn't write that the court **calculated** this beforehand. This is because **height is harder to measure** — there are no clear numbers. A person cannot say exactly how high, it's more a matter of **estimation**. But one can still **catch a liar** — if someone says exaggerations (for example "it was right above my head"), we know it's false. It's a real thing, but **without precise numbers**.

4. **Two purposes of the inquiries — against liars and against errors:**

- **(a)** Against **lying/conspiring witnesses** — people who deliberately lie (as the Boethusians sent).

- **(b)** Against **errors** — the witness is an honest Jew, but **he imagined it**, he didn't observe well. Through inquiries and examinations this comes out.

5. **Do the inquiries help against sophisticated Boethusians?** The inquiries and examinations **alone** would **not help** against the Sadducees/Boethusians, because they can hire **sophisticated** false witnesses who have also studied astronomy and know what to say. **For this one specifically needs "they know them"** — to know the person personally. The story in the Gemara is mentioned where someone received a bribe and told a "fake story" about the moon (with a staff, a face, such things) — **against such a naive swindler, inquiries alone help**, but against a clever swindler one specifically needs to know them.

6. **The language "they don't accept" — not disqualified, but didn't see:** The language **"they don't accept their testimony"** doesn't mean that we disqualify them as witnesses (they're not liars), but that **their testimony is not good** — they imagined it, they didn't observe well. We're talking about witnesses who already came with recognizers (qualified Jews), but in the inquiries and examinations it turns out they weren't accurate.

Law — They Saw It in Water, in Clouds, in a Mirror

Rambam: "If the witnesses said we saw it in water or in clouds or in a mirror, or even if he saw only part of it in the sky and part in clouds or water or a mirror — this is not testimony."

Plain Meaning: If the witnesses say they saw the moon in water (reflection), through clouds, on a mirror/glass, or even only part in the sky and part through such means — this is **not testimony**.

Novelties and Explanations:

1. **What does "in a mirror" mean?** The simple meaning is that **mirror means a reflection**. There are those who learn that mirror means he sees **through glass**, but **simply it doesn't mean that**. The difference: seeing through glass is a **proper sighting** (like someone who looks through glasses — he does see the thing), but a reflection is **not a sighting of the moon itself**.

2. **Why is this not good — reasoning:** This is **not a matter of the witnesses being disqualified** — rather it means **not seeing the moon**. You saw something (a reflection, an image), but not the moon itself. The testimony must be that one **saw the moon** itself. That the moon **is there** one can simply know from calculation — it doesn't help that you saw it in water, because you didn't see **the moon**.

3. **Novelty in the interpretation of "this is not a sighting":** "This is not a sighting" means **not** that the witness is a liar. We believe him that he saw something, but what he saw is not clear enough to qualify as "sighting" of the moon. This is a difference between: (a) he's a liar, and (b) he didn't see clearly enough — both lead to "this is not a sighting," but for different reasons.

Law — Differences in the Height of the Moon: "Like Two Heights" vs. "Like Three Heights"

Rambam: "If one said I saw it and it was high in my eyes like two heights, and the second said like three — they join. If one said like three heights and the second said like five — they don't join. And one of them joins with another who testifies like him."

Plain Meaning: When two witnesses say slightly differently how high the moon appeared (2 vs. 3 heights), this is only an estimate and we can join them. But when the difference is too great (3 vs. 5), we cannot, because they're as if not talking about the same thing. "Height" means the height of a person, not a story/floor.

Novelties and Explanations:

1. **Why "they don't join" with 3 vs. 5:** With sanctification of the new month both witnesses look at the same time

(they're together), and there isn't enough time for such a large difference. With sighting of the moon the time is almost always the same — right after sunset, the night of the 29th or 30th. One cannot see the first moon in the middle of the night, so the time question is not so relevant.

2. **"They don't join" doesn't mean "liars":** When the Rambam says "they don't join" with 3 vs. 5, he means **not** that one is a liar. The meaning is that they're not talking about the same thing, consequently we cannot join them as one testimony. But each separately can find another partner who agrees with him, and that is valid. The proof: the Rambam says explicitly **"and one of them joins with another who testifies like him"** — both remain qualified witnesses.

3. **Question from Rabbi Chaim Kanievsky:** The court knew (according to calculation) how high the moon should be. Consequently, why doesn't the Rambam say that the court should figure out which witness is saying correctly and go with him? The answer: perhaps this is not such a clear thing — people don't know exactly what they mean when they say "heights," and one simply needs two people who say the same thing.

4. **[Digression: How hard is it to see the new moon?]** If one can see the moon, thousands of people should see it — why do we speak of only two witnesses? The first light (later it becomes publicized), but the first day is really hard — the moon is very small, one needs good eyes, a clear place, a proper mountain. Even today it's a "competition" who can see first. In the Land of Israel there are few clouds, but still it's hard to notice the "baby moon."

Law — They Saw It Without Intent

Rambam: "If they said we saw it without intent, and we intended to see it and then didn't see it — this is not testimony and we don't sanctify based on it, lest clouds gathered and appeared like the moon and seemed so and went away."

Plain Meaning: Two witnesses say: we saw the moon randomly, without intent. When we started focusing, we no longer saw it. This is not valid testimony, because perhaps clouds came together and looked like the moon, and then dispersed.

Novelties and Explanations:

1. **It's not a law of "intent":** The novelty is that it's not a special law that one must have intent to see. The problem is specifically that he saw it for a second, and when he looked again it was no longer there. This itself is proof that it was perhaps a cloud. The moon doesn't disappear so quickly.

2. **Distinction between cases (from the Gemara):** If the witness says "we saw without intent" but he **can** answer clearly all questions (which side, how high, etc.), then it's good. Only when he says **"and then we didn't see it"** — that afterwards he no longer saw it — then it's invalid, because this is a sign that it wasn't the moon.

3. **What if right afterwards a cloud came that covered the real moon?** In such a case it will probably be good — because he did see the moon, only a cloud covered it. But the Rambam speaks of a case where it's not clear whether it was a moon or a cloud from the outset.

Law — Sighting of the Moon on Day 29 in the Morning in the East, and Night 30 in the West

Rambam: "If witnesses said we saw it on day twenty-nine in the morning in the east, and we saw it on the night of thirty in the west — they are believed and we sanctify based on their sighting, for they saw it at its time... for we are not responsible for seeing in the morning... for the clouds gathered and appeared to them like the moon."

Plain Meaning: Witnesses say they saw the old moon in the morning of the 29th in the east, and then the new moon at night of the 30th in the west. This is impossible — there must be a minimum of 24 hours (twenty-four hours the moon is lacking) when one cannot see the moon at all. Therefore they are believed.

Novelties and Explanations:

1. **The astronomical background:** At the end of the month one sees the old moon just before sunrise/dawn in the east, because the moon rises later and later each day until the end of the month it rises right in the morning. The new moon is always seen at sunset in the west, right after the sun goes down, only for a short time. Between the old moon and the new moon there must be a minimum of 24 hours when one cannot see anything (Gemara: twenty-four hours the moon is lacking). If someone says he saw both in such a short time — one of the two is an error.

2. **Dispute in the Mishnah:** Rabbi Yochanan ben Nuri says **they are false witnesses** — because their testimony includes something that cannot be, they are liars. But the Rambam rules that they are believed.

3. **Two reasons why they are believed:**

- **Halachic reason:** What is relevant for the court is only the testimony about the night of thirty — that they saw the new moon. What they say about the 29th in the morning is not part of the testimony of the new month, it's just an additional story. **"For we are not responsible for seeing in the morning"** — the court doesn't sit questioning people about what they saw in the morning of the 29th.

- **Metaphysical reason:** One need not disqualify them as liars, because **"for the clouds gathered and appeared to them like the moon"** — perhaps they saw clouds that looked like a moon. Consequently they remain qualified witnesses.

4. **An interesting general point:** When witnesses come to give testimony, only what is relevant to the testimony is considered. If he tells incidentally foolishness or things that don't make sense, but this is not part of the testimony itself — it doesn't disqualify the witness. (There is a law of **testimony whose part was refuted, all of it is nullified** — but this is only when the invalid part is part of the testimony itself.)

5. **The opposite case:** He saw the night of thirty (the new moon), but the night of thirty-one he no longer saw. This is also strange — if there was already a new moon the night of thirty, one should certainly see it the night of thirty-one (because it gets bigger). But the Rambam also says here **we are not concerned** — it's not our subject what happened on the thirty-first. Testimony about "I didn't see" is a very strange testimony — **he didn't see, so he didn't see** — what have you told me that you didn't see?

Law — How They Accept Testimony of the New Month: The Order of Questioning Witnesses

Rambam: "All who are fit to testify come to the court, and the court brings them all into one place, and makes feasts for them so that people will be accustomed to come. The first pair that comes they examine first, and they bring in the greater one and ask him... If their words are found accurate according to the calculation, they bring in his companion... If their words are found accurate, their testimony stands. And the rest of all the pairs they ask main points, not that they need them... but so they won't leave disappointed."

Plain Meaning: The order is: all witnesses are brought into one place, feasts are provided, the first pair is questioned (the greater one first, separately), and if their testimony matches the calculation, their testimony stands. The remaining pairs are also asked main points, so they won't leave with a bad feeling.

Novelties and Explanations:

1. **Feasts to motivate witnesses:** Feasts are provided **so that people will be accustomed to come** — because the process can take long, we don't want people to leave. A feast for everyone, even before questioning — everyone can eat, even if later it turns out he's talking nonsense. First let everyone eat. [Digression: there is another feast after the sanctification of the new month — a festive meal, a matter of joy.]

2. **"The greater one" — who goes first?** The Rambam says **they bring in the greater one** — this means the older of the pair. Between the two witnesses we take the older first. If there are several pairs that arrived at the same time, we go by age (not by who arrived first).

3. **Witnesses are questioned separately:** We call in the first witness alone, question him, and only if his words match the calculation (**their words are found accurate according to the calculation**) do we call in the second. This is like all testimony — we question each separately.

4. **Main points for the remaining pairs — so they won't leave disappointed:** After we already have one valid testimony, halachically we don't need any more witnesses (**two are like a hundred**). Therefore we question the remaining pairs **main points** (not a full cross-examination, but brief questions — where are you from? what did you see?). The reason: **so they won't leave disappointed** — people who came from a long way shouldn't feel they came for nothing. We want them to come back next time — perhaps then they'll be the first pair, or perhaps there won't be enough testimony.

5. **Two means to motivate:** One needs **both** — feasts (material reward) **and** to make the person feel "wanted" and "needed" (emotional validation). The feast alone is not enough; one must also show interest in the person.

6. **Why is this necessary if it's a mitzvah?** It's a great mitzvah (later in the chapter it states that it overrides the Sabbath), why does one need to motivate further? It's a **mitzvah on the court**, not on the individual. The individual can get out of it — he's not obligated.

7. **"Disappointed" — what does this mean?** "Pach" means "empty" — a feeling of emptiness.

Law — The Head of the Court Says Sanctified, and All the People Answer Sanctified Sanctified

Rambam: "And after the testimony is established, the head of the court says sanctified, and all the people answer after him sanctified sanctified."

Plain Meaning: After the testimony is confirmed, the head of the court calls out "sanctified," and the entire public answers "sanctified sanctified."

Novelties: The Rambam says "all the people answer" — not just the court, but all who stand there: witnesses, judges, officers, all present. This makes it a public proclamation.

[Digression: It is discussed whether the festive meal at sanctification of the new month is the same feast that was given to the witnesses before the inquiry, or a separate feast after the sanctification. The conclusion is that it's probably a second feast.]

Law — And They Only Sanctify the Month with Three

Rambam: "And they only sanctify the month with three."

Plain Meaning: Sanctification of the new month requires a minimum of three judges.

Novelties: In the Mishnah (perhaps Gittin) it states that sanctification of the new month is with twenty-three. But the Rambam writes only "three." The question remains what the difference is. The Rambam says "only with three" — this includes both the ceremony of the proclamation "sanctified" and the calculations. All three must be able to do the calculations — it's not enough that one of them can.

Law — And They Only Sanctify a Month That Was Seen at Its Time

Rambam: "And they only sanctify a month that was seen at its time."

Plain Meaning: Sanctification of the new month is only when the moon was seen on the thirtieth day. When it wasn't seen until day 31, the month automatically becomes full — no sanctification is needed.

Novelties: Not every new month requires a declaration of "sanctified." Sanctification is only relevant when there is doubt — i.e., on the thirtieth day, when it could be that today is the new month or tomorrow. When it's already the thirty-first day, the new month is automatic.

Law — And They Only Sanctify During the Day

Rambam: "And they only sanctify during the day... And if they sanctified it at night it is not sanctified."

Plain Meaning: The proclamation "sanctified" must be during the day. At night is not valid.

Novelties: The source is a verse — "from day to day" — as the Gemara derives it. This is interesting because the court generally doesn't rule at night either, but sanctification of the new month has a special derivation for this.

Law — Even If the Court and All Israel Saw... And They Didn't Say Sanctified Until It Got Dark

Rambam: "Even if the court and all Israel saw the moon, but the court didn't say sanctified until it got dark on the night of thirty-one, or the witnesses were examined... this is a full month... for the sighting doesn't establish but the court that says sanctified is what establishes."

Plain Meaning: Even if the court itself and all of Israel saw the moon, but we didn't manage to say "sanctified" before the night of the 31st — the month becomes full. The sighting itself doesn't establish — only the court's saying "sanctified."

Novelties: The Rambam sets down a fundamental principle: **"For the sighting doesn't establish, but the court that says sanctified is what establishes."** This means that the new month is not a natural reality (when the moon appears), but a halachic reality that is created through the court's declaration. Even when everyone knows the moon is there — without the "sanctified" from the court during the day, nothing happens.

Law — The Court Itself Saw at the End of Day 29

Rambam: "If the court itself saw at the end of day twenty-nine — if the stars have not yet come out on the night of thirty, the court says sanctified... And if they saw it after two stars came out, tomorrow they seat two judges with one of them [and he testifies before the three]."

Plain Meaning: If the court itself saw the moon at the end of day 29 — if it's still before the stars come out, they can immediately say "sanctified." If it's already after the stars come out (night of 30), they must wait until tomorrow, and then we bring two more judges, two of the original three become witnesses, and they give testimony before a new court of three.

Novelties and Explanations:

1. **Seeing the moon during the day:** One can see the moon even when it's completely light — it doesn't have to be dark. But at the end of day 29, with a new moon, it's harder to see.

2. **The court sees itself — is testimony needed?** An important novelty: when the court itself sees the moon **at the time of the event** (before the stars come out), no formal acceptance of testimony is needed — because **"hearing is not greater than seeing"** (Gemara) — seeing is stronger than hearing. The court sees it with its own eyes, no testimony is lacking.

3. **Testimony = memory:** Testimony has to do with **memory** — I once saw something, and now I'm telling about it. But when I **see it now**, I don't need testimony. Therefore, when it has already become night and we cannot sanctify until tomorrow, what they saw becomes a **memory** — and then we need a formal testimony procedure, just like with a foreign witness. Therefore we must bring two more judges, two of the original three become witnesses, and they give testimony before a new court of three.

Law — The Court Sanctified the Month Whether Inadvertently, Mistakenly, or Under Duress — It Is Sanctified

Rambam: "A court that sanctified the month, whether inadvertently, mistakenly, or under duress — it is sanctified. And all are obligated to fix the festivals on the day they sanctified. Even if one knows they erred, he is obligated to rely on them, for the matter is given only to them. And He who commanded to observe the festivals, He commanded to listen to them, as it says 'which you shall proclaim.'"

Plain Meaning: Even if the court sanctified in error (inadvertent), or they were deceived (mistaken — false witnesses who

passed the test well), or they were forced (under duress — for example a gentile forced them) — the sanctification is valid, and all festivals are celebrated accordingly.

Novelties and Explanations:

1. **"Mistaken" — deceived by false witnesses:** The Rambam means that the witnesses "passed the test well" — they answered correctly to all inquiries, but in truth they didn't see the moon. The court was deceived.

2. **"Under duress" — forced:** An example: a gentile forced the court to sanctify. Or: instead of coming with a lie (false testimony), they came with a gentile (who forced them).

3. **The foundation — "the matter is given only to them":** The authority lies exclusively in the hands of the court. Even a Torah scholar / astronomer who knows for certain that the court erred, **must** submit.

4. **"And He who commanded to observe the festivals, He commanded to listen to them":** The Rambam's language is very sharp — the same Creator who commanded to observe festivals, also commanded to follow the court. This means: **the new month is not when there is a moon, but when the court says there was a moon.** A person cannot say "I know the truth" — because "the truth" is what the court says.

5. **The verse "which you shall proclaim":** The Rambam brings the verse simply — "which you shall proclaim" = what **you** (the court) will call, that becomes a festival. But in the Gemara there is a derivation that "atem" is deficient (without a vav), and we interpret it "atem" — **you**, even inadvertently, even deliberately, even under duress.

6. **"Deliberately" is missing in the Rambam:** An interesting observation — the Gemara says "even deliberately," but the Rambam leaves it out. He brings only inadvertently, mistaken, under duress — not deliberately. This is discussed further:

Continued Discussion: A Court That Sanctified Deliberately

Novelties and Explanations:

1. **Distinction between under duress and deliberately:** With **under duress** (when the court was forced) it's simple that the sanctification is valid — they remain a court. But with **deliberately** the question is stronger: if they do it intentionally, aren't they dishonest sages, and shouldn't we quickly gather other Torah scholars and make a new court?

2. **Interpretation of "deliberately" — not wicked:** "Deliberately" means **not** that they are wicked. "Deliberately" means that the court has **some calculation**, some reason why they want today to be the new month — even if it's not according to strict law. The word **"deliberately"** doesn't necessarily mean something bad — it means they did it with conscious intent, with a plan, but not from a place of

wickedness. Therefore the sanctification remains in force, because they are still a legitimate court that has a calculation.

3. **Different version in the Gemara:** The Rambam may have had **a different version** in the Gemara that supports his view that even deliberately the sanctification is valid, but he leaves out the word "deliberately" in his ruling.

Conclusion: This completes **Chapter 2 of the Laws of Sanctification of the New Month**.

Full Transcript

Laws of Sanctifying the New Month, Chapter 2 – Testimony and Sanctifying the New Month

Introduction to Chapter 2

Speaker 1: Hello, how are you? Good, good.

We are in the middle of the Laws of Sanctifying the New Month. We're now going to learn Kiddush HaChodesh Chapter 2. Later in the Laws of Sanctifying the New Month there will be actual astronomy that one needs to know, and I hope our esteemed study partner Rabbi Yitzchak will explain it well to everyone. But here we're still before that, here we're talking about real basics, and in this chapter we're mostly discussing the laws of the witnesses. In order for the beit din to sanctify the month, witnesses need to come and say that they saw the moon, so we're going to discuss here the laws regarding testimony.

Yes, let's say what they learned in the previous chapter. That is, in the previous chapter we learned, you could say, the essential mitzvah of Kiddush HaChodesh, that there is such a thing as Kiddush HaChodesh. There is also Ibur HaShanah (intercalating the year), which is also like a part of the mitzvah, but we're not yet at those laws. And we learned that Kiddush HaChodesh belongs to a beit din, specifically to a certain beit din, the beit din of Eretz Yisrael, who make the months and the years. And now we're essentially learning the procedure of the beit din, how it happens that the beit din sanctifies the month. Right?

They already learned when witnesses are needed, when witnesses are not needed. That means, if one didn't see the moon on the thirtieth day, one no longer needs witnesses. The thirty-first is automatic. So here we're going to discuss when we do, it's not a full month, when we do make Rosh Chodesh on the thirtieth, that only happens with witnesses. We're going to learn here what the witnesses require, what needs to be, who is valid for testimony, and how the procedure works.

Law 1 – Those Valid for Testimony of the New Month

The General Validity of Witnesses

Speaker 1: The Rambam says, Chapter 2, **"Only two valid men are valid for testimony of Rosh Chodesh."** There are various laws where one witness is enough, or where women and slaves are sufficient for testimony, but like many other laws regarding testimony, there must be two valid men, **"who are fit to testify in any matter."** The same thing applies to Kiddush HaChodesh, there must be the level, the criteria of properly valid testimony. **"But women and slaves are like other invalid witnesses and may not testify."**

What does he mean... why is the novelty that "women and slaves are valid for testimony of the new month"? The Rambam explains, that a wicked person or a thief is not believed is obvious, but even women and slaves, who generally are honest people, but they don't have... we don't trust them enough, I don't know, their understanding is not strong enough, we also don't trust them regarding testimony of the new month.

The Opinion of Rabbi Shimon bar Yochai

Speaker 1: Have you heard of Rabbi Shimon bar Yochai? Certainly. Rabbi Shimon bar Yochai argued, as it says in the Mishnah in Rosh Hashanah, "A father and son and all relatives are valid for testimony of the new month." And it's possible that he truly held that also all other invalid witnesses are valid for testimony of the new month. Rabbi Yose said, a minor or a freed slave is also believed. What does it say here? Rabbi Yose said in the same Mishnah. Ah, no. Rabbi Yose was as a witness, as a... the Gemara brings that the beit din accepted a slave, I don't know. Anyway, there are opinions among the Tannaim who say truly that testimony of the new month is more lenient than other testimony, and actually invalid witnesses are indeed valid. Therefore the Rambam rules, no, we don't rule that way, but that... other valid testimonies are other things.

Law 1 (continued) – A Father and Son Who Saw the Moon

The Law

Speaker 1: The Rambam says further, **"A father and son who saw the moon."** What happens? We just learned that there must be two valid men, and we know that two relatives cannot be testimony together. What happens if a father and son saw the moon? Can they think, let's not even discuss it, because it's irrelevant, because we can't be two testimonies together. But **"they should go to the beit din to testify,"** they should indeed make the effort, go to the beit din to testify. The Rambam says, **"not because testimony of the new month is valid with relatives,"** the reason why we want them to go there is not because we're going to accept them together, but for another reason, **"because if one of them is found invalid, invalid because he is a thief or similar from other invalidations,"** the reason is something else. If other people will come to testify, but one from the other set of testimony will be invalidated, for example they will be invalidated for another reason.

Discussion: Why Should Both Go?

Speaker 2: "One of them" means one of the father and son?

Speaker 1: Yes, "one of them" seems to be the father and son. Apparently I understood the point is that if there will be another set of testimony one could take one of them, but it doesn't say so here. If one of them will not be valid for another reason, **"the second will join with another and testify."** Why doesn't he just say it that way? Because if other people should come who are not valid... let's understand it.

Because one thing, I'll explain to you, I think he's right. There's only one thing, only one of the father and son will anyway be valid. So here it says that both should go, and then it says even one may desecrate Shabbat, and it makes distinctions. Except here it says he should go, but later we'll see that witnesses go even in ways that are relevant, it's like a novelty that one may go that one should go. It's the father and the son, both of them together are certainly not valid. So why should both go? Only the father should go or only the son. If you say that we'll need him for a second pair, that is, only one more person can come, we'll have the second one. Well, problem, why should both go?

The answer is, one can't know, it could be that the beit din will decide that one of them is invalid. He doesn't yet know which one, because he doesn't know that he's a thief, I don't know exactly, he doesn't know what the beit din knows, or it could be about the other question. So necessarily both should go on the chance that the beit din will invalidate only one of them. The very reason to go is for the reason that they should be able to join with another set. But why should both? The reason is because perhaps one of them will be invalidated, so if both are there one has more chances. For that reason both should go. Yes.

Law 1 (continued) – Those Invalid for Testimony by Rabbinic Decree

The Law

Speaker 1: The Rambam says further, **"And anyone who is invalid for testimony by rabbinic decree,"** people who are invalid for testimony, not from the Torah like for example relatives, but for other reasons from rabbinic decree that the Sages forbade for testimony, for example one who plays with dice, because it's somewhat like theft, it's somewhat a bit of theft, it's not a Torah thief who is invalid from the Torah, but it's a concern of theft that the Sages were strict not to accept their testimony. **"Even though he is valid from the Torah,"** you might have thought that regarding testimony of the new month they should be believed? The Sages also say, it's invalid for testimony of the new month, that it must be according to all the laws of the laws of testimony.

Discussion: Why Might One Think Rabbinic Invalidations Should Be Valid?

Speaker 1: Apparently the reason why one might think that for testimony of the new month it should indeed be good is because of several things. One, because first of all it's not relevant, usually we're afraid that he has some agenda to say lies, he's a liar. So when it's monetary laws and the like, here there's less reason to think. Okay, that's a question.

The second thing is because also the witnesses is such a... it's different from regular testimony where the witnesses are clarifying something. Here we're talking about a case where the beit din knows that the moon should already be seen according to their calculations. And we also learn that if the beit din says it's sanctified, as it will say later, even if for some reason it was a mistake, once they said it's sanctified that's it. Because one might think that the testimony is just such a formal thing that one should say testimony and one could be much more lenient. They say no, we're strict with all the laws of testimony.

Speaker 2: Yes, I'm not so happy with this reasoning.

Speaker 1: Eh, that means one needs to be able to say. It's simple that if there's a real concern that he's saying lies, you can't say because testimony of the new month has leniencies, I don't know what. Because first of all, the beit din doesn't know that there is the moon, they know that it's possible, as the Rambam said. They know technically the calculation that one can see, but if there's a law that one must see, there's no way to know that one saw, because it could be cloudy. It could be that there are small differences, and not just cloudy, various other technical things, that even though it's already the time that the moon should be fit to be seen, it's still not visible, and that doesn't yet mean Rosh Chodesh. So one does need a witness.

I say, he's invalid, because when the Sages invalidated these sorts of people for testimony, they invalidated for all testimony in the Torah. I don't know if it's a special law of Kiddush HaChodesh, I'm not sure.

Speaker 2: Yes, but it's correct, because I think for example that a wicked thief who testifies that someone sanctified, he also doesn't need an agenda there. Every testimony in the world, just looking for kindness. The Rambam should have much for kindness, but the Sages invalidated. It's invalidated a good day. That on the contrary, on other things, perhaps to say relatives, I know, perhaps it's not relevant to testimony of the new month. Rabbi Shimon argued that it's valid. He had a proof from the verse, "This month is for you," we're talking about Moshe and Aharon, who are brothers. So the Rambam says, he argued that we see that brothers are valid for testimony of the new month. Why? You can understand this, because it's not a contrary matter, it's not a matter of bias, he's going to say lies, except for the Sadducees who had some craziness. But in any case, invalid testimony. The novelty of invalid testimony by rabbinic decree can also be, that the fact that you invalidate the witnesses makes the holiday be on a different day, yes? It's such a Torah matter, it will have an effect on the Torah. It pushes off the holiday with the Torah. Because how does it go? Because the Sages, we follow the Sages. The Sages have power. I think as you say about Kiddushin, everything, invalid testimony by rabbinic decree is invalid testimony. Perhaps there are things that aren't, one needs to see. In any case, regarding this yes. Perhaps there are places where one must accept stringently on the... But here it doesn't say so, yes. We don't accept the witnesses, it's not a big practical difference, because witnesses only matter when the beit din is approved. Yes.

Law 2 – The Law of Scrutiny in Testimony of the New Month

Torah Law – We Don't Scrutinize Testimony of the New Month

Speaker 1: Okay. Now the Rambam is going to learn about the inquiries and examinations and other things regarding the witnesses. Now, we previously learned which Jew, which person is valid for testimony? We're going to learn how one accepts the testimony. Yes? Yes, the Rambam says, **Torah law, from the essential law of the Torah, the law would have been that we don't scrutinize testimony of the new month.** One doesn't need to scrutinize testimony of the new month, one doesn't need to make examinations and inquiries, as with other testimonies it says "and you shall inquire and investigate thoroughly," one must thoroughly investigate the testimony. For Kiddush HaChodesh it wouldn't

be necessary, testimony of the new month would not be necessary from the Torah. And the law would have been from the Torah, that even Kiddush HaChodesh would have

Testimony of the New Month: Torah Law That We Don't Scrutinize, Rabbinic Enactment Regarding Heretics, and Sending Acquaintances

Law 2 (continued) — Torah Law That We Don't Scrutinize Testimony of the New Month

That is, this is still all the law, the holiday had. If conspiring witnesses come, the month is not nullified, it's still so.

And apparently this is because from the Torah one doesn't need to scrutinize. Or conversely, since even if they are conspiring witnesses they are valid, then initially one also doesn't need to make examinations and inquiries.

The main reason why one makes examinations and inquiries is in order to be able to make them conspiring witnesses, as one learns about what time, at what place, all the things that make it so one can check if it really was. But since regarding testimony of the new month, even when one does check and they are conspiring witnesses, it's anyway sanctified, one doesn't essentially need to make any scrutiny.

What "We Don't Scrutinize" Means — Two Things

Which essentially means two things: accepting from anyone, soon we'll see the Rambam, and afterwards one will make inquiry and examination. These are two things that he sets down in this. It's a novelty.

Therefore, since this is essentially the law, therefore, it was initially so indeed, this is how it was actually done as law initially in earlier years, when the world was the world. It's not clear at which point, but there is a story when it was. Yes, I'll tell it now.

Law 3 — Initially Accepting from Anyone, and the Enactment Regarding Heretics

Initially they would accept testimony of the new month from any person in Israel. The law that there must be valid witnesses is still there. But any person in Israel was believed. Why? **Because all Israel have a presumption of validity.**

The Matter of "All Israel Have a Presumption of Validity"

I think the commentators say, any Jew who looks like a proper Jew, because there is in this... all Israel have a presumption of validity means a Jew who looks like a... This is not what any commentator I've seen said. All Israel have a presumption of validity... what should the matter say? He said, he said, he said.

Because in another place it says that from an am ha'aretz (ignoramus) one doesn't accept anything even with a Torah. An am ha'aretz can't be like an am ha'aretz. I don't know exactly what was once the proper am ha'aretz. One needs to see from this. But in any case, an apparent question, from another place it says am ha'aretz. It's still true to the laws of am ha'aretz you'll discuss one, one doesn't have a presumption of connection.

What does this come in at all? I don't understand the question at all with all due respect to the holy commentators. I don't know what he wants. Because the words all Israel have a presumption of connection is not so simple. Everyone has a certain connection. Am ha'aretz already has a... if there's a law with the rabbis, if there's a law that an am ha'aretz is some tear in his validity, then there isn't a tear. Certainly, until it's separated for you, he says, until it's separated for you, it's some certain separation, not certain, doubtful, what's the difference?

All Israel means normal, a Jew. Let's not look at how an am ha'aretz is something, what makes an am ha'aretz. Even if you have a large sect of the world. No, it's not, you don't know, you don't know, you don't know.

The Difference Between Presumption of Validity and Specific Testimony About the Person

But what was exchanged here is a completely different thing, that one first needs testimony about the person. That he is valid testimony. This doesn't exist, even after there is am ha'aretz, this doesn't exist on other things. The question is not... I don't see that it should be a question.

But it seems that the Rambam sets down here, and this is not clear, what is indeed not clear that the Rambam sets down here that there is essentially, essentially one is valid everything without scrutiny, and therefore they would accept from anyone.

Apparently these are the two things that one doesn't need to do, because accepting from anyone is just such a law in the laws of testimony, not any special leniency because the conspiring witnesses are valid. Part of scrutinizing is no, no. Scrutinizing means inquiries, examinations and inquiries. That's what I think.

What "Torah Law That We Don't Scrutinize" Means

Torah law that we don't scrutinize means Torah law that one takes presumption of validity? Presumption of validity is just such a law. There's no Torah law that one scrutinizes anything. It's not a new thing. Let's say that the rabbis have a law, it comes in here, he says Torah law.

I think he means to say that from Torah law it's always so, that a Jew is valid, because there's a specific problem they stopped this, and also they made inquiries and examinations, which apparently is also a way to catch the liars, not a way to make the testimony more certain. Understandably, there are two things here. Yes.

The Story with the Heretics

So in any case, initially, before a new enactment happened, they would accept testimony from any Jew. Why? Because every Jew has a presumption of connection. It's already after the law that one must indeed be valid testimony. But why does one make examinations and inquiries? Because even after he already has a presumption of connection, we will still make more examinations and inquiries to make sure that it's not conspiring testimony and the like.

But here they didn't use to make investigations and inquiries because... because for the reason, and every single person, even if he had a disqualification, yes, they would accept. No, two other things. They don't check on the person. Drisha v'chakira is that they question him about his testimony. Later two enactments were made, both that they check out the person and that they check out his testimony through drisha v'chakira, which is worthwhile to make sure that there are no false witnesses and the like. So I have two other things.

We don't accept the difficulty of the Chassid, read the entire halacha. The "therefore" is... therefore, if at first, yes, in short, they used to accept everyone, so that's the halacha.

But, there was an incident, afterwards there was a change, **and the heretics began to corrupt.** It means that the Sadducees tried to plant false witnesses against the Sages so that the sanctification of the new month would not succeed. There are various incidents about this. **"And they would hire people to testify that they saw when they did not see,"** they hired people to go testify that they saw the moon when they didn't see it.

The Enactment of the Sages

They enacted - the Sages enacted **that the court should not accept testimony about the new month,** the court should not accept from just anyone, **"except from witnesses whom the court knows are kosher,"** only from witnesses whom the court knows are kosher.

Later it goes on to explain how they know, meaning that from distant places, known people must come, or from the court of that place who will testify that he is a proper Jew. From those who know them, as it says in Rosh Hashanah. **"And that they should inquire and investigate the testimony."** Two things. One, they only accept from witnesses who have a reputation, they are proper Jews. And they do make inquiries and investigations.

This doesn't stand clearly in the Mishna that this is because of the enactment, but it seems the Rambam understood, I don't know from where he took it, that essentially they don't let them make inquiry and investigation, but because of the Boethusians and because of the Sadducees, whoever they were, they began to also make inquiry and investigation.

What stands certain is that they stopped accepting the presumption of validity, they said that one needs a special kind of certificate of validity for the person, so that one should know that he is a kosher, honest person.

What Did the Heretics Want?

Either they wanted to take away the authority, because testimony about the new month is a matter of authority, the court of twenty-three, the court in Jerusalem, the head of the court - they wanted to undermine this. Or it could be, as they say, that they wanted to manipulate so that Pesach for example would fall on Shabbat, so that it would work out that the Omer should be offered the day after Shabbat and the like, such kinds of calculations. It's not very clear what the agenda of the heretics was, but in any case they interfered, so they made the enactment that one must know the witnesses.

Halacha 4 — Sending Those Who Know With the Witnesses

The Rambam says further, "therefore" - Rashi says the reasons that you say, but it's not... there are other reasons, there isn't... there isn't... why. Yes, the Rambam says further, "therefore," a history, **"if the court does not know the witnesses who saw the moon"** - if the court doesn't know the witnesses who came from far away - **"the people of the city where it was seen send with the witnesses who saw, other witnesses,"** so the people of the city where the witnesses saw the moon, had to send along other witnesses **"who identify them to the court,"** they testify before the court that these are good witnesses, **"and inform them that these are kosher, and afterwards they accept from them."**

Who Are the Identifiers?

How do we know about the first witnesses? These are identifiers, one must send people whom the court knows. That's the answer. From the local court or from the local people who are known, the heads of the community.

Is This a Law of Testimony?

It didn't occur in any way that one sends testimony. The testimony... yes, okay. I don't know. Okay, it could be that it's a law of testimony like... in any case, it's certain that the second witnesses are such people whom the court does know. That's what one must say. And they say that the Jews are kosher Jews. Essentially it's a confirmation of testimony.

He doesn't need to say anything, he only needs to say that he's not a Sadducee. I mean, it's basically the "character witness," right?

I see that he brings that there is indeed a discussion in the poskim whether one actually had to come or a letter would have helped. Well, well. Yes. Fine. It seems that it says he must come, one must come.

Can One Give Testimony With a Letter?

Since when can one give testimony with a letter? Where is there such a thing? But it's not a law of testimony, it's a law of... good? It's a law of clarifying, of helping to make sure of the testimony. No, there doesn't need to be a law of testimony about the two people. There needs to be a practical thing to make... identifiers testify. Identifiers testify.

Laws of Sanctifying the New Month – Testimony and Investigations and Inquiries

Halacha 11 (continued) – Knowing Them: Testimony Through a Letter

Speaker 1:

Well, well. Yes. Fine. It seems that it says he must come, one must come. Since when can one give testimony with a letter? Where is there such a thing?

But it's not a law of testimony, it's a law of... good? It's a law of clarifying, of helping to make sure of testimony. No, there doesn't need to be a law of testimony about the two people. There needs to be a practical thing to make, my question about this. My help. My help.

If the examiner himself knows the person, then he's still good. We're talking, we're talking here about one who doesn't know, so it doesn't say that. If he doesn't know, if he knows him, then we know that he's a kosher Jew. But if one doesn't know him, one needs a second person to testify that he's a kosher Jew.

But this we know is presumably a kind of testimony too, I don't know why it shouldn't be. So this is one enactment that was made.

Halacha 12 – Calculations of the Court and Investigations and Inquiries of Witnesses

Speaker 1:

Afterwards, it seems the next halacha is the continuation of the next enactment of the investigations that the court checked. That is, essentially one didn't need this apparently. Why? Because a Jew says that he saw the moon, what's the difference? Even so, one would have been kosher like this.

No, right, in other words, all these checks are only... that is, here the first thing that was mentioned in chapter one, that the court needs to calculate, to know whether the moon can be seen at all today. That was always. That's not investigation and inquiry.

But the investigation and inquiry which is details, which both could apparently be, or only, not both could be a part, both could be a part which is only a way to catch the person that he said a lie, or two other things, or these are simply things which in certain details which, as I saw, one explains, that one wouldn't have paid attention to. It doesn't really seem relevant regarding the halacha of the new month whether you know it was this way or that way.

Just as in all investigations and inquiries that we learn from the incident of Ben Zakkai and some eyes yes, one asks certain questions which aren't really relevant to the testimony, but it's another detail of the reality, so one can refute the witness with this.

So here, how does one refute? The Rambam says, through the fact that the court will know what it should be in the detail which is not essential, because it doesn't change, afterwards he will know if he says falsely, he knows that it's false testimony.

The Words of the Rambam

The Rambam says, yes, the Rambam says: **"The court calculates by the methods that the astronomers calculate with them,"** the ways of the science of astronomy, of astronomy, how one calculates, **"and they know that the moon when it is seen in this month,"** they know the shape and the angle of the moon, **"whether it will be north of the sun or south of it,"** whether it will be on the north side of the sun or the south side of the sun, **"and whether it will be wide or narrow,"** how long it will be.

Wide is broad, and narrow means broad or short. It's not clear what it means, because apparently the beginning of the month is always short. I don't know exactly what that means.

He says that perhaps it does make a difference, perhaps a few hours later it's a bit wider. Or, he brings another interpretation, that perhaps wide means further from the sun. That is, it could be a few degrees, the sun has a certain place where it travels at every time of year, and the moon can be, as he says north or south, like right or left from where the sun was already not, after sunset usually, but the sun is already not there, but where the sun was. And it can be a bit further and a bit closer. So that's another interpretation.

According to this will be the size, the width of how much it's illuminated. Apparently the width of the moon is apparently always the same. I don't know, perhaps one needs to check, perhaps not, but because it's the beginning of the month it must be tiny. Do you understand? If it's the third day it's bigger, as he shows. Do you understand what I'm saying?

Speaker 2:

Yes.

Speaker 1:

Anyway, perhaps one asks this simply to see.

"And to which side will the tips of its horns be inclined," to which side is the moon inclined, like to which side the two points of the moon are, upward, to which side they are. That is, the moon can be like a half circle, like a picture of a moon, and there are sometimes certain months when it's like both points upward, like a plate, and sometimes it's more on the side, like a comma, not a comma, a parenthesis like that. In short, there can be different ways, depending on the calculation of what it is.

How One Questions the Witnesses

And after the court makes the calculations, they use this to be able to question the witnesses. **"When the witnesses came to testify,"** you skipped the... **"When the witnesses came to testify,"** when witnesses come to testify, they use the calculations that they make with their astronomy, and they investigate it, and with this they know how to question the witnesses.

They ask, **"How did you see it? Did you see it in the north or in the south? To where were its horns inclined?"** To which side were the edges of the moon. **"How high was it in your sight?"** How far, how high in the sky did it look to you. **"And how wide was it?"** And how wide did it look to you.

Discussion: Why Wasn't the Height Calculated

Right, so here he added something that he says they calculate, which is how high it is. How high means how far from the earth, basically, right, it's higher from the horizon. It could be that this, I didn't understand clearly the reality, he says to look in the back, I don't know.

It could be that this depends simply on the time, if it's not day and night. It's going toward sunset, it could be that on the first day of the month, one sees it only right before it goes down, it's only there for a few minutes, so it can only be a certain height.

But we'll see in the next halacha that the level of height is harder to measure, there's no clear thing. So essentially, it's not clear that one can recognize with this one with this. So perhaps that's why he doesn't write that they calculated it, but...

I think perhaps differently, perhaps the reason why they didn't calculate it is because there really isn't any clear... this all has to do with approximately how the person imagines it, but one can indeed see a liar. If he says it was really above my head, or he says things that one sees are obviously exaggerations, they should know that the person...

No, it's not imagination. It's a real thing that there's a certain height. It's just that there's no... numbers. A person says that they didn't have, today you can yes that there are such instruments that one can use to calculate exactly, but most people don't have it.

The people, that is he says the right side or the left side, is a clear thing, a person, either this or that. But he says so, the next halacha goes two staff-lengths. How much is two staff-lengths? It's ten feet, no one knows what a staff is. So, it's less clear, but it's not imagination, it's a real thing that he sees how high it is in the sky.

If Their Words Are Found Accurate

They question the witnesses according to the calculations. **If their words are found accurate according to what there is in the calculation,** if what the witnesses say matches what the judges know should happen, **they accept their testimony,** we know that they are good witnesses, we accept them. **And if their words are not found accurate, they do not accept their testimony,** we cannot trust them, we don't accept those witnesses. This is indeed investigations and inquiries.

Where One Can See the Calculations

And if one wants to know the calculations, apparently the Rambam himself will explain this much later, how one actually knows how it should be. Here he only says the laws of...

Discussion: Would This Help the Investigations Against the Boethusians?

This wouldn't have helped, this wouldn't have helped for example against the Sadducees, because they could have taken professional witnesses who also know approximately what to expect.

Ah, it could be that yes, because this eliminates the "knowing them." This is both. I remember the incident was interesting, because the incident that the Gemara brings is once someone came and they gave him a bribe that he should say falsely, and he comes and he tells a whole story, some funny story about the moon in water. Yes, it had a bucket with a face and such things.

I say about this it would already have helped through investigations and inquiries alone, but I say that the Boethusians can sometimes take a sophisticated thief who does know what the moon looks like, how it should look. If he learned the same astronomy, but he learned last month. He doesn't know to say things that are refutable. For that one needs witnesses who know them.

Discussion: What Is the Second Level of Checks?

Speaker 2:

I understand strongly, what are the checks? It's another level of checking.

Speaker 1:

No, the second could be that he's indeed an honest Jew, everything's fine, but perhaps something seemed to him, it seemed to him in his imagination, and this will come out in the investigations and inquiries. But it seems clear that the checks are so that there shouldn't be conspiring witnesses, liars.

He says we accept them, we don't accept them. I thought about this language, not like we know that they're saying lies, they're proper people, but it seemed to them. We're talking about witnesses who came with witnesses who know them. But in investigations and inquiries it turns out that they weren't accurate, they didn't see well, they didn't observe well.

It is indeed implied, I don't know from where the Rambam took this, it is indeed implied that they don't scrutinize carefully, clearly one doesn't scrutinize, and later they added this too. So, not sure.

Speaker 2:

Yes.

Halacha 13 – They Saw It in Water, in Clouds, in a Mirror

Speaker 1:

The Rambam says, which of the checks make a difference and which don't?

The Rambam says, **"If the witnesses said we saw it in water,"** if the witnesses say they saw the moon's reflection in the water, it's not the moon but the... they saw the moon's reflection, they saw the picture of the moon in the water. **"Or in clouds,"** they saw the moon like through the clouds. **"Or in a mirror,"** they saw the moon on a mirror, on the window for example, reflected.

"Or," I don't know, does this technically mean the thing that one puts a candle in?

Speaker 2:

Yes, like... in a mirror, a viewer? A window means a window? Mirror? I don't know. Okay. Glass he says, yes.

Speaker 1:

"Or even if he only saw part of it in the sky and part of it in clouds," we saw the moon sticking out from under the clouds, we didn't see the full moon. **"Or in water or in a mirror,"** something we didn't see in the sky?

There are those who say one can see both. One saw in the sky for example, but a moment later I didn't see it, I saw it in the water, half of it. One saw half, it was only perhaps... right when it came out, and there was a lake at the edge of the... okay. In a mirror? Okay. Something like that.

Ah, he saw through a mirror, and it's not clear whether he saw the moon. Did he see... when someone sees through his glasses, he indeed sees the moon, but when it's not certain whether he saw the moon, whether he only saw the reflection on the...

He brings that there are those who learn that "in a mirror" means he sees through glass, but the simple meaning doesn't mean that. The simple meaning means he only sees through glass, a reflection.

What is through glass? A proper seeing. I mean, someone will say looking at forbidden sights through glasses, you know it's a seeing.

Speaker 2:

Yes. Perhaps. Okay. Or in a mirror is not good, but two in a mirror. Okay. Do you understand, so he says once.

Why This Is Not Testimony

Kiddush HaChodesh — Laws of Testimony of the Moon: Examination of Witnesses and Acceptance of Testimony

Law 5: Seeing the Moon Through Reflection (Mirroring) — This is Not Valid Seeing

Speaker 1:

That means they didn't see the moon. It's not a matter of them being disqualified, rather it means they didn't see the moon. You saw something, but you didn't see the moon. The testimony is that one should have seen the moon. That the moon is there, one can simply know from calculation. It doesn't help that you saw it in the water, because you didn't see the moon. But

Speaker 1:

But on the other thing... But seemingly, because one can be mistaken in this. It's not a decree of Scripture, it's not a clear thing that it was halfway. You didn't see the moon. This is no more than someone who knows that the moon should come. You saw on the water, and according to the calculation it must be that the moon is in the sky. But you didn't see the moon.

I think it means that we'll say first that there could be a cloud. It's not clear. I don't know when a person stands in someone else's shoes and does something. Because it's not clear enough. I don't like that we have to make things that can be learned. Simply in a lay manner one must make such Torah teachings.

What's wrong? He'll say... Later he says something clearly. **Shema avim nitkashru** (perhaps clouds gathered). Yes, the very next thing. You saw some reflection? Who knows. It's not clear enough. Seeing, you must have seen clearly.

Can't with lay reasoning, but the Rambam says one of their Jews. He doesn't say, that means not seen. Not because perhaps there's some error, rather **ein zo re'iyah** (this is not seeing). That means not seeing the moon.

Innovation: "Ein Zo Re'iyah" Doesn't Mean "Liar"

Going further. **Amar echad, re'itiv vegavo'ah be'einai kemo shtei komot** (One said, I saw it and it was high in my eyes like two stories). I don't know if the Rambam means that the Rambam, I'll say what I interpret. I interpret **ein zo re'iyah** to exclude that it's not simply that he's a liar. We believe him. Later we see laws that are two other things, but he says against what we know then to say that he's a liar.

Ein zo re'iyah means that he's not a liar, but he didn't see clearly enough. It's a second thing, it's not seen clearly enough, but that means not re'iyah. Okay.

Law 5 (Continued): Differences in the Height of the Moon — "Like Two Stories" vs. "Like Three Stories"

Speaker 2:

But on the other thing that the Rambam said, that... how high it is. On this the Rambam says thus: if one of the witnesses says **re'itiv vegavo'ah be'einai kemo shtei komot** (I saw it and it was high in my eyes like two stories), it looked to him like two stories up in the sky. **Ve'amar hasheni** (and the second said), no, to me it looked three stories, **mitztarfim** (they can be joined). Can they be combined, because these are such estimates. It's not truly relevant to say.

But if he says... yes, no, I say it's both. It's estimates, therefore estimates one can say a bit different than the other. **Amar echad kemo shalosh komot, vesheni amar kemo chamesh, ein mitztarfin** (One said like three stories, and the second said like five, they cannot be joined).

He explains, there are times when the moon is much higher and much farther from the horizon, yes? So simply, they're talking about different things. When one says three and one says double that, or five, they're not talking about the same thing.

Two. Komah I think means the height of a person, yes, not a story. Komah means how tall a person is, yes? Yes, I mean, Hebrew translation. Anyway, it's a difference of two, it's no longer an error. Or, as you say, it's not an estimate that's the same thing. And it's already a contradiction of the testimony.

Discussion: Why Can't It Be That They Saw at Different Times?

Speaker 1:

I don't understand, but one thing, why can't it be that it was a minute later and it already went up?

Speaker 2:

It seems that there isn't enough time. They're looking together, yes? They're together.

Speaker 1:

Why? Don't we look together the two witnesses? This can even be from two cities. There is with other testimony there is indeed a law, must look together the witnesses is the same thing.

But perhaps with examination of inquiries it does come out when they saw, one asks about the hour. If they both saw at the same hour, he hasn't yet said the examination of inquiries.

Here he says, I don't understand. Yes, but there are the clear laws of examination of inquiries that are always said. What hour was it, what time. He doesn't bring it here, I don't know.

Perhaps always the time is the same? The time is always a bit after sunset, night of the 29th or 30th. One can never see the moon in the middle of the night on the first Rosh Chodesh. It's not relevant. Yes, there's an order in these things. Or early morning, so that both shouldn't see at the same time. One must know the...

What happens in such a case when one says **kemo shalosh komot kemo chamesh** (like three stories like five), we still seek how we can make them be good testimony, **umitzaref echad mehem im sheni she'ed kemoto** (and one of them joins with a second who testifies like him), or with a second who isn't so far off.

With this the Rambam says that in such a case it doesn't mean that one is a liar. One of them is a liar. No, one of them. I don't know. I don't get it. There are two people, one said three, one said five. So we seek if there's a second who says three or four, he comes. If there's a second who says five or six, also good. I don't know if they're liars.

I would say perhaps like that they two didn't see the same thing, so we can't combine them as one testimony. But once one of them can find a partner, it's okay, but I don't know if we think they're liars. Only if they say it so differently, they don't count as one testimony. It's strange. I have no doubt.

Discussion: What is an Error? What is a Lie?

Speaker 2:

What is an error? A lie, do you know what an error is? What's the difference? Or a big error. It's in such a case, I'll say it two groups of witnesses, one will say two and one will say five, both will be a doubtful case of liars, because one will be a liar. Yes. Both groups will be valid, so it appears from the Rambam. It's very strange.

Speaker 1:

Yes, about this I say that we're not suspicious of lying, rather they're not saying testimony about the same thing, we can't combine them as witnesses. About this, with a second one can combine them. I have no objection to this approach.

Speaker 2:

What does he say that there are things besides lying?

Speaker 1:

Umitzaref (and joins) also **with the sheni** (with the second) also, when another single witness comes. We spoke earlier that even one person alone comes. Yes yes. I don't know, it's a bit interesting to me. We need to understand this better.

Ah, he asks you, what does testimony mean I don't send or? Not clear. In short, the difficulties, but the reasoning is still somewhat strange.

He argues, writes Rabbi Chaim Kanievsky, that the Beit Din knew, according to what the Rambam didn't write, but in other places it is indeed implied that the Beit Din can know how high it will be. Therefore, the Rambam only speaks of a valid one, why doesn't he say? He should know which one is lying, and go with them.

Perhaps further one must say the answer that it's not a clear thing, and people don't know essentially what they're saying when they say stories. Perhaps more like you, that we simply

need two people to say the same thing. It's also very interesting.

Digression: How Hard Is It to See the New Moon?

Speaker 1:

It seems something that in general, all these laws, we examine the law, yes, we must send an av beit din. It seems that it's very hard to find two witnesses. Seemingly, if one can see the moon, there should be a thousand people who should have seen it. It's only two people? Perhaps not? Perhaps am I wrong? Perhaps the reality is that it's hard?

Speaker 2:

Yes, it's like many times that there was a great light. If there is, perhaps there is such such such. I think that it can be, but I saw that in the first few... Why did few people go? Because we're talking, if it's the extra day, night of the 30th, usually it's already well-known. But the first day, many times it's really, even to this day one doesn't know clearly.

Yes, it's very tiny, and one must have good... Someone who doesn't need glasses, or good eyesight, or exactly a good clear place where one can see clearly. It can be that it's hard, it's not... Naturally one has people who are into it, they stand on certain mountains from where it's very clear, and they seek it. There's like a competition who can see the first. You see that there's some wisdom in this, not so simple. Okay.

Speaker 1:

We're also not talking about London where it's always cloudy, we're talking about Jerusalem. Eretz Yisrael there's almost no clouds, it happens rarely.

Speaker 2:

Yes, but the point is it's always hard to notice the very small moon when it's still just born, the baby moon.

Law 6: "Re'inuhu Belo Kavanah" — Saw Without Intention

Speaker 1:

What happens thus? **Amru** (they said), the two witnesses say, **"re'inuhu belo kavanah"** (we saw it without intention). It's not that we went moon hunting, we went seeking the moon, rather we saw it, just noticed it. But since, and they said thus, once they began, ah, one already begins asking all these details, they said, when they saw it they didn't think exactly which side I see it, I only saw it, and I began to contemplate, I thought, ah, now I can be the lucky one to run testify. **"Venitkavnu lir'ot"** (and we intended to see), I wanted, then I began to pay attention, focus, see how I see, **"veshuv lo re'inuhu"** (and we didn't see it again), they didn't see it anymore.

Says the Rambam further, **"ein zo edut, ve'ein mekadshin aleha"** (this is not testimony, and we don't sanctify based on it). Why? Because since they saw it only so randomly, so weakly, without intention, we are concerned **"shema avim nitkashru venira'u khalvanah, vechilu vehalchu lahem"** (perhaps clouds gathered and appeared like the moon, and were finished and went away).

That means, it's not simply that there's a law that there must be intention. This is a specific law that if he says "I saw it for a second, after I took a look it's already gone," that means not seeing the moon, because that's more to... I have a reason thus, because that after a minute one already didn't see, he himself says testimony that perhaps it was a cloud. And the moon doesn't become hidden so quickly, seemingly.

Discussion: What Does "Re'inu Velo Khivnu" Mean?

Speaker 2:

No, but it can also be that **"re'inu velo khivnu"** (we saw and didn't intend) means to say, therefore about this I can't answer you about how high and which side were its horns. I think that this is still a bit, it's still a piece of Gemara. If they say that **"re'inu velo khivnu"** and they can answer clearly what they saw, it's already, it's only a certain long time. But if he says "and afterwards I didn't see it," that's a normal thing.

Speaker 1:

Yes, it's an extra Gemara. The Rambam brings it later, but I see that he brings from the Gemara. It's another thing, it's not a moon. If he didn't look again, and he can say clearly, indeed so, if he did look again, it seems that this is a normal thing. A person takes a look, and he says, ah, moon, wait, not a moon.

Speaker 2:

No, what happens when exactly then a cloud came? It will probably indeed be good. It became covered with a cloud. He saw the moon, and afterwards it became covered with a cloud. There's no measure of intention. But there is that if he saw and didn't see, the Gemara said **"lo re'inu velo re'inu"** (we didn't see and we didn't see), and he explains that this means it, then we say that it happens, it can be that it was a cloud. Yes.

Law 6 (Continued): Seeing the Moon on Day 29 Morning in the East and Night 30 in the West

Speaker 1:

Another interesting law, also to understand this truly one must understand the calculation, but we'll say what the law is. Yes, the Rambam says thus, **amru** (they said), what happens in such a case? **Amru**, before we say thus, **re'inuhu** (we saw), we saw the moon **beyom tishah ve'esrim shacharit bamizrach** (on the 29th day morning in the east). They saw it early morning, the 29th day early morning. It means the 30th can already be the new month. Look at the case.

Speaker 2:

No, no, no, it can't. Read the case.

Speaker 1:

Okay, and afterwards, at night we saw it **bama'arav leil shloshim** (in the west on the night of the 30th). **Ure'inuhu** (and we saw it), that night, **bama'arav beleil shloshim** (in the west on the night of the 30th), we saw the moon again on the west side.

Laws of Kiddush HaChodesh – Testimony of the Month: Examinations and Inquiries, and Order of Accepting Testimony

Law 11 – Witnesses Who Saw the Moon Twice: Early Morning of the 29th and Night of the 30th

The Rambam says thus, **amru** (they said), what happens in such a case? **Amru edim** (witnesses said), we say thus, **re'inuhu** (we saw), we saw the moon **beyom tishah ve'esrim shacharit bamizrach** (on the 29th day morning in the east). They saw it early morning, the 29th day early morning. It means the 30th can already be the new month. Look at the case. No, no, no. Okay. And afterwards, at night we saw it **bama'arav leil shloshim** (in the west on the night of

the 30th). **Ure'inuhu** (and we saw it) that night, **bama'arav beleil shloshim** (in the west on the night of the 30th), we saw the moon again on the west side.

It means, usually, so I think, end of the month, if I make a gross error, let someone tell me. I think that usually end of the month one sees the moon. Really end of the month one can see the moon, ah, right before dawn, before early morning, really a second before the, ah, sunrise, before dawn, one can see the moon, because the moon follows the sun, so it comes out in the calculation. We'll perhaps sometime see exactly the calculation why it works thus. One can see early morning, ah, the old moon. It's called the old moon, the moon basically from the beginning of the month until the end of the month comes up later, later, later, later. Until the end of the month it comes up really early morning.

And afterwards, the new moon one always sees at sunset, right after the, right after the sun goes down. Also only for a bit. So, witnesses came and say something that essentially doesn't make sense. He said, today early morning I saw it, the 29th early morning, and the 30th right at night I already saw the new moon. Now, impossible. There's a rule that it takes at least twenty-four hours approximately, there are about this exact calculations, it takes at least a whole day the moon must not be seen. There is in the Gemara, twenty-four hours the moon is lacking. There must be a whole day that one can't see. So if he says I saw early morning the old moon and at night the new moon, one of the two is a lie, an error, a lie, it can't be.

Dispute in the Mishnah and the Rambam's Ruling

On this there was a dispute in the Mishnah whether this means valid testimony, because the testimony says something that doesn't make sense. The first sentence contradicts the second sentence. Something can't be. But... ah, says the Rambam, the ruling is with the Rambam. I can however speak the books of the Rambam. Let's see what he says.

Says the Rambam, **harei elu ne'emanim** (behold these are believed), they are indeed believed, **umekadshin al re'iyatan** (and we sanctify based on their seeing), one can indeed sanctify based on this seeing. Why? **Shehare ra'u otah bizmanah** (for they saw it at its time), they are indeed valid witnesses. That which they say that they saw it, what is relevant to us is only that they saw it on the 30th day. Whatever they say that they saw on the 29th, they were mistaken then. That part doesn't concern me, that part they imagined foolishness. But what they said is something that is correct, it's a time when the moon should be able to be, when the rabbis know that it can be, we believe them.

Therefore, the seeing **shera'u bashacharit ein anu zekukin lah, she'ein anu acharain lir'ot bashacharit** (that they saw in the morning we don't need it, for we are not responsible to see in the morning), the Beit Din doesn't sit now asking people what they saw early morning on the 29th.

Ah, but should perhaps rule them as liars? He says, very well, we don't need to rule them as liars, because it can be that they saw something **sheha'avim hem shenitkashru venira'u lahem khalvanah** (that the clouds gathered and appeared to them like the moon), they saw something that looked to them similar to a moon, so on what they are believed, they remain believed.

Continuation of Laws of Sanctifying the New Moon

Very good, there are two reasons why the halacha makes sense. Although Rabbi Yochanan ben Nuri, there was one, sorry, there was one, yes, Rabbi Yochanan ben Nuri said **edei sheker hen** (they are false witnesses), but we don't rule that way. Why? Because of two things. First of all, from a learning perspective, halachically, which testimony is relevant testimony of the month? The last one, the old moon is not relevant, it doesn't come into beit din. You're just telling... yes, just telling many things. It's for the new one. It's as if, but you say better, because the Chachamim, we're talking about the Chachamim knowing that it could be the moons. It doesn't have to be perhaps, but it could be. So they know that it makes sense, the second testimony makes sense. Eh, the first one? Well, it's completely an error.

General Principle: Testimony That Is Not Relevant Does Not Disqualify the Witness

It's quite interesting. It means for example, I'll say to put together, when witnesses come to give testimony, everything he says as testimony is good, but he tells stories. On the way here I saw, you see that he is a fool or that. But that's not part of the testimony, the person has issues. But he doesn't come a month, regarding monetary matters, I don't know what one says. One should know to see then. There is yes the testimony that his entire testimony is disqualified. But that part of the testimony, if he says other side matters with foolishness, he's a foolish Jew. But what is relevant to the testimony... yes, one must ask the best... yes, one must come which testimony, shall I say.

The Opposite Case: Saw the Night of the Thirtieth But Not the Night of the Thirty-First

The Rambam says further, they are believed. An opposite approach, yes? He saw the thirtieth day, and he says, "The thirty-first I didn't see." And that can't be, yes? The moon should be on the next night. If it was already then, it should certainly be the thirty-first. So you should say that this contradicts, but the same reason, **ein ne'emanim** (they are not believed), because we only want to hear about the thirtieth. The thirty-first is already a matter like Rosh Chodesh, **she'ein ne'emanim acharonim ela re'iyat leil sheloshim levad** (they are only believed regarding the sighting of the night of the thirtieth alone). So the reason why he didn't see it on the night of the thirty-first is also somewhat of a matter. About what, some reason why he didn't see it. It seems to me, it's also strange, but this is somewhat such testimony about nothing. You didn't see, a question on you. He didn't see, he didn't see. Yes, it's strange to me. Why didn't you tell me that you didn't see? Perhaps precisely because of that you don't make a distinction. But he says differently, the same reasoning, **eino ne'emanim** (he is not believed). It's not our topic what was on the thirty-first. Okay. So this is the... bedikot vachakirot (examinations and investigations) until here.

Halacha 7 – How Do They Accept Testimony of the Month: The Order of Receiving the Testimony

Now we're going to learn how the order of when multiple witnesses come basically. Now it goes more perhaps into the practical, the ritual of how it looked with the... so and so, first one learns what happens. Many witnesses come many times, so what does one do?

The Rambam says thus, **keitzad mekablin edut hachodesh?** (How do they accept testimony of the month?)

How did it go? So and so, **kol mi she'ra'ui le'ed** (anyone who is fit to testify), everyone who is fit, he is a proper Jew, and he is kosher, and he says that he saw the moon. **ba leveit din** (comes to beit din). It means, the local rav, the local court, tells him, go quickly to Jerusalem. **uveit din machnisin otam kulam lemakom echad** (and beit din brings them all into one place). One gathers all these people in one place. Okay, one sets up meals, **kedei sheyihyu ha'am regilim lavo** (so that the people will be accustomed to come), so that the public will be accustomed to come. Because many times it can take long, multiple people come, and one will question them all as one sees. One doesn't want them to leave, so first one brings them in, and one gives them food, and one gives them meals.

Apparently so he should come. This is already a very old approach, that when one wants people to come somewhere, one sets up a meal. First one brings, what is it called? Chicken... the... the... the... with overnight kugel. First of all this must be, if not the public doesn't come. Eh, it's a great mitzvah kiddush hachodesh? An even greater mitzvah is to eat with other Jews. That's how it must be. Very good. And today's communities, the yeshivot, the organizations have very well grasped this law, that one sets up great meals so the public will come, and afterwards one will do further.

The Order of Questioning: According to Who Comes First and According to Age

There's another trick that we're going to learn, also a sort of trick of how to make the public feel good. **zug sheba rishon** (the pair that came first), it goes according to the order of first, whoever comes first. **zug sheba rishon bodkin oto rishon** (the pair that came first, they examine them first), one questions them first with the examinations that were asked. **umachnisin et hagadol vesho'alin oto** (and they bring in the greater one and ask him), one calls in... that means, one must question both witnesses separately. So one calls in the greater one of the pair. Those who came at the same time, one goes according to the older between them. I mean, hagadol means of the pair. Between the two one takes the pair. Or if multiple people came first, one goes... even if the previous ones were already a bunch of people, one can't go according to who came first, but one goes according to age.

Let's say, when beit din opened their door there were already ten people standing. He doesn't say that, he says it comes in pairs. I don't know why it comes in pairs, because we learned that one person can come. But he assumes it comes two by two, or perhaps people then line up two by two in the line, I don't know. So the first one, one looks who has a longer beard, and one brings in the one with the longer beard. It doesn't say anything here about a beard, but how does one know who is older? **vesho'alin oto** (and they ask him), one questions him.

If the First Testimony Matches, They Bring In the Second

Okay. Yes, **nimtze'u divreihem mechuvanim lecheshbon** (if their words are aligned with the calculation), if the words of the first witness match with the calculation of what the Chachamim expect, **machnisin et chaveiro** (they bring in his companion), one brings in his companion, and now one has a complete testimony from two people. And one must make sure that the second also says correctly, right? They both say the same thing, as we saw earlier, regarding the three stories, two stories, and so forth. **nimtze'u divreihem mechuvanim, edutan kayemet** (if their words are aligned, their testimony stands). But one doesn't go further yet. Now one could basically already call out "mekudash," but before that one does this:

The Rest of the Pairs – So They Don't Leave Disappointed

ush'ar kol hazugot (and all the rest of the pairs), all the other people who are there, **sho'alin oten rashei devarim** (they ask them main points), one also questions them, one gives them attention, one asks them questions. Not the entire detailed investigation, but one is interested in them. Where did you come from? What did you see? Whatever, one asks them something.

The Rambam says, **lo shetzerichim** (not that they are needed), because basically one doesn't need them, because we already have one testimony, one doesn't need more than one set of testimony. You have such a law, you have two like a hundred, it doesn't help to add, it shouldn't help anything. **ela** (but), why then does one do this game of asking them questions? **kedei shelo yetze'u befachei nefesh** (so they don't leave disappointed). Many of them came from a far distance, and they said, ah, someone already did it. He will feel bad. Because one is afraid that if not, he won't want to come next time. Perhaps you'll need him yes. Right. Perhaps next time he'll be the first, or perhaps next time there won't be many testimonies. So in order that the person will come again, one makes him feel good.

It appears that the meal helps for once, for a bit, but besides that one must also feel a bit wanted, feel needed. It's simple, imagine what you come, and one doesn't need you anymore. Smart rabbis, smart Jews do both. Set up a nice meal, and one makes that person feel, ah, thank you for coming, what are you doing? Where did you come from? Yes. Yes.

Sorry. It's interesting, that it's a mitzvah is not yet enough. One must still work with people. What is exactly I should go? It's a mitzvah, it should work out. And later the chapter will say, even it overrides Shabbat it's a mitzvah. Certainly it's a mitzvah, but it's a mitzvah on the beit din, it's not a mitzvah on the individual, it's a mitzvah... it's understood, it doesn't say exactly a mitzvah on the individual, that he should go. One can get out of it. Like a minyan, ten Jews come, eleven Jews say, ah, I didn't have to come. No, one must something, I don't know what one must do.

What is this language pechei nefesh, do you know? Pach? Like a... empty?

Point: One Doesn't Question Before the Meal

He says an interesting note. He says that one doesn't question before the meal. No, but someone who is... first everyone can eat, even later it will turn out that he speaks foolishness, first one lets everyone eat. Yes, okay, practically it's like that. The beit din sits, and outside there are attendants who give food. But I don't remember when somewhere, that it's also some such seudat mitzvah, a matter of joy. I think there's another meal. After the kiddush hachodesh, perhaps it was the same meal, with already the same kugel, but one rejoices with them, they came to give testimony on a matter of mitzvah and make a meal on it. We're going to learn about this, that there's a seudat kiddush hachodesh, if I remember. Isn't it the same thing? I think it's not the same meal, it's another meal. Which Tanna came and did he eat from the leftovers? I think that this is... not remembering. One must check. It says yes later about this. Okay, let's go further. Yes. Further.

The Rambam says, **ve'achar kach, achar shetitkayyem ha'edut...** (and after that, after the testimony is established...) yes, now after one has... one has approved the testimony, yes. **rosh beit din omer** (the head of beit din says), he calls out, mekudash. **kol ha'am onim acharav mekudash mekudash** (all the people answer after him mekudash mekudash). They say with him. That means that the entire beit din said it. He doesn't say only... he says kol ha'am onim, not only the beit din, the entire people, all the witnesses standing there, the judges and officers, the meal, there stands a table.

Halacha 2 (Continued) — And They Only Sanctify the Month With Three

Speaker 1: Well, the Rambam says further, **ve'ein mekadshin et hachodesh ela bishlosha** (and they only sanctify the month with three). Kiddush hachodesh must be with three or more.

Speaker 2: I remember in the Mishna and... I think in Gittin, that kiddush hachodesh is with twenty-three, but how do you remember?

Speaker 1: He means at least one, right?

Speaker 2: He lists three here. It doesn't say that I mean twenty-three. How do you see that I mean twenty-three?

Speaker 1: Here it says three, I don't know. Yes, so it says here clearly, but... okay, I need to check what's twenty-three.

Ve'ein mekadshin et hachodesh ela bishlosha. Both the ceremony where the head of beit din says "mekudash," the sanctification, but also the calculations that one makes, which the Rambam said that with three the calculation must be like judges and so forth. It appears that it's not enough that one of them knows it. The entire group must make the knowledge. All three must... yes.

Halacha 2 (Continued) — And They Only Sanctify a Month That Was Seen in Its Time

Speaker 1: Another law, it is, when does one make kiddush hachodesh? Not every month does one make kiddush hachodesh. Earlier it said, it's a positive commandment from the Torah on beit din that they calculate and know. But now one must make all three. **Ve'ein mekadshin ela chodesh shenir'a bizmanno** (and they only sanctify a month that was seen in its time). The Rambam says, when does one make kiddush hachodesh? Kiddush hachodesh is only when one saw the moon on the thirtieth day. But when it's not in its time, when it's a full month, when one saw it a day later, then one no longer makes kiddush hachodesh, and later he will explain more.

Speaker 2: Eh, it's simple, yes, because it becomes automatic then. It's already there, there's only a window, it can only be today or tomorrow.

Speaker 1: Yes, but it's not simple that every Rosh Chodesh must have a declaration of sanctification. The sanctification, although, we'll see that the sanctification makes a great difference, sanctification in error is yes valid, but that's only when there's a doubt. Sanctification must only be when it can be. It can be otherwise. Yes? Yes.

Halacha 2 (Continued) — And They Only Sanctify During the Day

Speaker 1: The Rambam says further, **ve'ein mekadshin ela bayom** (and they only sanctify during the day). The declaration of mekudash one says during the day. Interesting. It says, Rosh Chodesh becomes on the day of the thirtieth. The next morning. In the morning, yes. But at night one doesn't say it will come, until dawn. Perhaps yes, who knows, but as we do. **ve'im kiddeshuhu balailah eino mekudash** (and if they sanctified it at night it is not sanctified). Why?

Speaker 2: Because beit din doesn't rule at night?

Speaker 1: There's something of a matter that the beit din... kiddush hachodesh specifically. Beit din in general also, but kiddush hachodesh is special that one does it only during the day. Why? I don't know.

Speaker 2: Who says not why?

Speaker 1: I don't know. Who says I must know everything? Not sanctified at night. At night? I don't go for things. We're going to learn now entire laws that are built on this, right?

Speaker 2: There is a verse, it says "miyom yom yemima" (from day to day).

Speaker 1: Ah, the Gemara derives it from a verse. Okay, sharp.

Halacha 8 — Even If Beit Din and All Israel Saw... And They Didn't Say Mekudash Until It Got Dark

Speaker 1: The Rambam says further, what happens in such a case? **"afilu ra'u beit din vechol Yisrael"** (even if beit din and all Israel saw), the beit din itself, everyone saw the moon, **"aval lo amru beit din 'mekudash'"** (but beit din didn't say 'mekudash'), the ceremony of saying "mekudash" wasn't made, **"ad shechashecha leil echad usheloshim"** (until it got dark on the night of the thirty-first), until it became the night of the thirty-first. **"o shenechkeru ha'edim"** (or that the witnesses were investigated), one even already investigated the witnesses, but beit din wasn't sufficient, there wasn't enough time. Or the beit din itself saw, or witnesses came, or let's say one was investigating witnesses but it dragged on until it already became night, and beit din didn't say "mekudash" in time, before it became leil echad usheloshim. **"ein mekadshin oto"** (they don't sanctify it), then one no longer sanctifies the month, **"veyihyeh hachodesh me'ubar"** (and the month will be full), then the month becomes full, one makes it a month of thirty-one days. **"velo yihyeh Rosh Chodesh ela yom echad usheloshim, af al pi shenir'a beleil sheloshim"** (and Rosh Chodesh will only be the thirty-first day, even though it was seen on the night of the thirtieth).

The Rambam says, **"she'ein hare'iya kova'at, ela beit din she'omrim 'mekudash' hem shekove'im"** (for the sighting doesn't establish, but beit din that says 'mekudash' they are what establishes). The statement of the beit din is what's missing, that makes the thing. The sighting is missing. The beit din itself knows, they are establishing, they have now made themselves take testimony that it was last night the sighting. But as long as since they missed the sunset, the time to say "mekudash," it didn't become sanctified.

Halacha 9 — Beit Din Themselves Saw at the End of the Twenty-Ninth Day

Speaker 2: He didn't say what happens when beit din itself saw. Must two judges ask the other judge?

Speaker 1: Ah, "ra'u beit din atzman" (beit din themselves saw). Yes, here it says, yes, here. Okay. If the beit din itself, **"besof yom tish'a ve'esrim"** (at the end of the twenty-ninth day), they saw the moon, after the twenty-ninth day, when it became the thirtieth, he says thus: **"im adayin lo yatze'u kochavim beleil sheloshim"** (if the stars haven't yet come

out on the night of the thirtieth), ah, but one can't sanctify at night. And they saw at night, they saw the beginning of night, when it was still according to halacha still before... before tzet hakochavim (the emergence of the stars). Okay, here is a window, seventy-two or what, it must already be dark and it should still be called day.

Speaker 2: It doesn't have to be dark, one must be able to see the moon.

Speaker 1: The moon doesn't have to do with dark. Something dark must be?

Speaker 2: No, not at all. Well, one can see the moon when it's completely light. Rebbi, look outside.

Speaker 1: Yes, one can see the moon when it's completely light.

Speaker 2: For the first day it must already be hard work.

Speaker 1: Yes, end of day, okay. You can properly see the moon when it's light. If the stars haven't yet come out, it becomes night when there is yetziat hakochavim (the emergence of the stars). If no star has yet come out at that time, it's still daytime, **the beit din says mekudash mekudash, it's still day.** One can still sanctify it. **But if the beit din saw it after two stars have come out**, one can no longer sanctify that night because it's already nighttime. **So the next day they seat two judges alongside one of them.** But what does one do? Here he wants to cover another matter. How does one do it? There needs to be a matter of questions and answers, there needs to be an acceptance of testimony. How does one do it? **So they seat two judges alongside one of them.** They seat two judges by the... another two judges, that means. They bring another two judges, and two of the three who saw become witnesses, and they testify before the three. **And the three sanctify.** But it appears that if it's still nighttime, they're still in the middle of the sighting, then one doesn't need to make a session of accepting testimony, because the beit din itself sees. Testimony is when the beit din itself doesn't see, or the beit din from yesterday hasn't yet seen. At the time of the event, perhaps it's not necessary. So it appears, so he also explains.

Discussion: Testimony and Memory — When the Beit Din Itself Sees

Speaker 1: It's interesting, because testimony has to do with memory. And the minute you say... memory is a thing, I don't see now, but I remember, I have some memory in my head. A memory needs to be asked about. Or you yourself from yesterday are like a second person. But you yourself now don't need any testimony? I see you clearly. There can't be "hearing is not greater than seeing." That's in the Gemara, "hearing is not greater than seeing." If I see myself, certainly I don't need any testimony. Okay, there comes another very interesting law.

Halacha 10 — A Beit Din That Sanctified the Month Whether Inadvertently, Mistakenly, or Under Duress — It Is Sanctified

Speaker 1: A beit din that sanctified the month. The beit din has already sanctified the month. Whether shogegim (inadvertently), whether the beit din was inadvertent. They made a mistake, they thought it could already be, and it wasn't. That means, they made an error. Whether mutaim (mistaken), they were somehow deceived. Yes, further. The beit din, when witnesses deceived them. Yes, there were false witnesses, but the witnesses passed the test well, but they were false. Whether anusim (under duress), they were forced to sanctify. Perhaps a gentile came and said, "You make a new month now."

Speaker 2: Yes, they came with a gentile.

Speaker 1: But forced, yes, with a gentile. Very good. Instead of coming with a lie, they came with a gentile. So is it sanctified? It is sanctified.

And what does it mean it's sanctified? The next Yom Tov must be according to the day that was sanctified. **And everyone is obligated to observe the festivals on the day they sanctified.** As we see in the Gemara that there was a dispute between the sages, and one submitted, Rabbi Yehoshua submitted to Rabban Gamliel, even though according to his calculation it was the wrong day. He says, **"Even if this one knows"**, even if the person knows they erred, there is a talmid chacham there who knows for certain that they made a mistake, an astronomer actually, **"he must rely on them"**, he must submit and rely on the beit din. Why? **"Because the matter is given over only to them"**. The matter, the authority lies in the hands of the beit din.

Principle — "And He Who Commanded to Observe the Festivals, He Commanded to Listen to Them"

Speaker 1: And the Rambam says an interesting expression, he says, **"And He who commanded to observe the festivals"**, the same Creator who commanded in general to observe the festivals, **"He commanded to listen to them"**, He commanded that one must follow the judges. Even if you know differently, Rosh Chodesh doesn't occur when there is a moon, but Rosh Chodesh occurs when the beit din has said there was a moon. **As it says "asher tikre'u otam"** (which you shall proclaim them), what they, the beit din, will proclaim, that becomes a day. And the Gemara says from Chazal, "even inadvertently, even under duress."

The Rambam doesn't explain the derasha (exposition). Perhaps he means that one can learn it simply, "asher tikre'u otam," that it's speaking of the festivals. The Torah says, when are the festivals? When the beit din proclaims them. Oh, the beit din made a mistake? Not your business. A person can ask, "But I know the truth." No, you don't know the truth, because the truth is when the beit din says it.

But in the Gemara there's an exposition, that it's written "atem" deficiently, it's not written with a vav, and it's interpreted "atem," "asher tikre'u atem," what you say.

Observation — The Rambam Doesn't Bring "Mezidin"

Speaker 1: An interesting thing, he says that in the Gemara it says... the Rambam only brings "shogegim, mutaim, anusim," but the Gemara says "mezidin" (intentionally), and the Rambam doesn't bring it. But he brings only a good note, that if let's say there is a talmid chacham there, he knows that you...

Laws of Sanctifying the Month, Chapter 2 — Conclusion of the Discussion: A Beit Din That Sanctified Intentionally

Continuation: Explanation of "Mezidin" — Distinction Between Anusim and Mezidin

Speaker 1: It means, when there was duress, about that one says "be killed rather than transgress" or what, still, they're still a beit din. But wait, you know mezidin, aren't they then not a true honest beit din, aren't they then not the sages, aren't

they then not the sages of that time. So one must quickly bring, the person who knows it must quickly go gather a few talmidei chachamim and make a new beit din. I hear.

Speaker 2: What needs to be, the truth is that it's a different version that he had in the Gemara. No, even mezidin would indeed be their word.

What does mezidin mean? How can that be? The three judges are wicked? No, very good. As he says, that mezidin would mean that the beit din has some calculation, some reason why they want today to be Rosh Chodesh.

He doesn't list mezidin. Mezidin means like... mezidin which comes to him with intent. Intent we have, many times we mean bad, not necessarily. Then indeed accept, yes, agreed.

Conclusion

Speaker 1: Okay, thus far Chapter 2 of the Laws of Sanctifying the Month. Yes.