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### **RABBAN GAMLIEL AND RABBI YEHOSHUA**

➤ The Mishna cites a dispute regarding a set of witnesses who testify that in the morning they saw the old moon in the east and later that evening, they saw the new moon in the west. Rabban Yochanan ben Nuri states that these witnesses are false, since it there is a twenty-four hour period between the time that the old moon disappears from sight and the time that the new moon appears. It is impossible to see the moon during this time span. When they came to Yavneh (where the Sanhedrin was located at the time), Rabban Gamliel disagreed and he accepted these witnesses.

The Mishna cites another case. The witnesses testified that they saw the moon in its appropriate time on the thirtieth but the facts are that on the night of the thirty-first, the moon was not visible at all. Rabban Gamliel accepted these witnesses but Rabbi Dosa ruled that these are false witnesses. Rabbi Dosa compared this case to a case where witnesses testified that a woman gave birth to a child and the following day, she is

seen indisputably pregnant. If the new moon cannot be seen now when it should be growing larger, it most certainly could not have been seen previously. Rabbi Yehoshua concurred with Rabbi Dosa that these are false witnesses. Rabban Gamliel, the Nasi, ordered Rabbi Yehoshua to come to him with his walking stick and money on the day that according to Rabbi Yehoshua’s calculation was Yom Kippur. Rabbi Akiva found Rabbi Yehoshua distressed over the situation that he would be compelled to desecrate Yom Kippur. Rabbi Akiva cited Scriptural proof that whatever the Beis din decrees regarding the new month (even if they are mistaken) has validity and therefore he should not be concerned. The day that Rabbi Yehoshua thought was Yom Kippur would in fact be the eleventh of Tishrei, since the new month is dependent on Rabban Gamliel’s declaration. He then came to Rabbi Dosa. Rabbi Dosa said: If we are going to reconsider the ruling of Rabban Gamliel, we would then be required to reconsider the rulings of each and every Beis Din since the days of Moshe until now. This cannot be done, as it is written: And Moshe and Aaron, Nadav and Avihu, and the seventy elders of Israel went up. And why were their names not explicitly mentioned? It is

to teach us that every three judges that stood up as a Beis Din over Israel are regarded like the courts of Moshe. Rabbi Yehoshua came to Rabban Gamliel in Yavneh with his walking stick and his money on the day that Yom Kippur fell according to his calculation. Rabban Gamliel stood up, kissed him on his forehead and told him, "Come in peace my Rebbe and my student. You are my Rebbe in wisdom and my student that you accepted my words." (24b – 25a)

### ROUTE OF THE MOON

➤ The Gemora cites a braisa where Rabban Gamliel answered the Chachamim that he had a tradition from the house of his father's father that there are times that the moon takes a long route and there are times that it takes a short route. This was said in order to explain why he could accept the witnesses when they testified that they saw the new moon in the evening less than twenty-four hours after the moon was seen in the morning.

Rabbi Yochanan said: What is the reason of the house of Rebbe (Rabban Gamilel's grandson)? It is because it is written: Who made the moon in appointed time, the sun knows its coming. It is the sun which knows its coming, but the moon does not know its coming.

[**OPINIONS:** The Mishnah records a case in which witnesses testified that they saw the moon in the east in the morning and in the west in the evening. Rabbi Yochanan ben Nuri rejected their

testimony. Raban Gamliel, however, accepted their testimony. Raban Gamliel reasoned, as the Beraisa records, that even though it is a most unusual occurrence for the moon to be seen in those two positions within such a short time, he had a tradition from his grandfather that "sometimes the moon travels a short distance and sometimes a long distance."

Why exactly did Rabbi Yochanan ben Nuri reject their testimony, and what was Raban Gamliel's response to Rabbi Yochanan's arguments?

(a) In his first explanation, **RASHI** (DH Edei Sheker) writes that the witnesses claim that they saw the *old* moon in the east in the morning before sunrise, as the Mishnah implies, and the *new* moon in the west in the evening after sunset. Rabbi Yochanan ben Nuri rejected their testimony because the moon is not visible for 24 hours around the time of the Molad. If they saw the old moon in the morning, then the Molad must have occurred after midday (at least six hours later), in which case the new moon could not have been visible in the evening, but only 18 hours later (the next morning). On the other hand, if they saw the new moon in the evening, then the Molad must have occurred before midday (at least six hours earlier), in which case the old moon could not have been visible in the morning because of its proximity to the luminous sun.

Rashi rejects this explanation because it fails to take into account Raban Gamliel's response. If the reason why Rabbi Yochanan ben Nuri

rejected the testimony of the witnesses was because they could not have seen the new moon so soon after they saw the old moon due to the moon's proximity to the sun, then Raban Gamliel's response about the different speeds at which the moon travels is not relevant.

**1.** The **BA'AL HA'ME'OR** justifies Raban Gamliel's response. Raban Gamliel accepted the witnesses because he assumed that they made a mistake when they said that they saw the old moon in the morning. They probably saw a small cloud and thought that it was the moon. Since what the witnesses say they saw in the morning is not relevant to Beis Din's declaration of the new month, Beis Din may assume that the witnesses erred and ignore that part of their testimony.

The Ba'al ha'Me'or adds that since what the witnesses say they saw in the morning is not relevant to their testimony about the new moon, we apply the principle that a person does not pay close attention to something unimportant to him. Therefore, their mistaken testimony about what they saw in the morning does not invalidate their proper testimony about what they saw in the evening (which *was* important to them and to which they paid close attention because of its Halachic implications).

What did Raban Gamliel mean when he said that sometimes the moon travels faster, if the speed of the moon is entirely unrelated to his reason for accepting the witnesses? The Ba'al ha'Me'or answers that the Gemara is teaching an unrelated tradition that Raban Gamliel had

received from his forebears, and it indeed is unrelated to the case in the Mishnah.

**2.** The **RAMBAM** (in **PERUSH HA'RAMBAM** to Rosh Hashanah) justifies Raban Gamliel's response differently. He explains that it indeed is possible for the moon to be seen at both sunrise and sunset on the same day. He explains that Raban Gamliel's answer to Rabbi Yochanan ben Nuri was that the only time the moon cannot be seen within 6 hours of the Molad is when the moon's orbit is neither to the north nor to the south of the ecliptic, but exactly on the ecliptic. The moon can travel on a path off of the ecliptic by up to 5 degrees to the north or south, and when it does the earth has a better viewing angle of the new moon (since it is not directly between the sun and the earth but is off by a few degrees). During those times, the new moon can be seen in the evening even when the old moon was seen in the morning. (It is interesting to note that in Perush ha'Mishnayos, the Rambam ridicules this suggestion and asserts that anyone familiar with astronomy knows that the testimony described in the Mishnah is absolutely impossible. See (c) below.)

**3.** The **BEN ARYEH** (20b) gives another explanation for how the moon can be seen in the east at sunrise and in the west at sunset on the same day. When the Gemara says that the old moon cannot be seen at sunrise when the Molad occurs before midday, it refers to an equinoctial day -- when there are exactly six hours from sunrise to midday and six hours from midday to

sunset. In contrast, at the summer solstice -- when the day is much longer than the night -- sunrise and sunset are more than six hours away from midday and thus there is no reason why the old moon should not be visible at sunrise and the new moon at sunset. This is what Raban Gamliel meant when he said that sometimes the moon travels a short distance and sometimes a long distance.

(This explanation is consistent only with the words of Rashi, who writes earlier that the new moon can be seen six hours after the Molad. According to the Rambam and others who maintain that the new moon cannot be seen until 18 hours after the Molad, even on a very long day the testimony described in the Mishnah remains an impossibility.)

**(b)** The **RAMBAM** (in Perush ha'Mishnayos; see also Hilchos Kidush ha'Chodesh 2:6) and the **BARTENURA** explain the dialogue between Rabbi Yochanan ben Nuri and Raban Gamliel in an entirely different manner. As the Ba'al ha'Me'or points out, the witnesses' statement that they saw the moon in the morning obviously is a mistake and may be ignored. That statement is unrelated to the disagreement between Rabbi Yochanan ben Nuri and Raban Gamliel because *both* agreed that what the witnesses saw in the morning was not the moon. They disagreed merely about a mathematical point -- whether it was possible for the witnesses to have seen the new moon in the *evening*. Rabbi Yochanan ben Nuri maintained that it was too

early for the new moon to be seen. Raban Gamliel maintained that Rabbi Yochanan ben Nuri's calculations were incorrect because sometimes the moon travels faster, and thus sometimes it can be seen earlier, depending on its height from the horizon at the time of sunset. (See Hilchos Kidush ha'Chodesh 17:23 for a discussion of the factors involved in this calculation.)

**(c)** In his second explanation, **RASHI** says that on the thirtieth day of the preceding month the witnesses saw the *new* moon in the morning after sunrise (rising behind the sun), because enough time had passed since the Molad to see it at that time (and it was not blocked by the luminosity of the sun). Later on the same day, before sunset, they again saw the new moon behind the sun. They came to Beis Din before sunset to testify.

According to this explanation, what was wrong with their testimony? The new moon certainly becomes more visible as the new month progresses. Why did Rabbi Yochanan ben Nuri reject their testimony?

Rashi answers that he maintained that the moon cannot travel across the entire firmament, from the east to the west, in only twelve hours. Raban Gamliel replied that sometimes it is possible.

The **BA'AL HA'ME'OR** asks that this explanation of Rashi is much more difficult to understand than the first explanation which Rashi rejects, because *all* celestial bodies travel from the

eastern horizon to the western horizon in twelve hours.

Perhaps Rashi means that the witnesses testified that they saw the moon the *same distance from the sun* in both the morning and in the evening. Rebbe Yochanan ben Nuri rejected their testimony because the moon travels slower than the sun and cannot be the same distance from the sun in the evening as it was in the morning (rather, the moon lags 6 degrees every 12 hours). Raban Gamliel accepted their testimony because sometimes the moon indeed moves faster than usual (such as during perigee, when the moon is closer to the earth in its orbit and the gravitational pull of the earth on the moon is stronger). By: Kollel Iyun HaDaf] (25a)

### INCIDENT WITH REBBE CHIYA

➤ The Gemora relates that Rebbe Chiya once saw the old moon standing in the sky on the twenty-ninth of the month in the morning. He grabbed a clump of earth and threw it at the moon. He spoke to the moon and said, “We are required to sanctify you tonight and you are just standing there. Go and disappear!” Rebbe told Rebbe Chiya to go to the city of Ein Tav, where they did not see the old moon during the day, and sanctify the new month on the thirtieth. After you have completed this task, send me back a message, “Dovid, the King of Israel lives and persists,” indicating that the new month has been sanctified. (25a)

The Gemora cites a braisa: Once the heavens were covered with clouds and the likeness of the moon was visible on the twenty-ninth of the month. The public thought that Rosh Chodesh would be declared, and the Beis Din wanted to sanctify it, but Rabban Gamaliel said to them: I have it on the authority of the house of my father's father that the renewal of the moon takes place not less than twenty-nine days and a half and two-thirds of an hour and seventy-three chalakim (portions) from the last one. On that day the mother of Ben Zaza died, and Rabban Gamaliel made a great eulogy over her; not because she had merited it, but so that the public should know that the Beis Din had not sanctified the month. (25a)

### RABBI AKIVA AND RABBI YEHOSHUA

➤ The Gemora inquires: Who was distressed? Was it Rabbi Akiva or Rabbi Yehoshua?

The Gemora cites a braisa which elaborates on the incident involving Rabban Gamliel and Rabbi Yehoshua. Rabbi Yehoshua was distressed and Rabbi Akiva asked him: Why are you distressed? He told Rabbi Akiva that he would accept to be compelled to lie in bed for twelve months rather than being forced to fulfill Rabban Gamliel's decree of desecrating Yom Kippur (according to his calculation). Rabbi Akiva asked Rabbi Yehoshua permission if he could say over one

thing that he had learned from him (R' Yehoshua). Rabbi Yehoshua granted him permission and Rabbi Akiva told Rabbi Yehoshua that he had learned from him that the Torah says 'atem' – 'you' three times. This teaches us that if Beis Din chooses the incorrect date for Rosh Chodesh by mistake, deliberately or if they were misled, nevertheless the sanctification is valid. Rabbi Yehoshua felt comforted by Rabbi Akiva's words. (25a)

The Gemora cites a braisa: Why weren't the names of these elders mentioned? It was so that a man should not say, "Is So-and-so like Moshe and Aaron? Is So-and-so like Nadab and Avihu? Is So-and-so like Eldad and Meidad?" Scripture also says: And Shmuel said to the people, It is Hashem that made Moshe and Aaron, and it says: And Hashem sent Yerubaal and Bedan and Yiftach and Shmuel. Yerubaal is Gideon. Why is he called Yerubaal? Because he contended with Baal. Bedan is Samson. Why is he called Bedan? It is because he came from Dan. Yiftach is Yiftach. It says also: Moshe and Aaron among his priests and Shmuel among them that call on his name. We see therefore that Scripture places three of the least significant leaders on the same level as three of the most important leaders. This is to show that Yerubaal in his generation is like Moshe in his generation, Bedan in his generation is like Aaron in his generation, Yiftach in his generation is like Shmuel in his generation, and to teach you that the most insignificant of the insignificant, once he has been appointed a

leader of the community, is to be accounted like the mightiest of the mighty. Scripture says also: And you shall come unto the priests the Levites and to the judge that shall be in those days. Can we then imagine that a man should go to a judge who is not in his days? This teaches us that you must be content to go to the judge who is in your days. It also says: Why was it that the former days were better than these? (25a – 25b)

### RABBAN GAMLIEL AND RABBI YEHOSHUA

➤ The Gemora brings a braisa which elaborates in further detail on the encounter between Rabbi Yehoshua and Rabban Gamliel. Rabban Gamliel stood up from his seat, kissed him on his forehead and told him "Peace onto you my Rebbe and my student. You are my Rebbe since you taught me Torah in public and you are my student since you fulfilled the decree just like a student would. Praiseworthy is the generation in which the greater people listen to the authority of the lesser people and certainly when the lesser listen to the greater." (25b)

WE WILL RETURN TO YOU, IM EINAN MAKIRIN

## INSIGHTS TO THE DAF

### OBEDY THE RABBIS EVEN WHEN RIGHT IS LEFT AND LEFT IS RIGHT

➤ In Devarim 17:10 it says "You shall not turn from the commandment to the right or left." Rashi explains that this pasuk comes to teach us that we must listen to the Sages in all circumstances, even when they tell us that right is left and left is right. Does this really mean that we must obey our Rabbis when they are wrong? This seems to clearly contradict the Gemara Yerushalmi in Horiyot, which states: You might think that if the Rabbis say the right is left or the left is right you have to listen to them. Therefore it says, to the right and left: when they tell you that the right is right and the left is left.

This textual tension is assuaged when we refer to the source for Rashi's statement, the Sifrei, which states that one must listen to their commandment, even if IT SEEMS to him that the right is left and the left is right. Therefore it would appear that the verse is not giving blanket ability to the Rabbis to make mistakes, but rather restricting disobedience of their commandments to select cases in which it is clear that they are wrong. However, where does one draw the line?

Rambam, in his Sefer HaMitzvos, draws on Shevuos 39A, which states: How do we know that Bnei Yisrael were bound at Har Sinai to commandments that were yet to come in addition to those that were commanded at Har Sinai? As it says (Esther 9), Kimu VKiblu HaYehudim - the Jews fulfilled and accepted it - they fulfilled that which was already accepted at Har Sinai. He expands on this idea by stating that one who violates a Rabbinic commandment also violates the negative Torah commandment given in our verse "Do not turn to the right or left." How can one risk violating this commandment by perceiving a Rabbinic commandment as fallible? While the Ramban does disagree with the Rambam over the technical violation entailed in such a disobedience, he agrees that one is obligated to obey whatever the Rabbis rule, EVEN if they err. As a support, he cites the mishnah in Rosh Hashanah 25, in which R. Yehoshua is forced to appear with his walking stick and traveling bag on the day he calculated was Yom Kippur in deference to R. Gamliel, the Av Beit Din, who disagreed.

Ramban even seems to indicate that one must listen to the Sanhedrin if they violate the Torah! This he bases on the verse (Tehillim 119:126) Es laasos laHashem - There is a time to do the will of Hashem. Indeed the Sefer HaChinuch states that even if the Sanhedrin erred and we are aware of this, we must do as they have commanded. He explains that this is because it is better to have

unity, though we might be wrong, than to promote strife brought on by factionalism.

Still, do the Rabbis really have the right to contradict something in the Torah? The Gemara (Horiyos 4A) states: R. Yehuda said in the name of Shmuel, The Beit Din after teaching a false ruling is not liable to bring a korban until they teach a law that the Sadducees do not agree with. But if they teach a thing erroneously that the Sadducees agree with, they are liable. What is the reason? It is a matter that can be learned in school. The point of this Gemara is that an individual is expected to know when a law is clearly in the Torah (the kind that the Sadducees agree with). Therefore, when Beit Din contradicts this law, the individual should know not to follow them, and is therefore responsible for his own actions. However when the Beit Din teaches Torah Shebeal Peh (which the Sadducees do not give legitimacy to), they are responsible for what they say. This indicates that one indeed should disobey a Beit Din when it contradicts a Torah law.

Perhaps the Kli Yakar, in his commentary on our pasuk, sheds some light on our understanding of Es laasos. He explains that in many issues, there are reasons on both sides to influence the outcome one way or the other. These issues are normally decided according to the side that is more compelling. However, in special cases,

certain issues can be decided according to the other side. A proof of this is the statement by Chazal that a person cannot become a member of the Sanhedrin until he can give 150 reasons to declare a sheretz (dead rodent that is normally tameh) tahor. This does not mean that what is clearly left is being made right. What instead follows is that sometimes things that may seem clearly to the right or left by us, are really ambidextrous, if you will. It is up to the Rabbis to take the gray and decide whether it is black or white. The decision process that they go through is not within our right to disregard, and according to the Rambam, even carries the severity of a negative Torah commandment. (Courtesy of Divrei Beit Hillel – Shoftim)