

OVERVIEW of the Daf

1) Experts adjudicating alone

A Baraisa teaches that experts may adjudicate monetary matters alone.

R' Nachman and R' Chiya declare themselves to be recognized experts qualified to adjudicate alone.

The Gemara inquires whether the recognized expert must obtain permission from the Reish Galusa.

The Gemara proves the permission need not be obtained.

Rav and Shmuel teach that a judge who receives permission to adjudicate is exempt from liability if he errs.

The Gemara inquires whether the Nasi's authorization in Eretz Yisroel is transferable to Bavel.

It is demonstrated that it is not transferable.

This conclusion is unsuccessfully challenged.

The occurrence of Rabba bar Chana and Rav receiving authority to adjudicate is retold.

The different way that R' Chiya referred to Rabba bar Chana and Rav is explained.

Two reasons are given to explain why Rabbi did not authorize Rav to permit bechoros.

A Baraisa is cited to explain why it is necessary for a learned person to seek authorization to render decisions in the area of prohibited or permitted matters.

2) Rendering decisions in the vicinity of one's rebbe

Two incidents related to rendering decisions in the vicinity of one's rebbe are presented.

It is demonstrated that authority to render decisions can be given conditionally.

3) A Beis Din of two judges

Shmuel's ruling that decisions rendered by a panel of two are binding.

An unsuccessful challenge to this ruling is presented.

Another challenge to this ruling is put forward. ■

HALACHAH Highlight

Issuing an unusual ruling

ואמרי כי האי גוונא שרא רב ואתו למשרי מום עובר

And they would say, "Rav permitted a blemish such as this," and would erroneously permit a temporary blemish

The Gemara relates that Rabbi did not authorize Rav to issue rulings related to blemished first-born animals. According to one explanation the reason Rabbi withheld this

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Distinctive INSIGHT

Who is an expert?

ואם היה מומחה לרבים דן אפילו יחידי

The Baraisa taught that monetary cases are to be judged by a panel of three judges, but if there is a judge who is a **מומחה** (an expert), he may judge a case by himself. Rashi (ד"ה דן) adds that the opinion which allows a solitary judge to preside over monetary cases does not hold that the chapters are blended (**עירוב פרשיות**), because otherwise it would be essential that we have three judges. Tosafos disagrees, and he explains that even with **עירוב פרשיות**, there is a special rabbinic enactment which allows a single judge to officiate over these cases. This dispensation was made to assure a lender that he will have a relatively easy time arranging a court to retrieve his money from an uncooperative borrower (**שלא תנעול דלת בפני לוויין**).

ר"ן defines what it means for a judge to be an expert (**מומחה**). He writes that it is not necessary for the judge to have received ordination (**סמיכה**), but rather that he be wise, extensively proficient in Torah law, and that he be well-known for his erudition. He must also be able to discern new situations which he has not previously experienced and to compare them to similar situations about which he is familiar.

Rabeinu Sherira Gaon, cited in all the Rishonim, explains that an expert who may judge by himself is one who is outstanding and renowned in his generation for his exper-

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REVIEW and Remember

1. Is it necessary for someone knowledgeable to obtain permission from the local authority to adjudicate
2. Why did R' Chiya refer to Rav as his sister's son?
3. Why is it necessary for a person to obtain authorization to render halachic decisions?
4. How wide of an area is considered a rebbe's vicinity in which a student may not render halachic decisions?

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authorization was a function of Rav's expertise in the area of blemishes. Due to Rav's expertise he would permit animals when in the eyes of others the animal is blemished. This phenomenon could lead people to permit blemishes they think are permanent when they are in fact only temporary. This Gemara is the basis for Shulchan Aruch's ruling¹ that it is prohibited for a Torah scholar to issue a permissive ruling if in the eyes of the people it will appear as though he permitted something that it prohibited. Shach² qualified this ruling with the suggestion that if one could explain the unusual ruling or show the questioner the answer in a sefer the unusual ruling may be issued.

Teshuvos Mishnah Halachos³ challenged Shach's qualification from a ruling of Terumas Hadeshen. It happened once that only one esrog was available for many towns. It was suggested that the esrog should be cut into different parts and sent to different towns for the people to take and even recite the beracha in accordance with the opinion of some Rishonim who permit making a beracha on an incomplete esrog when no alternative is available. Terumas Hadeshen rejected this suggestion and one of his arguments was that it would be a permissive ruling that would appear unusual. Seemingly, Torah scholars from the different towns could have explained to each person who would take the esrog the rationale behind this unusual ruling in accordance with

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tise in Talmud and its reasoning. He must be one who has extensive experience in halachic rulings, and who has shown himself to be highly accurate in judgment. The precise definition of מומחה is, in fact, one who is experienced.

Rashi explains that the source to allow a single judge to preside over a monetary case is the verse (Vayikra 19), "With righteousness, you (singular) shall judge your people." Tosafos notes that this suggests that the Torah recognizes that one judge may officiate in these cases, and the need to have three judges is rabbinic. ■

Shach's ruling. The fact that this was not seen as an option indicates that Shach's qualification is not correct. Mishnah Halachos then suggests that perhaps there is a difference between a unusual lenient ruling that is issued to the public and an unusual lenient ruling issued to an individual. An unusual ruling could be properly explained to individuals but when explained to the public it is more difficult to present an explanation that would clarify the matter to everyone and thus the allowance to issue an unusual ruling together with an explanation does not apply. ■

1. שו"ע יו"ד סי' רמ"ב סעי' י'.
2. ש"ך שם ס"ק י"ז.
3. שו"ת משנה הלכות ח"ג סי' קי"א.
4. תרומת הדשן פסקים וכתבים סי' נ"ב. ■

STORIES Off the Daf

The returning Rebbi

"תלמיד אל יורה הלכה במקום רבו..."

A certain rabbi was very well loved in his community, where he taught Torah and served for many long years. When he finally passed away, the people established his son, Chanoch, as provisional rav for five years, even though he was not nearly as worthy as his father and would not have been chosen but for the love of his father. After five years, they would decide whether or not to retain him as rabbi.

Four years into his tenure, Rabbi Shimon, the man who had taught Chanoch most of what he knew, moved to the city. Since the mentor was so much more developed than Chanoch, some of the prominent people in the community

wished to appoint him rav in place of Chanoch. Rav Shimon, however, refused this distinction. Chanoch's father had been his own rebbi, and he wished to do nothing to interfere with his student's serving the full five-year term that the community had established as a sign of their love for their departed rabbi.

As soon as the five years elapsed, however, Shimon declared that Chanoch was forbidden to rule in front of him or to give a drashah while he was present, as is clear from Sanhedrin 5. Although he had waived his right until then, this was only for the duration of the five years, out of love for Chanoch's father. He added, "I am particular about this since Chanoch does not treat me with the respect that is my due."

For his part, Chanoch claimed that once his teacher had generously given him permission, he could no longer retract it. When this question was put be-

fore the Maharitatz, zt"l, he ruled that Shimon was correct, he could still show clemency. "Shimon is certainly correct that his student may not rule in front of him without permission. Nevertheless, he should be lenient and allow his student to appease him until he gives permission from the bottom of his heart, since many people of the city want to maintain Chanoch as rav. It is only proper for Shimon to forgo his honor and allow his student to teach out of love for his own teacher, Chanoch's father. He should show that he is happy to have a student who can render halachic rulings and is able to be the rabbi in such a prestigious city. As our sages say in Sanhedrin 106, people have a natural tendency to be jealous of their fellows—with the exception of his son or his student!"¹ ■

1. שו"ת מהריט"ץ החדשות, ס' קע"ג. ■