

OVERVIEW of the Daf

1) Majority

The Gemara inquires about the source that we follow the majority.

The exact question is clarified.

R' Elazar suggests one source but it is rejected.

Mar the son of Ravina offers another source but this is also rejected.

R' Nachman bar Yitzchok makes another suggestion but it is also rejected.

R' Sheishes the son of R' Idi suggests a source and it is unsuccessfully challenged.

Rabbah bar R' Shila offers another source that is accepted.

R' Acha bar Yaakov identifies another source that is unsuccessfully challenged.

R' Mari, R' Kahana, Ravina and R' Ashi also suggest sources for the principle of majority and their respective suggestions are accepted as well.

The Gemara begins a challenge to R' Ashi's proof. ■

HALACHAH Highlight

Autopsies

וכי תימא דבדקינן ליה הא קא מינוול

And if you were to suggest that we should examine the body, [this is not an option] since it would defile the body

In the Gemara's search for proof that halacha follows the majority it is suggested that the fact that we execute a murderer is proof that we follow the majority. There exists the possibility that the victim may have already had a mortal wound (טריפה) and if so his murderer would not be executed but since there is no way to determine whether he had a mortal wound before he was murdered we rely on the fact that the majority of people do not have mortal wounds. The Gemara suggests that we should perform an autopsy on the body to see if the victim had a mortal wound but the suggestion is rejected since an autopsy would defile the body. The fact that defiling the body forces us to rely on the principle of majority indicates that the prohibition against defiling a corpse is Biblical.

(Continued on page 2)

Distinctive INSIGHT

Relying upon the majority in order to bring a Pesach offering

מר בריה דרבינא אמר אתיא משבירת עצם בפסח וכו'

The Gemara searches for the source that the halacha follows the majority to arrive at valid conclusions.

One of the proofs is brought by Mar, the son of Ravina. One of the laws of the Pesach offering is that it is prohibited to break any of its bones. Yet, one of the signs of an animal being a tereifa, which would disqualify it from being a kosher offering, is that it has a hole in the membrane surrounding its brain. We cannot possibly check to verify that this condition is absent, because doing so would entail breaking through the animal's skull, which is prohibited. It must be that we proceed without verifying this detail based upon our relying upon the fact that most animals do not have this condition. Although this does not prove that any particular animal is free of this sign of tereifah, one may rely upon the majority and fulfill his Torah obligation by assuming that this animal is from the majority.

We have a rule that "any doubt regarding a Torah law must be treated strictly." There is a famous opinion of Rambam (Hilchos Isurei Bi'ah 18:17) that the Torah only forbids situations which are known to be unlawful, but not when the situation is uncertain. The rule to be strict regarding a doubt in a Torah-law case is itself a rabbinic guideline.

Rashba and Ra"n challenge the view of Rambam from our Gemara. The proof brought in our Gemara that the halacha follows the majority is based upon the permissibil-

(Continued on page 2)

REVIEW and Remember

1. Explain רובא דליתא קמן.
2. Why is it necessary for the eglah arufah to not be a tereifah if it is killed anyway?
3. How does halacha prove paternity?
4. Why isn't an autopsy done to determine whether a murder victim was a tereifah?

(Highlight...Continued from page 1)

There was once a person who suffered from a medical condition and the doctors were unable to successfully treat his condition. The scholars in that city sent the following question to the Noda B'Yehudah for guidance. Is it permitted for the doctors to perform an autopsy on the deceased to study his condition so that they will learn more about his condition and figure out how to treat people who present the same symptoms in the future? The one who submitted the question argued for leniency and part of his argument was that it should be permitted in order to be able to save the lives of future patients. Noda B'Yehudah answered that in the event that the autopsy would provide information that could be used to save a person's life it would indeed be permitted. However, this leniency applies only when there is a person who currently suffers from the same condition and the information culled from the autopsy would benefit his treatment. If, however, no one suffering from this condition is present and the autopsy is done only for future reference it is prohibited due to the severity of the prohibition of defiling a corpse combined with the fact that this autopsy will not play a direct role in saving someone's life. ■

1. שו"ת נודע ביהודה מהדו"ת ח"י"ד סי' ר"י. ■

(Insight...continued from page 1)

ity of using an animal for a Pesach offering although there is some element of doubt whether it is a tereifah. But, according to Rambam, the Torah itself does not disallow using an animal for an offering unless it is certain that it is disqualified. The statistical possibility that any animal is a tereifah only represents a doubt, and, according to Rambam, a doubt in a Torah-law situation is permitted (by Torah law). Rather, we see from here that the Torah itself expects that a doubt regarding Torah-law must be treated strictly, and it is only here, due to the majority, that this animal may be used for a Pesach.

Many answers to this question are presented by the commentators. Pri Chadash writes that even according to Rambam, the Torah does not treat a doubt leniently in a case where the situation can be clarified. Here, there is the technical ability to check the membrane around the brain to ascertain that it is not punctured. We cannot be lenient when we have the option of resolving the doubt at hand. Yet, here we do allow the animal to be brought as a Pesach without checking, because we cannot break any of its bones. It must be, therefore, that we are relying upon the majority to permit this animal. Nachlas Dovid adds that if we could not rely upon majority, the Torah would have allowed the breaking of its bones in order to inspect its brain. ■

STORIES Off the Daf

"Perhaps He is Not His Father..."

ודלמא לאו אביו הוא

Absolute truth is hard to come by. Many gedolim made it their life goal to speak and act only in accordance with their true level. Rav Yerucham Levovitz, zt"l, gave an interesting explanation of why one should not act above his level.

He said, "This can be compared to a person who wears a luxurious top hat but is absolutely barefoot. Surely all who see him will remark at the inappropriateness of such an imbalance in this man's apparel! The same is true in spiritual matters. One must first put on his shoes, which are the foundation

middos. Then he can aim for higher."¹

In Kelm, if someone made an especially loud "spiritual-sounding" sigh, he would be checked to determine if he was on such a level.² In Kotzk too, there was little tolerance for self-deception. The sharpness of Kotzker Chassidim is legendary, and anyone who misrepresented himself could expect to receive scathing rebuke if found out.

The Alter of Kelm, zt"l, had a chavrusah with whom he focused only on cultivating the middah of honesty. When the chavrusah fell ill, the Alter went to visit him. Before the visit from the Alter, the man was occasionally heart to groan in pain, but after the visit he rarely made a sound.

To his friends, he explained later, "Perhaps it is not a true expression of

pain. And if it is false, it must be avoided..."³

But in Kotzk, they had a different way. In Kotz, a certain chassid who served God with his entire heart once exclaimed while praying, "Oy, Tatte! Oh, Father!"

A fellow Kotzker heard this and quoted a statement on today's daf, "And maybe he is not his father..."

This shook the chassid up quite a bit and pushed him to consult with the Kotzker Rebbe. Although the rebbe gave many short shrift, he gave this man encouragement. The rebbe said, "You need to cry out, 'Oy, Tatte,' so much that He becomes truly like a father to you!"⁴ ■

1. ישמרו דעת, עי' ר"י

2. יד יחזקאל, עי' קב"ה

3. קובץ שיחות, ח"ו, עי' ר"ה

4. אמת ואמונה ■