



Masseches Horayos has ben dedicated in memory of Rabbi Simchah Freedman z"l, 3rd of Nissan 5778

OVERVIEW of the Daf

1) An individual who relied on Beis Din's ruling (cont.)

The Gemara presents a second reason why the first Beraisa is consistent with R' Yehudah and the second Beraisa is consistent with Rabanan.

R' Nachman in the name of Shmuel asserts that the Mishnah reflects R' Meir's position and Chachamim disagree.

The Beraisa that presents the views of R' Meir and Chachamim is cited and explained.

R' Pappa begins a series of four alternative explanations of the dispute between R' Meir and Chachamim.

2) Defining the majority of the Jewish People

R' Assi demonstrates that regarding the issue of an erroneous ruling the majority is measured by those living in Eretz Yisroel.

The Gemara asks whether R' Shimon and Rabanan would also disagree in a case where the minority increased so that they now represent the majority as they do when the majority decreases and becomes the minority.

The parallel drawn by the Gemara between the two circumstances is rejected.

Five related questions related to defining majorities are presented and left unresolved.

Another related question is presented and also left unresolved.

3) Communal error

R' Yonason teaches that a communal error bull is not brought unless all of the judges erred.

R' Huna the son of R' Hoshaya offers proof to this ruling.

On the third attempt this ruling is successfully challenged.

The pasuk cited by R' Yonason in support of his teaching is reinterpreted.

4) Shared responsibility

R' Yehoshua teaches that all ten judges bear responsibility for their ruling.

The novelty of this ruling is explained.

Two related practices of Amoraim are recorded.

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REVIEW and Remember

1. What is the source that only the population in Eretz Yisroel is taken into account when calculating the majority for the communal-error bull?

2. What is the common denominator that could allow cheilev and blood to be grouped together?

3. What is the source that all members of Beis Din must be in error to generate an obligation to bring the communal-error bull?

4. What did R' Huna do to share responsibility with others?

Distinctive INSIGHT

Clarifying the position of R' Shimon

מועטין ונתברו מאי?

The Gemara discusses the case where the majority of the nation sinned based upon a mistaken ruling of the court, but some of them died by the time they realized they had sinned and were to bring their offering for atonement. The sinners are now a minority of the nation. Alternatively, the issue can be illustrated where the sinners were a minority of the nation, but by the time they realized that they had sinned and came to bring their offering some members of the nation at large died, leaving the sinners as a majority of the remaining population.

As a matter of introduction to the question which this poses, we present a disagreement which is found on 10a between R' Shimon and the Sages. If a commoner or a regular kohen sins, and the sinner then becomes appointed to be the king or a Kohen Gadol, does he bring the offering which was appropriate for him in his standing as a commoner (a female sheep or goat as a chattas), because that is when he sinned, or does he bring the offering which is assigned for the king (a he-goat offering, שעיר חטאת) or for the Kohen Gadol (a bull offering). The Rabbis maintain that the offering is determined based upon when the sin was committed, so this person would bring a chattas of a commoner. R' Shimon disagrees and holds that this person who is now the king or the Kohen Gadol would bring the special offering for his new, elevated status, because this is when he is bringing his atonement.

In our case, the majority of the nation sinned, but their numbers became depleted to the point where they are now a minority, or vice-versa, where they were a minority when they sinned but they are now a majority. This case matches the case in which the Rabbis and R' Shimon argued. The Rabbis determine the offering based upon the status of the sinner when he sinned, and R' Shimon follows the status at the moment the atonement is to be brought. Therefore, in the first case, the Rabbis would say that they are treated as a majority, and they bring a פר העלם דבר, but R' Shimon contends that the status of this group is that of a minority, and they would bring individual chattas offerings.

The Gemara asks whether R' Shimon would argue where the sinners were a minority and then became a majority. Does he follow the status of the sinner at the moment of atonement and not at the moment of the sin at all, or is this case different for some reason?

The Gemara quickly points out that in the case where the community sinned as a minority, R' Shimon would not disagree with the Rabbis, and everyone would say that they are exempt even if they become a majority of the nation. In this case, their sin was committed as individuals, who are not liable for a bull offering of the community. ■

HALACHAH Highlight

Community enactments

אין גוזרין גזירה על הציבור אלא רוב הציבור יכולין לעמוד בה

We do not impose decrees on the community unless the majority of the public will be able to comply with that decree

Shulchan Aruch¹ rules that Beis Din can set prices as they see fit and may even penalize those merchants who do not comply with their enactments. Poskim discuss whether these types of enactments are adopted only when there is a unanimous decision or perhaps the majority can impose these regulations on the minority. One of the sources for this discussion is a Beraisa in our Gemara that teaches that Beis Din may not enact decrees unless the majority of the community is able to comply with that decree.

Rosh² was asked whether individuals can decide that they are no longer part of the community because they did not wish to be bound by the new enactments that were adopted by the majority of the citizens. Rosh responded that the guiding principle for community matters is the principle of **אחרי רבים להטות** which teaches that majority decides matters for the community. Even individuals who dissent are obligated to comply with the enactments because if a unanimous agreement was necessary there would be no such principle as following the majority. Consequently, the decision of the majority is binding on the dissenting minority and they do not have the option to declare that they are withdrawing from the community.

Mordechai³ discusses a case of an individual who disagreed with an enactment enacted by the leaders of a community. Mordechai wrote that if the majority of the community accepts the enactment of the leaders their decision is binding. If, however, the majority of the citizens protest against the proposed enactment the leaders may not impose their enactment against their will. Poskim disagree whether this principle of Mordechai applies to appointed city trustees **ז' טובי**

(Overview...continued from page 1)

5) MISHNAH: The Mishnah begins with a discussion of what happens when someone acts on Beis Din's ruling after they retract their ruling. A related disagreement between R' Akiva and Ben Azzai is cited. Different examples of erroneous rulings are presented.

6) R' Shimon's position

R' Yehudah in the name of Rav explains the rationale behind R' Shimon's ruling.

A second version of this explanation is recorded.

A challenge to Rav's explanation of R' Shimon is presented.

Three resolutions to the challenge are offered.

7) One who remained at home yet acted according to Beis Din's initial ruling

A Beraisa records additional opinions regarding the one who remained home yet acted according to Beis Din's initial ruling.

R' Yochanan identifies the difference between the last two opinions of the Beraisa.

R' Zeira begins a parable to explain the respective positions of R' Elazar and Sumchus. ■

Chasam Sofer⁴ maintains that even enactments put in place by the city trustees must be accepted by the majority of citizens to be binding. Trustees are no more powerful than Chazal who also may not impose enactments on the nation if the majority of people will not be able to comply with the enactment. Bach⁵ disagrees and writes that Mordechai's comments refer specifically to city leaders who were not officially appointed as trustees. Once trustees are appointed and empowered to make enactments they do not need to obtain the approval of the majority of citizens. ■

1. שו"ע חו"מ סי' רל"א סעי' כ"ז.
2. שו"ת הרא"ש כלל ו' סי' ה'.
3. מרדכי ב"ב פ"א רמז תפ"ב.
4. שו"ת חת"ס יו"ד סי' ה'.
5. בי"ח חו"מ סי' ב' סעי' ב'. ■

STORIES Off the Daf

Baseless Bans

"אין גוזרין..."

Acertain community had several self-appointed leaders who took charge by force. When these leaders would issue orders, no one dared disobey...in public. But in private the people resented these orders and paid them no heed.

When the leaders understood that the community had no compunctions about disobeying them when they were sure they would not be caught, they decided to act. They gathered everyone together and proclaimed a cherem on anyone who did not obey their latest proclamation. Nevertheless, most of the community ignored these decrees whenever possible. Yet some of the more

learned felt quite uncomfortable with this level of disregard. After all, a cherem had been declared and none had protested; perhaps this meant that any who transgressed were in cherem?

When this question was brought before the Rashbah, ז"ל, he ruled that the halachah was difficult to determine in such a case. "Clearly, every community must appoint people to insure that the masses do not trample on time-honored traditions, since if there are no such people, the simple folk will do whatever they like.

"Nevertheless, if these people are not the appointed leaders, they cannot declare a cherem unless this is accepted by the people and the scholars of the city, even if their intention is for the good of the people. Even if their only intent is to insure that the people do not act inappropriately, their cherem is ineffective since the majority cannot be

forced by the minority.

"This is certainly true regarding bans declared due to whim, even if they are declared by the accredited leaders and gedolim of the city. The community is not required to follow their direction in a case where their decree is not for the purpose of preventing spiritual decline. This is even more so regarding a decree which the majority has not accepted upon themselves. This is clear from the Gemara in Horayos 3 which states that we do not make a decree unless the majority of the community can fulfill it.

"Similarly, we find that Rav Yehudah Nesiah removed the decree not to use oil of non-Jews, even though he was not as great as those who made the decree. He was able to do this since the decree was never accepted by the majority of Jews."¹ ■

¹שו"ת הרשב"א, ח"ה, סי' רמ"ה ■

